

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**April 6, 2022**

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

Jim Adkins, Chair Sandy Washington

James Diel, Vice Chair

David Eagleton, Secretary/Treasurer

Ron Evens

Allen Klippel

Tom Feiner

Mary Lee Salzer-Lutz

Darrell Scott

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, April 6, 2022, at 7:00 p.m. in the City Hall Council Chambers. City Attorney John Hessel, Planning and Development Services Director Jonathan Raiche, Planner II Amy Lowry, Administrative Assistant Patti Dodel, and Permit Clerk Christine Dorough also attended the meeting.

**1.** Chair Adkins called the meeting to order at 7 p.m. and informed the audience of the Speaker Cards and procedures for making comments regarding items on the agenda requiring Site Plan Review. Chair Adkins announced that Commissioner Washington was absent and her absence was excused.

2. Motion was made by Commissioner Eagleton and seconded by Commissioner Diel to approve the minutes for the March 16, 2022, meeting as written. The minutes were approved with seven members voting in favor and Commissioner Adkins abstained.

3. Motion was made by Commissioner Evens to amend the agenda to consider PZ-12-22 after New Business. The motion was seconded by Commissioner Salzer-Lutz and unanimously approved.

**4. PZ-14-22 SPECIAL USE PERMIT (ANIMAL FACILITY, MINOR, WITH OUTDOOR USE) AND SITE PLAN REVIEW – KENNELWOOD PET RESORT, 10936 MANCHESTER ROAD**

 Submitted: 2-11-2022 Automatic Recommendation: 6-11-2022

 Petitioner’s Agent, Paul Lewis

 (Subcommittee – Commissioners Evens, Scott, and Eagleton)

 Due to a perceived conflict of interest, Chair Adkins recused himself from discussion and Vice Chair Diel chaired the meeting.

Planner II Amy Lowry stated the 10,000 square foot building was previously occupied by Keller Williams Realty. Kennelwood Pet Resorts submitted an application for a Special Use Permit to allow an outdoor use for the permitted use of a dog training, day camp (no overnight boarding), and grooming facility. Three fenced pet exercise yard areas would be constructed on the west side of the existing building. The existing dumpster would be relocated to the east end of the property. Synthetic turf is proposed to be installed over pervious surface and a drainage system would discharge to the existing storm inlet if the ground was saturated to an extent that it would not absorb the stormwater in the play areas. The applicant provided an analysis of storm water runoff and a noise study. No more than two dogs would be in any one of the three outdoor yards at the same time, and the dogs would be on a leash and with an employee. The sound level study indicates that six dogs barking at the same time would be within the ambient range and masked by the traffic on Manchester Road.

Ms. Lowry added that the Subcommittee met on site and were advised there would be forty to sixty dogs with a maximum of ten employees between the hours of 7 a.m. to 7 p.m. A canopy covering the outdoor exercise areas, as was suggested by one of the neighbors, would add to the impervious area and would not conform to the structure setback requirement from Harrison Avenue.

Commissioner Eagleton expressed concern regarding the storm water issues at the property to the south (1030 North Harrison Avenue). Commissioner Eagleton stated that if MSD has a design solution but lacks the funding, a committee consisting of MSD, MoDOT, and Kirkwood should be formed to address the issue.

In accordance with Section 220.6 of the Zoning Code, Vice Chair Diel asked if there was anyone in the audience who had comments concerning the site plan, and the following responded:

Steve Dowd, Unit #406 1030 N Harrison Ave, stated the proposed use would be adjacent to his 39-unit condominium building and the 32-unit Clay West building. He believes this use will create a noise violation and played an audio clip of dogs barking at Kennelwood’s facility on Mason Lane in Ballwin. He added that this use will adversely affect the general welfare of the community and his property value. He compared this petition to the application filed in 2021 by Harmony Homes on Ballas Road.

Paula Savarino, President of the Board of Directors for Bradford Square at 1030 N Harrison Ave, hopes that MSD can solve the storm water issues that have affected their building for years. In 2004 and 2019, a total of 20 vehicles were damaged beyond repair due to storm water flooding their underground parking garage. A French drain installed by the City on Wilson Avenue helped the situation, but additional work needs to be done by MSD.

Chris Blair, Unit #205 1030 N Harrison Ave, stated the owner of 10936 Manchester Road repaved their lot and increased the height of the curbs. This has caused additional storm water issues at 1030 N Harrison Ave. She expressed concern regarding the noise from the dogs and added there are 27 units in their building that would face the proposed Kennelwood facility.

