

# BARDENWERPER, TALBOTT & ROBERTS PLLC

ATTORNEYS AT LAW

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## STATEMENT OF COMPLIANCE WITH APPLICABLE GUIDELINES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant: Sirius Holdings, LLC

Owner: Frank and Jane Schmitt

Location: 219 and 221 S. Hurstbourne Parkway

Proposed Use: A dog grooming, spa, daycare & boarding facility

Engineers, Land Planners and  
Landscape Architects: Land Design & Development, Inc.

Request: Conditional Use Permit

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### SUMMARY STATEMENT

This application involves an established national chain offering dog grooming, spa, daycare & boarding. Because the services offered include dog daycare for customers while at work and dog boarding when customers travel, the staff interpretation is this operation requires a Conditional Use Permit as a Commercial Kennel despite the operation being very different than commercial kennels anticipated by the Land Development Code definition. All dogs will be inside except for the times they go outside to the new fenced in area to play. The applicant will install significant noise abatement improvements as part of the build-out as well as odor abatement systems as part of the HVAC system and processes.

### GUIDELINE 1 – COMMUNITY FORM

This site is located in the Suburban Marketplace Corridor Form Area/Form District, which is a suburban shopping retail/office corridor usually located along a major thoroughfare, Hurstbourne Parkway. The Suburban Marketplace Corridor Form Area form typically encourages marketplace corridors for businesses such as this one with a compact mixture of a variety of medium to high intensity uses, with buildings generally oriented toward and located near the primary street. This application complies with this Guideline because no changes to the existing retail center or the existing building is proposed other than the addition of a small outdoor fenced in area. The existing center already conforms to most, if not all, of the Suburban Marketplace Corridor Form characteristics, some as enumerated.

### GUIDELINE 2: CENTERS

The Intents and Policies 1, 3, 4, 5, 7, 10, 11, 13 and 14 of this Guideline all pertain to how a specific land use in a given Form Area/District should be designed in terms of the specific context and site. This application complies with this Guideline, its Intents and Policies because it is located in the Suburban Marketplace Corridor Form with no change to the existing retail

center proposed, other than a small fenced in area. If not for the small portion of the business that offers overnight indoor boarding of dogs, this applicant would not need the CUP and could open for business. The CUP development plan filed with this application and land use map demonstrate, demonstrates this use fits within its compact setting surrounded by a mixture of compatible uses. Access to and parking serving the center are shared.

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### **GUIDELINE 3: COMPATIBILITY**

The Intents and Policies of 1, 2, 5, 6, 7, 8, 9, 12, 22, 23, 24, and 28 all pertain to the mitigation of various impacts, such as design, considering building materials, odors, traffic, noise, lighting, screening and buffering and signage. Again, because there are no proposed changes to the existing retail center and design, there will be no design or building material issues. The applicant's use will not adversely impact other retail tenants due to the very significant soundproofing installed in the walls during construction to completely mitigate noise impacts. The only nearby residential is the District at Hurstbourne, which is one of the few dog friendly apartment communities without any weight limitation that advertises to prospective tenants with pets. The manager of the District at Hurstbourne has indicated they support the application as it would offer needed dog daycare next door that the owners can use instead of having to leave the dog at home when at work. Dogs are only allowed in the outdoor area at various times during the day and will not be kept outside and no dogs will be kenneled outside. As such, it is not intending to introduce new impacts to an area that do not already exist. And because the use will be largely fully enclosed, and further because access, parking, lighting and signage will not really change, once again new impacts are not created. Therefore this application complies with this Guideline and its applicable Intents and Policies as enumerated above and for reasons set forth above, on the development plan and in testimony presented at the Board of Zoning Adjustment Public Hearing.

### **GUIDELINE 4 and 5: OPEN SPACE and NATURAL AREAS AND HISTORIC RESOURCES**

The Intents and Policies of Guideline 4 and 5 do not apply as there are no changes to the open space of the existing retail center and the existing center does not have any scenic or historic resources.

### **GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY**

The Intents and Policies 1, 2, 5, 6 and 11 of this Guideline all pertain to ensuring viable successful businesses, especially those that seek to enter the local market. This application complies with this Guideline, its Intents and Policies because it represents precisely what is largely encouraged through this Guideline, which is an adaptive reuse of an existing facilities in order to attract new businesses to the area.

### **GUIDELINES 7, 8 and 9 – CIRCULATION; TRANSPORTATION FACILITY DESIGN, and BICYCLE, PEDESTRIAN AND TRANSIT**

The Intents and Policies of these Guidelines all pertain to transportation, whether that be vehicular, transit, pedestrian or bicycle. Because this is an existing retail center with existing points of access, circulation and parking, nothing really changes from what has previously been deemed to be acceptable. Consequently, with the anticipated preliminary stamp of approval from Metro Works, all of the Intents and applicable Policies of these Guidelines are fully

satisfied. If not, the existing use would already be out of compliance with the Comprehensive Plan, as would most, if not all, similarly situated uses in this same area.

**GUIDELINES 10– FLOODING and STORMWATER**

The Intents and Policies 3, 4, 6, 10 and 11 of this Guideline all pertain to MSD's concerns about stormwater management. This application complies with the Intent and these Policies of this Guideline because it does not increase the impervious surface and it will have received, by the time of official Board of Zoning Adjustment review, the preliminary stamp of approval from MSD, thus assuring no adverse consequences of stormwater run-off on nearby properties.

**GUIDELINE 11, and 13 – WATER QUALITY, AIR QUALITY, and LANDSCAPE CHARACTER**

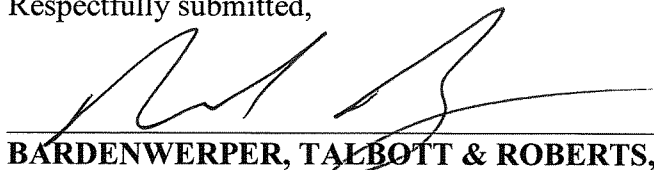
This application complies with the Intent and Policies of these Guidelines to the maximum extent that it can as an as-built building and retail center on an as-built site.

\* \* \* \* \*

For all the reasons mentioned above, including evidence which will be presented later to the Board of Zoning Adjustment, the proposed rezoning application complies with all other guidelines and policies of the Cornerstone 2020 Comprehensive Plan, and the applicant respectfully requests that it be approved.

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,



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