



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Beach Dog Daycare

Meeting	File No.	Application Type
March 21, 2022	2022-083-USE-PZB	Conditional Use
Property Owner	Applicant	Authorized Agent
820SE5, LLC	Jennifer Roselli	Jeffrey A. Costello, AICP, FRA-RA

Request

Provide a recommendation to the City Commission regarding a Conditional Use request to allow a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) and a pet hotel with an outdoor use area at the property located at 820 SE 5th Avenue.

Background Information

The subject property is located at 820 SE 5th Avenue ("Property"), south of SE 8th Street and north of SE 9th Street on the west side of SE 5th Avenue (US-1). The property is zoned Central Business District (CBD) within the South Pairs Neighborhood Sub-district and has a Land Use Map (LUM) designation of Central Core (CC).

The subject property contains a 4,550 square foot commercial building with associated parking that was constructed in 1973 as a warehouse, and later converted to different uses including an automotive parts retail shop and furniture showroom. In January 2020, the building was occupied by Beach Dog Daycare, which provides daytime and overnight boarding of dogs with other services such as grooming as an accessory use. A business tax receipt was approved on January 8, 2020, but was limited to "Dog and Pet Grooming." The limitation was based on an approved Zoning Certificate of Use by Development Services that included retail use only and specified that "uses such as doggie daycare, pet boarding / overnight stays, dog-run and pet training, and the sale of dogs and cats" were not included with the approval. A second ZCU was requested and denied in May 2020; the requested use included daycare and boarding. In 2020, Code Enforcement Violation Notices were issued for conducting overnight boarding of animals and for the installation of a fence without a permit.



In 2021, the City Commission directed City staff to evaluate the Land Development Regulations regarding domestic animal services and bring forward an update that distinguishes among the range of specialized services that have emerged in the industry and identify where they can be appropriately accommodated without negatively impacting residential uses or neighborhoods. The City Commission adopted the ordinance related to Domestic Animal Services in October 2021.

The referenced code violations were recently discussed at the December 9, 2021 Code Enforcement Board Hearing. At that time, the Board was informed that Beach Dog would be submitting the subject Conditional Use application. The Code case remains active and the property owner is being fined \$150 a day until the site comes into compliance by obtaining conditional use and site plan approval.

Project Planner:

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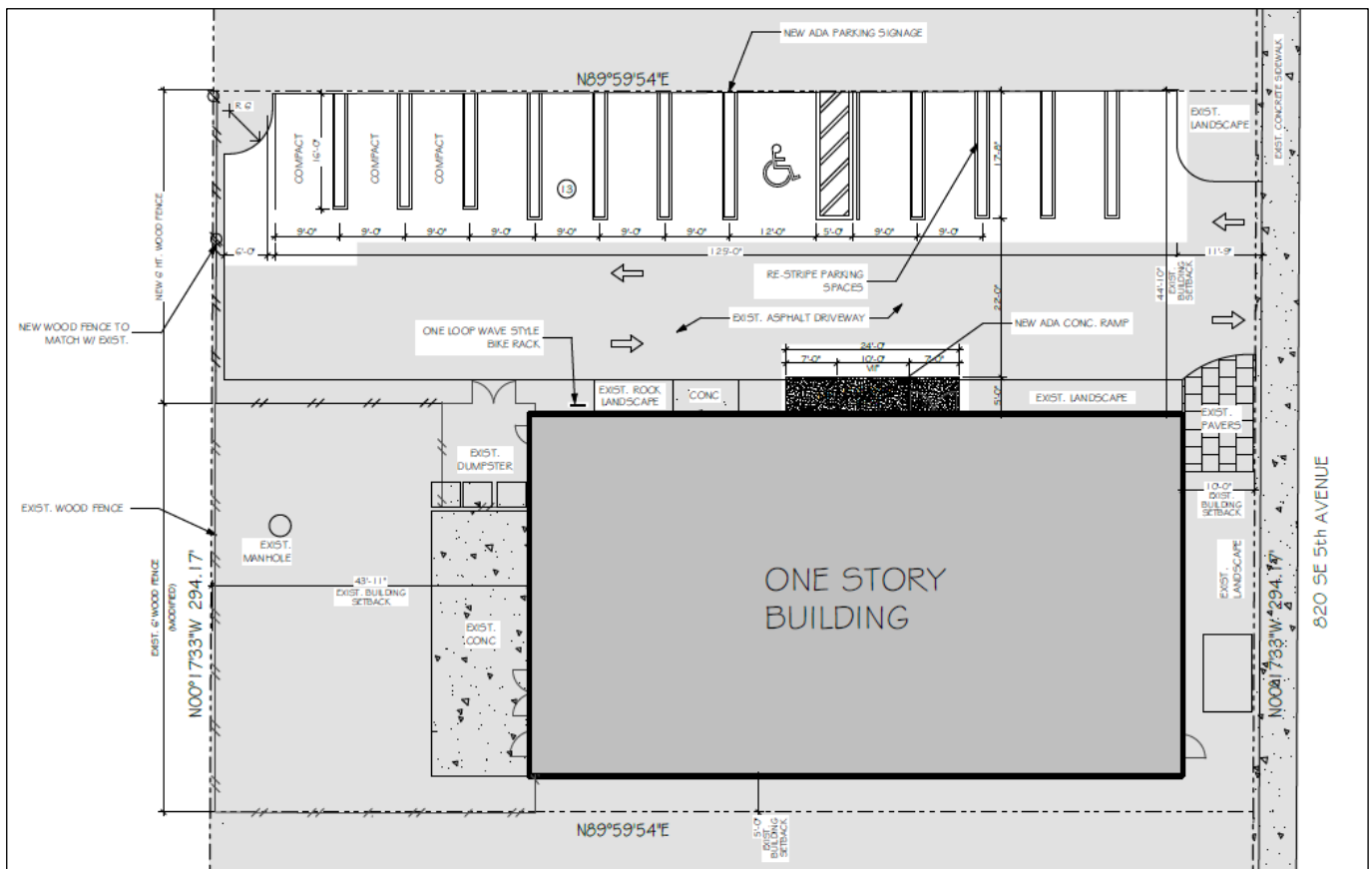
Attachments:

- Application Justification Statement
- Site Plan

Project Description

The applicant is requesting Conditional Use approval to establish a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) and a pet hotel with an outdoor use area. The CBD South Pairs Neighborhood Sub-district allows Pet Services as a conditional use, pet hotels as a conditional use, and LDR Section 4.6.6, Commercial and industrial uses to operate within a building, requires that certain operations of a business can be conducted outside through the conditional use process. The requested uses consists of the following:

- Conversion of the existing 4,550 sf. building (containing 3,300 square feet of retail and 1,250 square feet of warehouse) to accommodate a Domestic Animal Services Facility/Pet Hotel providing both daily and overnight boarding accommodations for domestic animals with Pet Service as an accessory use consisting of grooming, bathing, training, and daytime boarding.
- Enclosure of the outside use area to the rear of the building with a 6-foot-high wood privacy fence along the west property line (abutting the residential properties), within the rear yard along the south property lines and along the north side of the outdoor use area to the rear of the building;
- Reconfiguration and restriping of the existing 14-space parking lot, which does not currently include a handicap space, to accommodate 13 parking spaces, including a handicapped accessible parking space and ramp.
- Installation of associated improvements consisting of solid core sound proofing and insulation as necessary internal to the building to minimize noise and odor detection from outside the facility, accommodations for on-site attendant and generator, as well as other internal improvements/upgrades.



The proposed operations include:

- Domestic Animal Services/Pet Hotel including daytime boarding: 7:00 am to 6:00pm, overnight boarding from 6:00 pm to 7:00 am, Monday through Sunday.
- Pet Services: 7:00 am to 6:00pm. Drop-off is primarily between 7:00 am and 11:00 am and pick-up between 4:00 pm and 6:00 pm.
- Outside Use Area: limited to no more than 4 dogs at a time and only from 7:00 a.m. to 6:00 p.m., except for necessary outdoor walks of one animal at a time in direct control of a person by means of a leash or similar device.

