

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of December 21, 2010

**SUBJECT: Arbor Dog Day Care Special Exception Use Rehearing
(2856 South Main Street)
File No. SEU09-001**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions), subject to the following conditions:

- 1) limiting the size of the operation to a maximum of 10,000 square feet;
- 2) limiting the hours of operation from 6:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 8:00 p.m. on weekends and allowing indoor boarding during the hours the day care is closed;
- 3) limiting the number of dogs in the building to 125;
- 4) limiting the number of dogs in the outdoor dog run to 15 at one time and limiting the outdoor dog run hours to 10:00 am to 5:00 pm;
- 5) supervision of all dogs taken outside of the facility by an employee or employees of the facility or by their owners;
- 6) compliance with Chapter 119 (Noise Control);
- 7) compliance with Chapter 107 (Animals), such that the owner of the dog daycare facility shall be considered the owner of the animal for purposes of enforcement of noise nuisance violations;
- 8) occupant complies with Fire Department requirements for additional fire extinguishers, No Parking Fire Lane signs on site and a future Fire Department review if the business changes use;

and, therefore, approves the Arbor Dog Day Care Special Exception Use.

STAFF RECOMMENDATION

Staff recommends that the special exception use request, as revised from the request presented in October 2010, be **approved** because, with the proposed conditions the proposed use is of such location, size and character as to be compatible with the zoning district in which the site is situated; and the location and size of the proposed use, its nature and intensity, the site layout and access, and effect of the proposed use on public services would not be hazardous or inconvenient to the neighborhood nor unduly conflict with the normal traffic or the neighborhood.

STAFF REPORT

This petition was postponed at the October 19, 2010 City Planning Commission meeting to give staff time to research and respond to the Commission's questions and concerns. The petition history and past staff reports are attached.

Commission Questions

Staff met with the City Attorney's Office to discuss questions brought forward by the City Planning Commission (CPC). These questions and their answers are noted below:

- 1) May the CPC add a condition that the operator shall not transfer ownership of business to another owner? No. A special exception use is an approval that is granted to the use on the land, not the owner.
- 2) May the CPC add a condition that the operator's record of noise violations must be reviewed annually to determine whether they are complying with limits on noise coming from the business? Yes, however this would be for informational purposes only. The Planning Commission could not revoke a special exception use after the original approval.
- 3) May the CPC add a condition requiring the operator to make a report to the CPC each year? Yes, however this would be for informational purposes only. The Planning Commission could not revoke a special exception use after the original approval.
- 4) If a special exception use is approved for an expanded number of dogs, how would repeated noise problems be addressed? Noise from barking and howling dogs that violates the standards of Chapter 107 (Animals) and Chapter 119 (Noise Control) would be addressed by issuance of civil infractions, which may incur a fine of up to \$500 per instance. Likewise, a violation of the conditions of a special exception use would be a violation of both Chapter 55 (Zoning) and Chapter 57 (Subdivision and Land Use Control) and be addressed as a civil infraction.

The definition of a Noise Nuisance under the Animals Ordinance is: "Barking, howling, meowing, squawking or making other sounds, frequently or for a continued duration, which annoys, endangers, injures or disturbs a person of normal sensitivities on premises other than that occupied by the owner of the animal. After 10 pm and before 7 am, animal noises audible beyond the property line of the property where the animal is located are presumed to be an annoyance and disturbance and are presumed to constitute a noise nuisance."

Revised Special Exception Use Conditions

Under the special exception use standards, the Planning Commission may add conditions to its approval to address or mitigate impacts associated with the use. In the case of the outdoor dog run, a nuisance could be created if dogs are allowed to bark continuously. To address this concern, staff proposes the following conditions be added to the motion:

- limiting the number of dogs in the building to 125
- limiting the number of dogs in the outdoor dog run to 15 at one time and limiting the outdoor dog run hours to 10:00 am to 5:00 pm
- supervision of all dogs taken outside of the facility by an employee or employees of the facility or by their owners
- compliance with Chapter 119 (Noise Control)
- compliance with Chapter 107 (Animals), such that the owner of the dog daycare facility shall be considered the owner of the animal for purposes of enforcement of noise nuisance violations

Neighborhood Notification

Those citizens who signed up to be notified of subsequent meetings have received email notification of the December 21, 2010 hearing on this petition.

Prepared by Christopher Cheng
Reviewed by Wendy Rampson
mg/12/17/10

Attachments: 10/19/10 Staff Report
9/21/10 Staff Report
12/15/09 Staff Report

c: Systems Planning
File No. SEU09-001