

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**Via Zoom Virtual Meeting**

**February 2, 2022**

**PRESENT:** **ABSENT:**

James Diel, Vice Chair Jim Adkins, Chair

David Eagleton, Secretary/Treasurer Mary Lee Salzer-Lutz

Ron Evens

Allen Klippel

Tom Feiner

Sandy Washington

Darrell Scott

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, February 2, 2022, at 7:00 p.m. via Zoom Virtual Meeting. City Attorney John Hessel, Planning and Development Services Director Jonathan Raiche, Planner II Amy Lowry, and Administrative Assistant Patti Dodel also attended the meeting.

Chair Adkins had advised staff that he would be recusing himself regarding PZ-12-22 due to a perceived conflict of interest. This recusal was referenced by the Vice Chair at the beginning of the meeting. Since that is the only item on the agenda, the Chair did not attend the meeting.

**1.** Vice Chair Diel called the meeting to order at 7:04 p.m.

City Attorney Hessel stated for the record that Section 610.015 of the Missouri Sunshine Law provides that members of the Planning and Zoning Commission who are not physically in the Council Chambers can participate and vote on all matters when an emergency exists and the nature of the emergency is stated in the minutes. The U.S., and the World, are still in a state of emergency due to the Coronavirus--Covid-19; and in addition, we are in the middle of a snow storm. Therefore, members of the Planning and Zoning Commission have elected to participate in this meeting electronically for the public health and safety of each other and the general public.

Vice Chair Diel announced that Chair Adkins and Commissioner Salzer-Lutz were absent and their absence was excused.

2. Motion was made by Commissioner Klippel and seconded by Commissioner Washington to approve the minutes for the January 19, 2022, meeting as written.

Roll Call:

 Chairman Adkins Absent

Commissioner Diel “Yes”

Commissioner Eagleton “Yes”

Commissioner Evens “Yes”

 Commissioner Feiner “Yes”

 Commissioner Salzer-Lutz Absent

 Commissioner Washington “Yes”

 Commissioner Scott Abstained

Commissioner Klippel “Yes”

The motion to approve the minutes passed.

**3. PZ-12-22 ZONING CODE TEXT AMENDMENT – ADD ANIMAL TRAINING AS AN ACCESSORY USE IN SINGLE-FAMILY RESIDENTIAL DISTRICTS**

 Submitted: 12-30-2021

 Petitioner, Lynn Thiele

Chair Adkins had advised staff that he would be recusing himself regarding PZ-12-22 due to a perceived conflict of interest. Since that is the only item on the agenda, he did not attend the meeting. This recusal was referenced by the Vice Chair at the beginning of the meeting.

Planner II Amy Lowry stated this Zoning Code amendment would allow residents to operate a business on their property similar to a home occupation but with additional regulations in place. The applicant has proposed animal training as an accessory use permitted with standards but is not averse to the requirement of a Special Use Permit to allow her to run her business. The subcommittee (except Ms. Salzer-Lutz, who had an unexpected emergency) met at the applicant’s house on January 25. The applicant clarified her training procedures - she is on site the entire time, some dogs stay from 8 a.m. to 1 p.m. while others from 8 a.m. to 5 p.m. two days a week. The dogs are both in the rear fenced yard and in the detached garage throughout the day. The applicant believes training works best with a pack of dogs with well-behaved dogs training the newer dogs. The subcommittee observed the conditions of the property, i.e., fenced yard, turf, and access to the basement in case of inclement weather. The subcommittee considered adding animal training as an accessory use with standards and as a Special Use. After considering both options, the subcommittee is recommending denial. The subcommittee felt that the business was akin to a day time boarding facility due to the length of time the dogs were on the property.

There were no questions from the Commission members.

Ms. Thiele stated she was appreciative of the subcommittee meeting; however, she was disappointed with the outcome. She added that she would be flexible in her hours of operation and would be willing to have fewer operating hours spread out over more days. She believes that COVID has changed the world, including the increase in dog ownership which has led to her request, and that no public health issues have occurred nor have her dogs been a threat to the neighborhood.

Commissioner Klippel read the underlined sections of the Subcommittee Report and the three considerations from the discussion section of the report.