Given that the property directly abuts residentially zoned property, the request includes a waiver to reduce the minimum distance requirement between outside use areas for domestic animal services and residentially zoned properties. Pursuant to LDR Section 4.3.3(W)(B)(e)1., Domestic Animal Services: Outside Use Areas, Separation requirements, *properties with outside use areas intended for domestic animal services shall not be located within 300 feet of residentially zoned properties or other properties with outside use areas intended for domestic animal services as measured from lot line to lot line in a straight line.* The waiver request will be considered concurrently by the City Commission with the subject request.

Review and Analysis

Pursuant to **LDR Section 2.4.5(E)(1), Rule**, *the City Commission, by motion, after review and recommendation for approval by the Planning and Zoning Board may approve or reject a request for a conditional use.*

If the Board provides a recommendation of approval, the request will be scheduled for an upcoming City Commission meeting. However, if the Board does not provide a recommendation of approval, the application would not move forward with the review process to the City Commission. If there are concerns with the request, conditions may be imposed in accordance with the following provisions.

Pursuant to **LDR Section 2.4.5(E)(4), Conditions**, *conditions may be imposed pursuant to Section 2.4.4(C). In addition, limitations on the hours of operation and/or the longevity of the use may be imposed.*

LDR Section 2.4.4(C), Imposition of conditions. *In granting approval to any development application, the granting body may impose whatever conditions it deems necessary in order to insure:*

- *The compatibility of the use with nearby existing and proposed uses.*
- *Concurrency.*
- *Consistency with objectives and policies of the Comprehensive Plan.*
- *The fulfillment of requirements of these Regulations which should have or could have been fulfilled prior to the approval action but which were not, due to conditions beyond the control of the applicant.*
- *The fulfillment of requirements of these Regulations which could have been fulfilled prior but remain outstanding; thus, providing that they will be accommodated in a later stage of processing.*

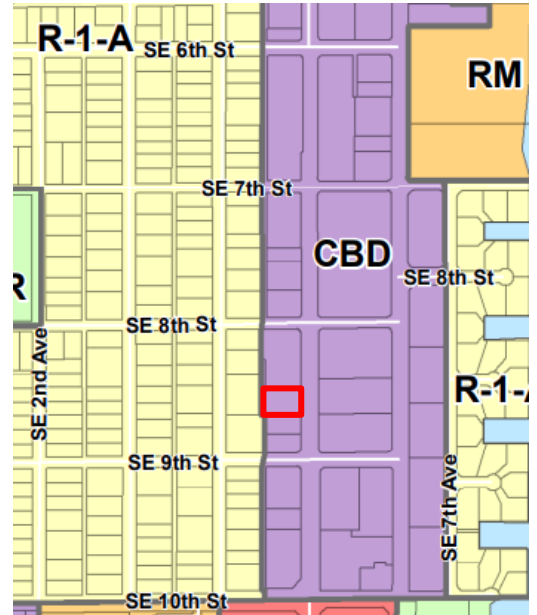
In consideration of the request, the Board has the ability to ensure that there is minimal to no impact on the surrounding neighborhood while further enhancing the adjacent corridors. Staff has provided "Board Considerations" to address potential issues or take advantage of opportunities while assisting the request in meeting the required findings for such requests.

Pursuant to **LDR Section 2.4.5 (E)(5), Establishment of a Conditional Use: Findings**, *in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:*

- Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;*
- Hinder development or redevelopment of nearby properties.*

The Board's recommendation to the City Commission must take into consideration whether or not the required development standards specific to domestic animal services facility/pet hotel with pet service as an accessory use are sufficient to prevent a significantly detrimental effect upon the stability of the neighborhood, or hinder development or redevelopment of nearby properties. The proposed domestic animal services facility/pet hotel with pet service as an accessory use and outdoor use area has a variety of established uses surrounding the property, as identified in the following chart and zoning map.

