

Board of Zoning Adjustment
Staff Report
September 4, 2018



Case No.	18CUP1008
Project Name	Commercial Dog Kennel
Location	713 E. Broadway
Owner/Applicant	Bark Louisville LLC
Representative	Architectural Artisans
Jurisdiction	Louisville Metro
Council District	4 – Barbara Sexton Smith
Case Manager	Beth Jones, AICP, Planner II

REQUEST

Conditional Use Permit for a commercial kennel in a C-2 Commercial zoning district (LDC 4.2.17.)

CASE SUMMARY/BACKGROUND

The site is located on the north side of Broadway between S. Shelby and S. Clay Streets within a C-2 Commercial Zoning District and a Traditional Marketplace Corridor (TMC) Form District. The proposal will renovate an existing vacant 4,104 sq ft structure. The site is adjoined by commercial uses, including a vacant commercial site to the west.

Access to the site will be provided via an existing curb cut on Broadway. Vehicular circulation will consist of a one-way driveway along the east property line, providing access to the alley at the rear of the property. Two parking spaces are located along the remaining Broadway property frontage. Four additional spaces will be provided along the west side of the access drive adjacent to the building. The proposal includes the required ADA spaces, is located on a transit corridor and provides bicycle parking.

The existing structure will house a dog day care on the first and part of the second floor, with a break room using the remaining second-floor space. The third floor will house an unconditioned storage area. An outdoor exercise area of approximately 1,358 sq ft will be located at the rear of the site. It will be finished with an artificial turf surface enclosed by a solid 6 ft fence. The exercise area will be fully screened from public view and dogs will be kept indoors at night. A camera system will be installed to monitor the dogs at all times.

STAFF FINDING

The proposal meets the standard of review for the requested CUP.

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on July 17, 2018.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the Comprehensive Plan, as detailed in the Cornerstone Checklist (Attachment 3).

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposal is a re-use of an existing structure and is compatible with adjoining commercial uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The applicant is developing the property to meet MSD standards with regards to pet waste disposal. MSD has reviewed the proposal and provided preliminary approval. Remaining public facilities appear adequate to serve the site.

4. Does the proposal comply with the following specific standards required to obtain the requested conditional use permit?

4.2.17 Commercial Kennels Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C- M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.

STAFF: All facilities, with the exception of the outdoor exercise area, are located within the existing structure. The proposed location and visual screening of this area will mitigate potential noise issues. In addition, all dogs will be kept indoors at night. The site is surrounded on all sides by commercial uses. The nearest residential use is 180 ft away from the nearest point of the site.

B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.

STAFF: The applicant has been informed of this requirement.

C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.

STAFF: The proposal includes a 6 ft fence around the outdoor exercise area.

D. Screening – Any outdoor animal facilities shall be screened from view.

STAFF: The proposed 6 ft fence will screen the outdoor exercise area from view.

E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.

STAFF: The existing structure is a brick residence with contemporary additions along the street frontage. With the exception of the outdoor exercise yard, all operations on the site will be confined to indoor areas. No dogs will be permitted outdoors at night.

F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

STAFF: The proposal includes a cleanable floor surface in the exercise area. The applicant will install drains and a dedicated sewer line connecting into the existing sanitary sewer line on Broadway. The proposal has been reviewed by MSD and has received preliminary approval.

NOTIFICATION

Date	Purpose of Notice	Recipients
7/17/2018	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 4 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA** Not Applicable