Dorothy Achey, Unit #202 1030 N Harrison Ave, stated she lost two cars in the parking garage during heavy rains in 1993. Even though she lives on the other side of the building, she wouldn’t want to hear dogs in the outdoor area.

Alice Sydow, Unit #309 1030 N Harrison Ave, is concerned about her property value and believes the dogs barking will hinder her healing from MS.

Commissioner Evens read the underlined sections of the Subcommittee Report recommending approval.

CITY OF KIRKWOOD

**PLANNING AND ZONING COMMISSION**

**SUBCOMMITTEE REPORT**

###### April 6, 2022

***PETITION NUMBER*:** PZ-14-22

***ACTION REQUESTED*:** SPECIAL USE PERMIT (OUTDOOR USE RELATED TO A PERMITTED USE) AND SITE PLAN REVIEW – 10936 MANCHESTER ROAD

***PROPERTY OWNER*:** BRADFORD CENTER LLC ET AL

***APPLICANT*:** KENNELWOOD PET RESORTS

***APPLICANT’S AGENT*:** PAUL LEWIS, LATHROP GPM LLP

***PROPERTY LOCATION*:** 10936 MANCHESTER ROAD

***ZONING*:** B-3, HIGHWAY BUSINESS DISTRICT

 ***DOCUMENTS SUBMITTED:***

 SITE PLAN (1 SHEET) PREPARED BY WUNDERLICH SURVEYING & ENGINEERING INC. STAMPED “RECEIVED MAR 14, 2022, CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT”

 FIRE APPARATUS ACCESS DIAGRAM (1 SHEET) PREPARED BY WUNDERLICH SURVEYING & ENGINEERING INC. STAMPED “RECEIVED MAR 14, 2022, CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT”

 LIGHTING PLAN (1 SHEET) PREPARED BY SAINT LOUIS LIGHTING GROUP, DATED FEBRUARY 11, 2022

 ACOUSTICAL STUDY (11 PAGES) PREPARED BY MCCLURE ENGINEERING DATED FEBRUARY 11, 2022

**DESCRIPTION OF PROJECT:**

The applicant is requesting a Special Use Permit (SUP) for Outdoor Use and Site Plan Review to install an outdoor exercise yard area near the west end of the existing building. The day-time boarding, training, and grooming facility that is proposed for the indoor operations is considered a Minor Animal Facility which is a permitted use in the B-3 District. There is no overnight boarding proposed at this location. The proposed hours of operation are 7am – 7pm, Monday through Sunday.

The proposed outdoor area would include 3 yard areas separated by fencing for a total of approximately 1,400 sf of outdoor area. The applicant is proposing to excavate a portion of the existing turf area and part of the parking lot to be replaced with artificial turf that would be enclosed by sound-attenuating, sight-proof fencing. Due to the existing grade of this area, the applicant also proposes a series of retaining walls that would result in the northernmost outdoor area being approximately 1.5 feet above the southern two yard areas.

In addition to the fenced yard areas, the applicant is proposing additional stairs and a ramp on the western end of the building to access the new outdoor yard areas. The proposed work will also displace the dumpster which will be relocated to a new dumpster enclosure near the southeast corner of the property.

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

The site is located in the area designated as Corridor Commercial on the EnVision Kirkwood 2035 Future Land Use Map. Development types discussed in this land use include regional/neighborhood commercial.

The subject property is zoned B-3, Highway Business District. The proposed use, Minor Animal Facility, is a permitted use, however, the proposed outdoor yard areas require a Special Use Permit.

Surrounding land uses and zoning include the following:

To the north: Across Manchester Road, there are various commercial uses zoned B-3.

To the south: There is a condominium development zoned R-6, Multifamily Residential.

To the east: There are various commercial uses zoned B-3.

To the west: Directly across Harrison Avenue, there are various commercial uses zoned B-3.

**DEPARTMENTAL/AGENCY COMMENTS:**

Electric: No comments at this time.

Water: No comments at this time.

Engineering: No comments received.

Building/Fire: The existing parking spaces along the east property line shall be removed to allow better circulation for fire apparatus. - This comment has been addressed on the proposed site plan.

Forester: Recommend replacement of the one tree being removed by the proposed yard areas. – This comment has been addressed on the proposed site plan.

**SITE ELEMENTS ANALYSIS:**

***Site Access, Circulation & Parking***

The proposal does not include changes to the way in which the site is accessed. There are two existing entrances on Harrison Avenue and one entrance on Manchester Road. All entrances are proposed to remain; however, the entrance in the southwest corner of the site will now function as a one-way entrance due to the fact that the circulation behind the building is one-way and the parking spaces west of building are proposed to be removed. A condition for striping and signage to signify this one-way restriction is included in the recommendation section of this report.