CITY OF KIRKWOOD

**PLANNING AND ZONING COMMISSION**

**SUBCOMMITTEE REPORT**

###### February 2, 2022

***PETITION NUMBER*:** PZ-12-22

***ACTION REQUESTED*:** ZONING CODE TEXT AMENDMENT TO ADD ANIMAL TRAINING AS AN ACCESSORY USE IN SINGLE-FAMILY RESIDENTIAL DISTRICTS

***APPLICANT*:** LYNN THIELE

***PROPERTY LOCATION*:** CITY WIDE

 ***ZONING*:** SINGLE-FAMILY RESIDENTIAL

**DESCRIPTION OF PROJECT:**

The applicant is requesting that the Zoning Code text be amended to add animal training as an accessory use in single-family residential districts. This would allow a resident to operate such a business on their property similar to a home occupation, but with additional regulations in place. The applicant proposes such an accessory use be permitted with standards, but is not averse to the requirement of a Special Use Permit so that the Planning and Zoning Commission and City Council would have the opportunity to impose site-specific regulations as well as the general use-specific standards that would be added to the Zoning Code. Should the Planning and Zoning Commission or City Council recommend the accessory use amendment be approved as a special use, Staff recommends that the Special Use Permit for the applicant’s property be reviewed concurrently with the text amendment. While this report includes information specific to the applicant’s property, it is important to emphasize that the proposed text amendment would apply to all properties in any of the single-family residential zoning districts.

**COMPREHENSIVE PLAN, LAND USE AND ZONING:**

The applicant’s property at 551 North Clay Avenue is zoned R-3, Single-Family Residential. Surrounding land uses and zoning include the following:

To the north: Immediately north and across West Essex Avenue are single-family residences zoned R-3.

To the south: Single-family residences zoned R-3.

To the east: Directly across North Clay Avenue are single-family residences zoned R-3 and a condominium development zoned R-5, Multifamily Residential.

To the west: Single-family residences zoned R-3.

**DEPARTMENTAL/AGENCY COMMENTS:**

None at this time.

**DISCUSSION:**

The request was introduced at the Planning and Zoning Commission meeting held virtually via Zoom on January 19, 2022. Mr. Klippel, Ms. Salzer-Lutz, and Ms. Washington were appointed to a subcommittee and a subcommittee meeting was conducted on site on January 25, 2022. A list of attendees of the subcommittee meeting may be seen in Exhibit A; Ms. Salzer-Lutz did not attend the meeting due to an unexpected emergency. At the subcommittee meeting, the following items were reviewed and discussed:

1. The subcommittee was advised of the operating standards that the applicant proposed for animal training, including the following:
2. Permitted home occupations shall not create an adverse effect on the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties.
3. Animal training is limited to Monday - Friday between the hours of 8 am and 5 pm.
4. There shall not be more than one training facility within 1,000 feet of each other and no more than 10 in the City of Kirkwood.
5. The trainer must be an occupant of the house.
6. One client at a time may be on the premises, but animals may be dropped off on the property without an owner present.
7. At no time should animals be left unsupervised.
8. Having a detached structure is needed in order to provide structured training and a safe place during inclement weather and other safety-related issues.
9. No more than 10 animals including those residing on the premises are allowed.
10. There shall be no signage, including any window displays on the property.
11. Traffic shall not be generated in significantly greater volume than would be normally expected in the residential neighborhood.
12. Property must be maintained and all waste needs to be disposed of in a sanitary and safe manner.
13. No equipment shall be used which will create any dust, noise, odors, glare, vibrations, or electrical disturbances beyond the lot.
14. Long continual barking is prohibited.
15. Random inspections of the property are recommended but not required.
16. The applicant clarified her training procedures, including the details that she is with the dogs the entire time they are on her property; some dogs stay from 8 a.m. to 1 p.m. and others from 8 a.m. to 5 p.m. on two days a week; the dogs are both in the rear fenced yard and in the detached garage throughout the day. She believes training works best with a pack of dogs with well-behaved dogs training the newer dogs.
17. The subcommittee observed the existing conditions of the property including the fencing surrounding the rear yard, the turf in the rear yard, and the access to the basement if a storm should arise.
18. The applicant stated that she has liability insurance.
19. If the request for the Zoning Code amendment were to be approved, the subcommittee agreed that such approval should be as a special use in order to review each proposed animal training location and impose site-specific standards.
20. The animal training business as proposed by the applicant should also be considered as a daytime boarding facility as the dogs are at the applicant’s house for much of the day without their owners in attendance.

