



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Barkingham Palace

Meeting	File No.	Application Type
April 18, 2022	2022-108-USE-PZB	Conditional Use (Domestic Animal Services)
Property Owner	Applicant	Agent
Steven Gorowsky Trust	Kathi Cibischino	Matthew Scott/Dunay Miskel & Backerman, LLP

### Request

Provide a recommendation to the City Commission regarding a Conditional Use request to allow a Domestic Animal Services facility offering Pet Services including day care and pet grooming, and a Pet Hotel for Barkingham Palace located at 1551 North Federal Highway.

### Background Information

The subject property is developed with two single story buildings constructed in 1940 and 1961. The eastern building, which contains 3,339 square feet, fronts onto Eastview Avenue and is occupied by a personal training facility (Temple Martial Arts and Fitness Club). The western building, which contains approximately 6,000 square feet, is located at the southeast corner of North Federal Highway and Eastview Avenue. The property has a Land Use Map (LUM) designation of General Commercial (GC), and a zoning designation of General Commercial (GC). The property is also located within the North Federal Highway Redevelopment Area.

Barkingham Palace, which is an established business in the western building, has operated under a Business Tax Receipt since 2007 under the classification of Services and Facilities Dog and Pet Grooming. However, in 2007, the City's Code Enforcement Division cited the business for overnight boarding of animals, which was not an allowed use in the GC zoning district; the overnight boarding component has continued to operate and has been included in current citations from Code Enforcement. An outside area was also established without City approval; the area, which was located within the City's right-of-way, was recently removed due to additional code citations. The applicant has a current license from Palm Beach County Animal Care and Control Division (attached).



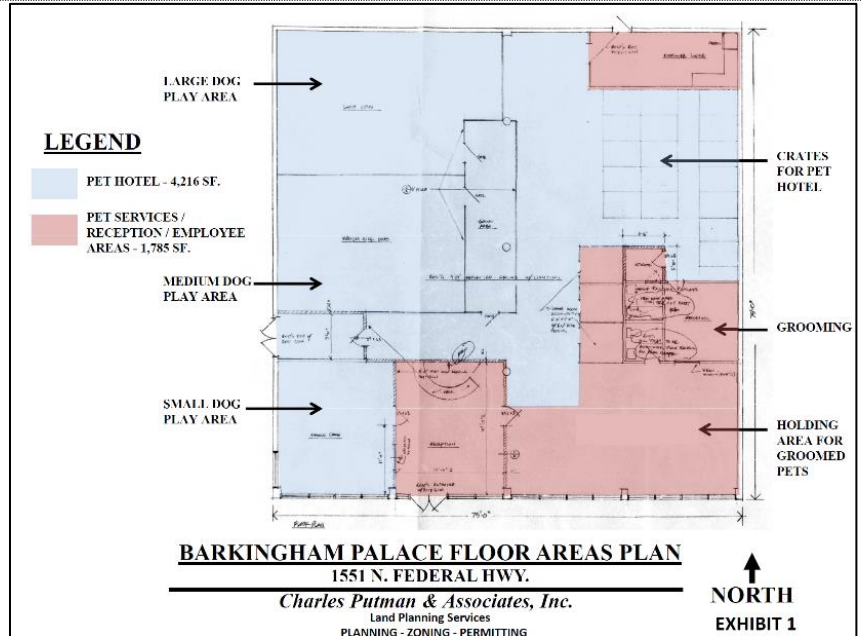
The current Code Enforcement violation (case # 20-02119) to the property includes the non-permitted installation of a fence and tents on the south side of the property, in addition to the overnight boarding of animals. The fence and tents provide an outdoor dog play area. If a recommendation of approval is provided by the Planning and Zoning Board, the outstanding violation for the fence and tents must be corrected (removed) before the application can be heard at City Commission.

## Project Description

The applicant is requesting a Conditional Use approval to establish additional uses for Pet Services and a Pet Hotel for overnight boarding at Barkingham Palace. The facility will offer daycare and a pet hotel in addition to the already approved pet grooming services. The area dedicated for pet hotel services consists of 4,216 square feet, and the pet services area including reception and common areas consists of 1,785 square feet.

The proposed hours of operation are:

- **Pet Hotel:**  
Monday thru Friday, 7:00 am – 6:00 pm;  
Saturday, 7:30 am – 5:00 pm  
Sunday, 7:00 am – 8:00 am and 4:00 pm and 5:00 pm for pick up or drop-off of boarded dogs only, by appointment only.
- **Pet Services (grooming and daycare):**  
Monday thru Friday, 8:30 am – 4 pm. No grooming on the weekends.



Outside activities are limited to drop off and necessary outdoor walks; there is no outside use area included with the proposal and all activities related to the use are to be conducted inside. Barkingham Palace staff will be responsible for outdoor walks of animals on a leash. There are no exterior alterations to the building or modification to the site included with the request. There are five parking spaces in front of the eastern building where the personal training facility is located, and there are seven parking spaces along the north side of the western building; all spaces are accessed from and backout onto Eastview Avenue.