***Trash/Recycling***

The applicant is proposing to remove the existing trash enclosure and construct a new trash enclosure near the southeast corner of the site which will be required to be a minimum 6’ tall, sight proof, and compatible with existing building materials on the site.

***Landscaping***

As recommended by the City Forester, the one tree being removed to accommodate the proposed outdoor use area will be replaced in the existing landscape island in the northwest corner of the property. The applicant is also proposing continuous evergreen/deciduous shrubs around the new dumpster enclosure as required by Code.

***Lighting***

The applicant is proposing to upgrade the non-conforming lighting fixtures throughout the site to bring them into compliance with the City’s updated lighting standards that were adopted in 2012. The proposed lighting plan includes three pole-mounted lights, four wall packs, and 10 recessed canopy lights. The proposed lighting fixtures are full cut-off as required by Code. The current lighting plan indicates that off-site light trespass exceeds the maximum standards along the west, north, and east property lines. The applicant has been made aware of this issue and understands that a new plan must be submitted that complies with the Code prior to City Council voting on the project. A condition regarding this item has been included in the recommendation section of this report.

**DISCUSSION:**

A Zoning Matters sign was placed on the property on February 25, 2022. The request was introduced at the Planning & Zoning Commission meeting on March 2, 2022. A subcommittee meeting was conducted on site on March 10, 2022. A list of attendees of the subcommittee meeting may be seen in Exhibit B. At the subcommittee meeting, the following items were discussed:

1. One tree will be removed to accommodate the outdoor yard areas and a replacement tree will be planted near the northwest corner of the property in an existing landscape island.
2. The outdoor yards will allow employees to bring dogs outside under supervision with a maximum total of 6 dogs in the play areas at one time.
3. The proposal for permeable artificial turf installed over permeable rock and soil will provide less stormwater runoff than the site does currently.
4. The idea of a canopy to attenuate sound was discussed; however, it was realized that this would add to the impervious area. Although not discussed at the meeting, Staff also identified that an overhead structure at this location would conflict with required structure setback from Harrison Avenue.
5. A question was raised about the timing of MoDOT’s Route 100 project (tentative for 2023) and coordination with this proposal as it related to potential stormwater improvements. It was noted that the applicant is reducing impervious area on their site and a letter was provided from MSD stating that the proposal does not trigger a formal plan submittal due to the reduction in impervious area. MSD also stated that they have a project identified to improve stormwater issues; however, the project does not currently have funding. The City Engineer stated that he will review the MoDOT plans to see if any additional efforts could be made with that project to improve the existing issues in the immediate area.
6. The applicant stated that the operation would have approximately 10 total employees and 40-60 dogs were expected at this location. As previously stated, a maximum of 6 dogs would be in the outdoor play areas at one time.

These items have been discussed throughout the report and outstanding items have been included in conditions in the Recommendation section of this report.

***RECOMMENDATION:***

The Subcommittee recommends that this application be **approved** with the following conditions:

1. The project shall be constructed and maintained in accordance with the plans referenced in the Documents Submitted portion of this report, except as noted herein.
2. Hours of operation shall be restricted to between the hours of 7 a.m. and 7 p.m. Monday through Sunday.
3. The vehicle entrance near the southwest corner of the site shall be restricted to serve as an entrance only. Signage and striping shall be installed per the direction of the Public Services Department to signify this restriction.
4. A revised lighting plan that indicates compliance with all provisions of Section 25-52 of the Zoning/Subdivision Code shall be submitted for review and approval prior to City Council voting on the proposal.
5. The proposed artificial turf is required to be installed over pervious area.
6. The one tree being removed to accommodate the outdoor play areas must be replaced with a canopy tree that is a minimum 2.5” caliper when planted. The species shall be approved by the City Forester.
7. As noted in the acoustical study, the fence utilized for the outdoor play area shall have a Sound Transmission Class 20 or greater rating to meet the sound reduction assumed in the study.
8. As assumed in the acoustical study, a total maximum of six dogs, two per yard, shall be allowed in the outdoor play areas at any one time. Said dogs must also be on leash and supervised by a Staff member while in the outdoor play areas.
9. The applicant shall comply with all standard conditions as listed in Exhibit A.

Respectfully submitted,

David Eagleton Ron Evens Darrell Scott

Motion was made by Commissioner Feiner, and seconded by Commissioner Salzer-Lutz, to approve PZ-14-22, an application submitted by Kennelwood Pet Resorts for a Special Use Permit for an outdoor use and Site Plan Review at 10936 Manchester Road subject to the conditions contained in the Subcommittee Report.