After consideration of the information presented, the subcommittee is not in favor of the text amendment request based upon the following considerations that informed their decision:

1. The Zoning Code as adopted less than one year ago in February 2021 prohibits animal boarding and grooming facilities as home occupations, but does not address animal training. The subcommittee concluded that the animal training/daytime boarding being proposed here is more invasive in a residential environment than the already-prohibited animal grooming. The subcommittee does not believe that the proposed amendment is necessary or desirable due to changing conditions, new planning concepts, or other social or economic conditions (review criteria for text amendment Section 25-17(e)(2)(ii)).
2. While the subcommittee observed that the applicant’s business appears to be well-run based on her statements and the testimonials she provided, they were uncomfortable with the animal training/daytime boarding business in a residential setting due to potential negative impacts on public health, safety, and general welfare (review criteria for text amendment Section 25-17(e)(2)(iii)). The subcommittee’s concerns about noise, the outdoor use being inharmonious with the existing land use and the change in the essential character of residential neighborhoods that would result if this use was allowed as special use cannot be overcome by any conditions or limitations that would accompany such a special use. The subcommittee determined that the applicant could apply to operate the business in a commercially-zoned space.
3. Several of the proposed restrictions (e.g. traffic volumes similar to typical neighborhoods and prohibition of long continual barking) are not easily defined or enforceable. Similarly, if allowed as a special use, the Planning and Zoning Commission and City Council should require, at a minimum, all of the standards set forth above and should place additional minimum conditions, such as a requirement that any outdoor training area be fully enclosed by fencing, and any others that could serve to minimize the concerns expressed above.

***RECOMMENDATION:***

 The Subcommittee recommends that this application be **denied.**

Respectfully submitted,

Allen Klippel Mary Lee Salzer-Lutz Sandy Washington

Motion was made by Commissioner Feiner and seconded by Commissioner Evens to approve the Subcommittee Report recommending denial.

Commissioner Klippel commented he is concerned that this text amendment to allow animal training would affect all single-family residential districts. Commissioner Feiner added that a Special Use Permit attaches to the real estate and not the applicant. He was impressed by all of the letters of support; however, the concern is that the SUP could transfer to anyone occupying the premises. The success of the SUP is dependent on the quality of the operator.

City Attorney Hessel confirmed that the SUP runs with the land. Even though the applicant’s operations are exemplary and her operations are acceptable to her neighbors, the implications are much broader.

Roll Call vote was taken on the motion to approve the Subcommittee Report with a recommendation of denial:

 Chairman Adkins Absent

Commissioner Diel “Yes”

Commissioner Eagleton “Yes”

Commissioner Evens “Yes”

 Commissioner Feiner “Yes”

 Commissioner Salzer-Lutz Absent

 Commissioner Washington “Yes”

 Commissioner Scott “Yes”

Commissioner Klippel “Yes”

A motion was made by Commissioner Feiner and seconded by Commissioner Evens to recommend approval of a Zoning Code Text Amendment to add Animal Training as an Accessory Use in Single-Family Residential Districts.

Roll Call:

Chairman Adkins Absent

Commissioner Diel “No”

Commissioner Eagleton “No”

Commissioner Evens “No”

 Commissioner Feiner “No”

 Commissioner Salzer-Lutz Absent

 Commissioner Washington “No”

 Commissioner Scott “No”

Commissioner Klippel “No”

Director of Planning and Development Raiche advised the applicant that the Planning and Zoning Commission’s recommendation for denial will go forward to the City Council, who will schedule a public hearing.

There being no further business, motion was made by Commissioner Klippel and seconded by Commissioner Evens to adjourn at 7:35 p.m. Due to lack of business, the February 16, 2022, meeting was cancelled; and the next meeting will be held on March 2, 2022, at 7 p.m.

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 James Diel, Vice Chair

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 David Eagleton, Secretary/Treasurer

Upon request, these minutes can be made available within three working days in an alternate format, such as CD, by calling 314-822-5822. Minutes can also be downloaded from the City’s website at [www.kirkwoodmo.org](http://www.kirkwoodmo.org), then click on City Clerk, Boards & Commissions, Planning & Zoning Commission.