Adjacent Zoning, Land Use, and Use			
	Zoning Designation	Land Use	Use
North	CBD (Purple)	CC	Restaurant
South	CBD (Purple)	CC	Office Building
East	CBD (Purple)	CC	Restaurant
West	Residential Single-Family (R-1-A) (yellow)	Low Density (LD)	Single-Family Residence



Required Findings: LDR Section 3.1.1

Prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the following four areas:

- Land Use Map
- Concurrency
- Consistency
- Compliance with the LDRs

(A) Land Use Map. The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.

As previously discussed, the City Commission adopted an ordinance related to Domestic Animal Services in October 2021 which allows for domestic animal services facility/pet hotel with pet service as an accessory use with conditional use approval in the CBD/South Pairs neighborhood. As such, a conditional use is required pursuant to LDR Table 4.4.13(A).

(B) Concurrency. Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.

Compliance with traffic, schools, utilities, and solid waste is described below:

Traffic. The applicant is in the process of getting a Traffic Performance Standards letter from Palm Beach County that will be provided to the City Commission upon their consideration of the Conditional Use. The traffic statement prepared by the applicant's project Engineer anticipates 68 less daily trips, 16 additional AM peak hour trips and 3 additional PM peak hour trips than the prior established use.

Schools. Commercial development is not subject to school concurrency evaluation.

Water and Sewer. Water and sewer services exist to the site via connections to existing water main within the NE 5th Avenue right-of-way and sewer main located along the west side of the property.

Solid Waste. Proposed domestic animal services facility/pet hotel with pet service as an accessory use: 4,550 square feet x 14.4 lbs. = 65,520 lbs. / 2,000 = 32.76 tons per year. The prior retail/warehouse operation of the building on site produced 42,410 lbs. (21.2 tons) of solid waste based on the mix of uses (3,300 square feet of retail at 33,660 lbs./16.8 tons and 1,250 square feet of warehouse at 8,750/4.4 tons). The net increase in solid waste will be 23,110 lbs./11.6 tons. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2047.

Drainage. The existing site contains 22.9% open space area.

(C) Consistency. The following Comprehensive Plan objectives and policies are relevant to the Conditional Use request:

Neighborhoods, Districts, and Corridors Element

Objective NDC 1.6 *Provide a full range of local or regional community-based uses primarily intended to serve the public by appropriately applying the Community Facilities land use designation.*

Policy NDC 1.1.2 *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide: Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods. Uses that meet the daily needs of residents. Public open spaces that are safe and attractive.*

Policy NDC 1.1.3 *Provide transitions between land use designations at the rear of properties or at major corridors so that the prescribed uses and potential development patterns are arranged to achieve compatible and appropriate changes in intensity, height, and scale.*

Policy NDC 1.3.5 *Use the Commercial Core land use designation to stimulate the vitality and economic growth of the city while simultaneously enhancing and preserving the cultural and historic downtown area.*

Housing Element

Policy HOU 1.1.12 *Require that proposals for new development illustrate compatibility with adjacent neighborhoods with respect to noise, odors, dust, traffic volumes and circulation patterns in terms of their potential to negatively impact the safety, habitability and stability of residential areas. If the development will result in a degradation of any neighborhood, the project shall be modified accordingly or denied.*

The proposal for a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) and a pet hotel with an outdoor use area will provide a service that will meet the daily needs of residents by serving the neighborhood and city at large as many residents have pets that need care when their owners are not at home. However, the proposed use has the potential to disrupt the existing/ adjacent single-family neighborhood with the introduction of noise and odors in such proximity. While the applicant is proposing to enclose the outdoor play area with a 6-foot high wood fence, the addition of the outdoor play area, even though only 4 dogs at a time will be allowed to play in the area directly adjacent to a residential dwelling unit, will result in noise and odor with no separation (as noise and odor carry through the air and are not limited by a fence). The LDR requires that there be a 300-foot separation between outdoor use areas associated with domestic animal service businesses and residentially zoned properties to mitigate the impact on the residential neighborhoods. Given the proposal to locate the outdoor use area adjacent to the residential property, the impact is of concern and has the potential to negatively impact the stability of the residential area and the quality of life for the residents.