In response to comments from Commissioners Eagleton and Evens, Director of Planning and Development Services Jonathan Raiche commented that the Planning and Zoning Commission doesn’t have purview over regional storm water issues. MSD is the taxing entity with jurisdiction over storm water flooding. Even though MSD has a design solution, their projects are prioritized, due to funding, on a regional basis.

Commissioner Feiner added that the Commission is not minimizing the concerns of the residents regarding flooding; however, the Commission’s task is to review the application for a Special Use Permit for the outdoor exercise yards.

In response to Commissioner Salzer-Lutz’ question regarding the audio clip, Fiju Job, Chief Development Officer for Kennelwood, responded that the audio clip taken at their Mason Lane location was from dogs barking in the outdoor day camp area with up to 60 dogs. The outside area of the proposed Kirkwood location would have no more than six dogs on leashes with three employees at any one time.

The motion to approve PZ-14-22 was unanimously approved by the seven Commission members present (Commissioner Washington was absent and Chair Adkins recused himself).

Chair Adkins returned to the meeting and resumed his role as Chair.

**5. PZ-15-22 SPECIAL USE PERMIT (OUTDOOR USE) AND SITE PLAN REVIEW**

 **TACO BUDDHA, 11111 MANCHESTER ROAD**

Submitted: 3-30-22 Automatic Recommendation: 7-28-22

 Petitioner’s Agent, John Shuff

 Planner II Amy Lowry stated the 3,000 square foot building was previously occupied by Hardee’s. The 27,000 square foot site consists of two parcels. A covered patio would be constructed on the east side of the building and provide seating for 26 patrons, an uncovered patio area would be constructed on the south side of the building for 40 patrons, and inside table seating would be available for 28 patrons. The existing drive-up window would not be utilized. Six parking spaces on the west side of the property would be reserved for curb-side pick-up of on-line orders. Four bike racks and 35 parking spaces would be provided on site. Their proposed hours of operation are: Monday thru Thursday 7:30 a.m. to 8:30 p.m.; Friday 7:30 a.m. to 9:30 p.m.; Saturday 9:00 a.m. to 9:30 p.m.; and Sunday brunch 10:00 a.m. to 3:00 p.m. There would be a total of 20 employees (10 full-time and 10 part-time) with 8 on the maximum shift.

 Kurt Eller, owner of Taco Buddha, stated the food is traditional and inventive tacos inspired by Southwestern and Mexican cuisine. He stated he currently has one other location (in University City at Pershing and Jackson).

 In response to Commissioner Feiner’s question, Mr. Eller commented that the outdoor seating area would be modified with plastic walls to provide seating year round.

In accordance with Section 220.6 of the Zoning Code, Chair Adkins asked if there was anyone in the audience who had comments concerning the site plan, and no one responded.

Chair Adkins appointed himself and Commissioner Diel to the Subcommittee. The Subcommittee scheduled a meeting at the site for April 11 at 8 a.m.

**6. PZ-12-22 ZONING CODE TEXT AMENDMENT – ADD ANIMAL TRAINING HOMES AS A SPECIAL USE IN SINGLE-FAMILY RESIDENTIAL DISTRICTS AND GRANT SUP TO LYNN THIELE AT 551 NORTH CLAY AVENUE**

Referred back from City Council

 Petitioner, Lynn Thiele

 Chair Adkins stated if the Zoning Code Text Amendment is approved, he would recuse himself from discussing the second part (Lynn Thiele’s request for a Special Use Permit) of the application due to a perceived conflict of interest.

In February, 2022, the Commission recommended denial of the applicant’s original request that the Zoning Code text be amended to add animal training as an accessory use that would be permitted with standards in single-family residential districts. The City Council held a public hearing; and on March 17, 2022, denied the request. However, City Council voted unanimously to return the request to the Planning and Zoning Commission to simultaneously consider a text amendment for animal training homes as an accessory use subject to a special use permit and to review the applicant’s specific property for issuance of a Special Use Permit for said use. The proposed text amendment would apply to all properties in single-family residential zoning districts with each application for an animal training home requiring a special use permit application review.

 In response to Commissioner Feiner’s questions, Director of Planning and Development Services stated “domestic pets” is not defined in the Zoning Code but that dogs and cats are the only animals referenced as such in the Animals and Fowl chapter of the General Code of Ordinances. Planner II Amy Lowry added that home occupation prohibits outdoor use.

 Lynn Thiele stated she started her business with eight dogs and is requesting to have ten dogs on her property. City Attorney Hessel stated the City became aware of her business after a complaint was made. As currently written, the proposed Special Use Permit category would be non-transferable, reviewed every two years, and subject to revocation after a full contested hearing.