Traditional Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form			
1	B.7: The proposal incorporates itself into the pattern of development, which includes a mixture of low to medium intensity uses such as neighborhood-serving and specialty shops, restaurants and services. Often, these uses include apartments or offices on upper floors.	✓	The proposal is a re-use of an existing historic structure.
2	B.7: The proposal includes buildings that have little or no setback and are oriented to the street. New development respects the predominate rhythm, massing and spacing of existing buildings.	✓	The proposal is a re-use of an existing historic structure.
3	B.7: New development maintains the existing grid pattern of streets and alleys and typical block size.	✓	The proposal makes no changes to the existing street and alley pattern.
4	B.7: The proposal includes on-street parking or parking in lots at the rear of the building, and includes wide sidewalks, street furniture and shade trees.	✓	The proposal includes on-street parking and makes no changes to existing sidewalks.
5	B.7: The proposal's design is compatible with the scale and architectural style and building materials of existing developments in the corridor.	✓	The proposal is a re-use of an existing historic structure.
6	B.7: The proposal emphasizes compatibility of scale and the architectural style and building materials are compatible with nearby existing development.	✓	The proposal is a re-use of an existing historic structure.
Community Form/Land Use Guideline 2: Centers			
7	A.1/7: The proposal, which will create a new center, is located in the Traditional Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal does not create a new center.
8	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	The proposal does not include retail uses.
9	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposal is a re-use of an existing site. The applicant will improve public infrastructure to support the proposed use.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
10	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The proposal is not a center.
11	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	--	The proposal does not provide residential uses.
12	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is not a center.
13	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	The proposal uses an existing curb cut, has appropriately located parking and provides efficient circulation through the site.
14	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	NA	The proposal uses existing utility facilities.
15	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal supports multi-modal access.
Community Form/Land Use Guideline 3: Compatibility			
16	A.2: The proposed building materials increase the new development's compatibility.	✓	The proposal improves the condition of the existing exterior.
17	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal does not constitute non-residential expansion into a residential area.
18	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	The proposed handling of animal wastes has been reviewed by MSD and has received preliminary approval.
19	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposal includes an efficient circulation system that uses existing infrastructure.
20	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Site lighting will meet all LDC requirements.
21	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	NA	The proposal is not a higher intensity use.
22	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	NA	The proposal is not substantially different in scale and intensity from surrounding uses.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
23	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	NA	The proposed use is not incompatible with surrounding uses.
24	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	The proposal re-uses existing structures.
25	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	NA	The site is not adjacent to residential areas.
26	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The proposal re-uses an existing curb cut and places parking to the side of the existing structure.
27	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	The proposal does not include any parking garages.
28	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will be required to meet LDC and CUP requirements.
Community Form/Land Use Guideline 4: Open Space			
29	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	There are no open space requirements associated with the proposal.
30	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	✓	Open space is consistent with the pattern in the area.
31	A.5: The proposal integrates natural features into the pattern of development.	NA	The proposal is a re-use of an existing site.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources			
32	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposal is a re-use of an existing developed site.
33	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	The proposal reuses an existing historic structure.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
34	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	These conditions do not exist on the site.
Marketplace Guideline 6: Economic Growth and Sustainability			
35	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	✓	The proposal reuses an existing site and historic structure.
36	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not an industrial use.
37	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	NA	The proposal is not a retail use.
38	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not an industrial use.
Mobility/Transportation Guideline 7: Circulation			
39	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	The applicant will provide required waste disposal improvements.
40	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	The proposal accommodates multi-modal access.
41	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The proposal provides appropriate interior circulation.
42	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	The proposal provides appropriate interior circulation.
43	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking on the site has received preliminary approval of DPW.

44	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	The proposal provides a circulation path connecting the roadway and the rear alley.
Mobility/Transportation Guideline 8: Transportation Facility Design			
45	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	These conditions do not apply to the site.
46	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	NA	These conditions do not apply to the site.
47	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	These conditions do not apply to the site.
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit			
48	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	The proposal accommodates multi-modal access.
Livability/Environment Guideline 10: Flooding and Stormwater			
49	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has reviewed the proposal and provided preliminary approval.
Livability/Environment Guideline 12: Air Quality			
50	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD waived comment.
Livability/Environment Guideline 13: Landscape Character			
51	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	These conditions do not apply to the site.
Community Facilities Guideline 14: Infrastructure			
52	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The site is served by existing public utilities.
53	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The site is served by existing public utilities.
54	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The site is served by existing public utilities.

4. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review and approval by BOZA.
2. The Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the BOZA vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a commercial kennel without further review and approval of BOZA.