(D) Compliance with the LDRs. *Whenever an item is identified elsewhere in the LDR, it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.*

The LDR provides specific regulations for Domestic Animal Services to ensure that proper or sufficient measures are taken to mitigate impacts on the adjacent properties and surrounding neighborhood, as well as protecting the animals. A complete review of **LDR Section 4.3.3(W), Domestic Animal Services**, is provided as **Appendix A**. The requirements associated with the requested use and site have been generally met. However, consideration as to the impact on the adjacent neighborhood is important as the site does not meet the minimum separation requirement of 300 feet from a residentially zoned property, as it directly abuts residentially zoned property to the rear. The applicant has requested a Special Parking Reduction, pursuant to LDR Section 4.6.9(F)(1), as the minimum parking requirement has not been met. Additional review regarding parking is provided in Appendix A.

The applicant is required to provide an additional landscaping buffer and/or masonry wall in the rear of the site plan (western property line) pursuant to the special district boundary treatment requirements found in **LDR Section 4.6.4(A)(1), Commercial zoning adjacent to residential zoning or zoning districts with a 35-foot height limitation**. The Board should consider if the provision of a masonry wall in combination with additional landscaping and hedges will assist in mitigating impacts from the use on the adjacent residential neighborhood.

The site plan was reviewed initially by the City's Technical Advisory Committee on February 18, 2022. If the Conditional Use requests and waiver are approved by the City Commission, then the request will be scheduled for consideration by the SPRAB once City Staff

determines that the proposed site plan meets all requirements of the applicable LDR. The SPRAB will grant or deny the Special Parking Reduction.

Board Considerations

The Board should consider the following in reviewing the subject request to ensure compatibility with the varied characteristics surrounding the property,.

1. In lieu of a wood fence, provide a masonry wall in combination with landscaping along the western property line adjacent to the single-family zoned properties .
2. If the uses (Pet Services, Pet Hotel, Outside Use Area) are compatible with nearby existing uses, particularly given the proximity to the residential neighborhood.
3. If the proposal is consistent with the applicable objectives and policies of the Comprehensive Plan.
4. If additional limitations or regulations should be considered to mitigate the impacts on the adjacent neighborhood, while maintaining a viable, thriving business.

Board Action Options

- A. Move to recommend **approval** to the City Commission of a Conditional Use request for **Beach Dog Daycare** to allow a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) and a pet hotel with an outdoor use area at the property located at **820 SE 5th Avenue**, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan.
- B. **Deny** the Conditional Use request for **Beach Dog Daycare** to allow a domestic animal services facility offering pet services (grooming, bathing, training, and daytime boarding) and a pet hotel with an outdoor use area at the property located at **820 SE 5th Avenue**, finding that the request is inconsistent with respect to Land Development Regulations and the policies of the Comprehensive Plan.
- C. **Continue with direction.**

Public and Courtesy Notices

X Courtesy Notices were provided to the following neighborhood associations:

- Swinton Gardens
- Osceola Park
- Rio Delray Shores

X Public Notice was posted at the property 7 calendar days prior to the meeting.

X Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

X Public Notice was posted to the City's website 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall 10 working days prior to the meeting.

X Agenda was posted at least 5 working days prior to meeting.

APPENDIX A

LDR Section 4.3.3(W), Domestic animal services. Facilities providing domestic animal services shall obtain a permit issued by Palm Beach County Animal Care and Control Division prior to the establishment of the use and must comply with the following:

Requirement	Provided
(1) Hours of operation are limited to 7:00 a.m. to 8:00 p.m., except for veterinary clinics providing emergency services.	Hours of Operation: 7:00am to 6:00pm
(2) Domestic animal service facilities shall be fully enclosed with solid core doors and walls sufficiently insulated to minimize noise and odor detection from outside the facility. If frequent, habitual, or long continued animal sounds are plainly audible from adjacent properties, the building is not considered sufficiently insulated.	The applicant has specified the provision of “ <i>solid core sound proofing and insulation as necessary internal to the building to minimize noise and odor detection from outside the facility, accommodations for on-site attendant and generator, as well as other internal improvements/upgrades.</i> ” A note for this is required to be placed on the site plan that will be certified.
(3) Outside activities and services are limited to drop-off and necessary outdoor walks of animals in direct control of a person by means of a leash or cord. Pursuant to Section 4.6.6 , any other outside use requires approval through the conditional use process specifically determining the outside aspects of the use are appropriate.	The applicant has confirmed compliance with the outdoor limitations and included the outside use area as part of the conditional use consideration.
(4) Pet services that are limited as an accessory use by the zoning district must be accessory to an approved domestic animal service.	N/A
(5) On-site disposal of carcasses is prohibited.	Noted for the record; note for this is required to be placed on the site plan that will be certified.
(6) Parking Requirements. The minimum number of parking spaces required shall be determined by the gross floor area. Facilities offering a mix of domestic animal services shall provide parking spaces based on the cumulative use designation of each area. (a) Pet services and veterinary clinics shall provide 4.5 spaces per 1,000 square feet. (b) Pet hotels and animal shelters shall provide one space per 300 square feet. (c) Common areas within a facility offering a mix of domestic animal services shall calculate parking spaces based on the use requiring the least amount of parking spaces.	15 parking spaces are required; 14 spaces exist on-site, and 13 spaces are proposed. The applicant has requested a special parking reduction that will be reviewed and acted on by SPRAB during review of the Class III Site Plan Modification. The parking reduction analysis provided by the applicant is included as an attachment.
(7) Overnight boarding. Only veterinary clinics, pet hotels, and animal shelters may offer overnight boarding services subject to the following: (a) An on-site attendant shall be present at all times during boarding services. (b) Pet hotels and animal shelters shall not be located within a mixed-use building with residential uses. (c) Emergency Preparedness Plan. Facilities approved for and offering overnight boarding services shall provide an Emergency Preparedness Plan to ensure continued humane care conditions are provided for the animals and their attendants, in case of an emergency, power outage, natural disaster, or other similar event. The plan shall include the following:	The applicant has confirmed they will meet these requirements.

<ol style="list-style-type: none"> 1. Description of how the animals in the facility will be accommodated if the main power source is out for more than 12 hours. 2. An auxiliary power generator, either portable or permanent, is required, and shall be designed and equipped to power, at a minimum, the surgery and boarding rooms, for a period of not less than 24 hours. <ol style="list-style-type: none"> a. Generators shall not be dependent on a municipal water supply for cooling purposes. b. Both portable and permanent generators shall be tested on a quarterly basis and a test log shall be maintained for inspection by the City of Delray Beach, upon request. 3. A minimum of one attendant on-site must be able to operate the generators. 4. Veterinary clinics, pet hotels and animal shelters that provide overnight boarding services and were legally established prior to the adoption of Ordinance No. 17-21 shall provide the facility's emergency preparedness plan within two years of the effective date. 5. Businesses that do not provide an on-site or portable auxiliary generator may request relief through the waiver process pursuant to Section 2.4.7(B). 	
<p>(8) Outside use areas. Domestic animal service facilities may be approved for outside use areas pursuant to Section 4.6.6, subject to the following:</p> <ol style="list-style-type: none"> (a) Outdoor cages, crates, kennels, or other enclosures intended for animal habitation, and not for exercise or training purposes, are prohibited. (b) A solid finished masonry wall or privacy fence six feet in height shall be provided on all sides of outside use areas designated for domestic animal services. (c) Pervious outside use areas intended for domestic animal services may be counted towards open space requirements. (d) Outside activities are limited to 7:00 a.m. to 8:00 p.m., except for necessary outdoor walks of one animal at a time in direct control of a person by means of a leash or similar device. (e) Separation requirements: <ol style="list-style-type: none"> 1. Properties with outside use areas intended for domestic animal services shall not be located within 300 feet of residentially zoned properties or other properties with outside use areas intended for domestic animal services as measured from lot line to lot line in a straight line. 2. Outside use areas are subject to required minimum building setbacks, which may be increased as part of the conditional use approval. 	<p>As the subject property is located within 300 feet of residentially zoned property, a waiver is required. The applicant has submitted the waiver application and it will be presented to the City Commission.</p>