 Motion was made by Commissioner Diel, seconded by Commissioner Feiner, to approve PZ-12-22, a Zoning Code Text Amendment to add Animal Training Homes as an accessory use with a Special Use Permit in single-family residential districts in accordance with items 1, 2, and 3 in the Staff memo dated April 6, 2022.

 Commissioner Klippel believes “animal” could also include training for pigs, ponies, llamas, etc. and made a motion, seconded by Commissioner Evens, to amend the Staff memo by replacing “animal” with “dog” in Items 1, 2, and 3. Motion passed six to two with Commissioners Feiner and Scott dissenting (Commissioner Washington was absent).

 Motion was made by Commissioner Klippel, seconded by Commissioner Evens, to amend the Staff memo by adding Condition #16 “There shall be no more than 15 Dog Training Homes in the City of Kirkwood.” City Attorney Hessel stated that, unless there is a rationale to limit the number of businesses, it would be difficult to defend in court. The motion failed one to seven with Commissioner Klippel in favor.

Motion was made by Commissioner Evens, seconded by Commissioner Salzer-Lutz, to amend Item #1 of the Staff memo as follows: “Permitted dog training homes shall not create an adverse effect on the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties, including but not limited to noise, odors, and traffic.” The motion was unanimously approved by the eight members present.

Motion was made by Commissioner Evens, seconded by Commissioner Salzer-Lutz, to amend Item #2 of the Staff memo as follows: “Dog training shall be limited to Monday through Friday between the hours of 8 a.m. and 5 p.m. and shall be prohibited on any official Federal holiday.” The motion passed seven to one with Commissioner Scott dissenting.

Motion was made by Commissioner Evens, seconded by Commissioner Feiner, to amend Item #5 of the Staff memo as follows: “~~The operator of a training home in a rental unit shall be able to demonstrate that the property owner has authorized the use of the premises for dog training.~~  A dog training home shall not be considered for approval within a residential rental property.” The motion passed seven to one with Commissioner Scott dissenting.

Motion was made by Commissioner Evens, seconded by Commissioner Feiner, to amend Item #7 of the Staff memo as follows: “There shall be no commercial signage related to the Dog Training Home business, including any window displays on the property.” The motion was unanimously approved by the eight members present.

Motion was made by Commissioner Evens, seconded by Commissioner Salzer-Lutz, to amend Item #9 of the Staff memo as follows: “Sight-proof fencing shall be required for the rear and/or side yard for any outdoor training area.” After discussion, Commissioner Evens withdrew his motion.

Motion was made by Commissioner Diel, seconded by Commissioner Salzer-Lutz, to amend Item #14 of the Staff memo as follows: “The applicant must apply for renewal of the Special Use Permit every ~~two years~~ year unless otherwise determined by the City Council. Such renewal will be considered for approval via a resolution by the City Council.” The motion was unanimously approved by the eight members present.

Motion was made by Commissioner Evens, seconded by Commissioner Feiner, to add Item #16 to the Staff memo as follows: “The applicant must provide written documentation that demonstrates their expertise and/or certifications specific to dog training.” After discussion, Commissioner Evens withdrew his motion.

 The motion to approve PZ-12-22, a Zoning Code Text Amendment to add Dog Training Homes as an accessory use with a Special Use Permit in single-family residential districts in accordance with items 1, 2, and 3 in the Staff memo dated April 6, 2022, as amended by various motions failed three to five (Commissioners Adkins, Diel, and Eagleton were in favor, Commissioners Evens, Feiner, Klippel, Salzer-Lutz, and Scott were opposed, and Commissioner Washington was absent)

**7.** **5-YEAR REVIEW – ENVISION KIRKWOOD 2035**

At the March 16, 2022, meeting, Planning and Development Services Director Jonathan Raiche asked for volunteers to serve on a Subcommittee to assist in the five-year review of the EnVision Kirkwood 2035 Comprehensive Plan. Commissioners Eagleton, Evens, Feiner, and Salzer-Lutz volunteered, and meetings will be coordinated with those members and scheduled to conduct this 5-year review.

**8. DEVELOPMENT PROJECT UPDATE**

Planning and Development Services Director Jonathan Raiche confirmed that an occupancy permit application in the EZ Storage building on Manchester Road for a juice bar was submitted.

There being no further business, motion was made by Commissioner Diel and seconded by Commissioner Feiner to adjourn at 9:33 p.m. The next meeting will be held on April 20, 2022, at 7 p.m.

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 Jim Adkins, 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.