## Review and Analysis

Pursuant to **Land Development Regulations (LDR) Section 2.4.5(E)(1), Establishment of a Conditional Use: 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.

A recommendation of approval by the Planning and Zoning Board is required for the item to be considered by the City Commission. Conditional use requests that do not receive a recommendation of approval by the Planning and Zoning Board do not move forward to the City Commission for consideration. The City Commission meeting date will be determined following a recommendation of approval.

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 impose any conditions it deems necessary to ensure that there is minimal to no impact on with the surrounding neighborhood and future development.

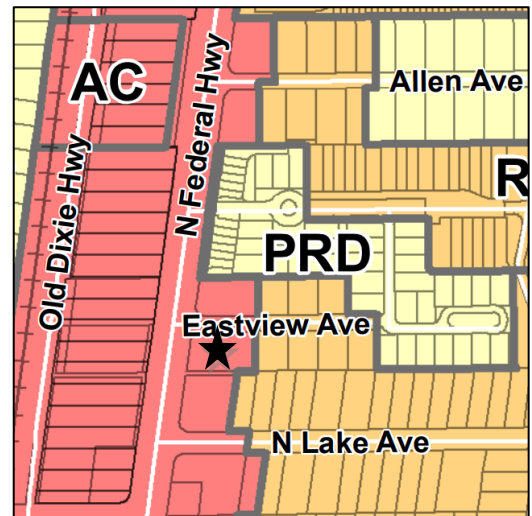
Pursuant to **LDR Section 2.4.5 (E)(5), Establishment of a Conditional Use: Findings**, in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

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

A Domestic Animal Services facility is defined as *places of business, either for profit or not for profit, that provide services for the care and well-being of domestic animals including veterinary clinics, pet service facilities, pet hotels, and animal shelters.* The Domestic Animal Services facilities are specified within **LDR Section 4.3.3, Special Requirements for Specific Uses**, which provides use-specific regulations for a wide range of uses allowed throughout the city to mitigate impacts from business operations onto adjacent properties or uses, with special attention generally given to protecting residential neighborhoods.

Barkingham Palace has been in operation and approved for grooming services at its current location since 2007. The request is to legally establish additional services provided to its clients, such as daytime boarding and a pet hotel. In 1999, The City of Delray Beach adopted the North Federal Highway Redevelopment Plan, which is supported by the Comprehensive Plan under policy NDC 2.7.9. The plan evaluated current uses, zoning, and land use as well as the current condition of the area. The chart below identifies the surrounding zoning districts (also see map) and land use designations, as well as the established property uses. General Commercial remains the land use designation throughout the corridor along Federal Highway, inclusive of the subject property, where commercial uses are encouraged. As part of the consideration, it is important to recognize that the building where Barkingham Palace is in operation is buffered from the residential zoning to the east by the additional building on the subject property.

Adjacent Zoning, Land Use, and Use			
	Zoning Designation	Land Use	Use
North	GC (Pink)	GC	Cleaners Depot
South	GC (Pink) RL (Orange)	GC MD	Summerland Pools / Single-family Residential
East	RL (Orange)	MD	Single-family Residential
West	GC (Pink)	GC	Retail and Motel



The facility is adjacent to residential development and neighborhoods, which could be beneficial to both the neighborhood and the facility if residents are seeking these types of services. The proposed uses are limited to the indoor areas, which will limit impacts on the neighborhood. In addition, the building is made of concrete block, and the applicant is required to maintain improvements that will “minimize noise and odor detection from outside the facility.” Compliance with the regulations in Section 4.3.3(W), Domestic Animal Services, will mitigate impacts and ensure that redevelopment within the surrounding area is not hindered because of the services provided by Barkingham Palace. The traffic generated by the business should not have an impact to the adjacent neighborhood due to its location along North Federal Highway; Eastview Avenue is not a through-street and only provides access for local residents, including those of Old Palm Grove.

As indicated in the parking overview in Appendix A, the uses on the entire site require 42 parking spaces, whereas a total of 12 are provided. The additional uses do not require more parking than what would be required for the approved grooming use that is currently in operation; the pet hotel use is calculated at a lower rate than pet services. Therefore, the amount of parking spaces currently provided



on-site are considered a legal, non-conformity. It is also important to consider that the nature of this type of business is for clients to quickly drop-off and pick-up their animals, so the turnover in the parking lot will be frequent.

There are no past or current code violations or documented complaints of noise or odor disturbances to the surrounding neighborhood located to the south and east. However, pursuant to LDR Section 4.3.3(W)(2) the applicant is required to demonstrate the preventative measures taken to eliminate any future disturbances.

Pursuant to **LDR Section 3.1.1, Required Findings**, 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.

**(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.*

The subject property has a LUM designation of GC, and a zoning designation of GC, both of which are consistent with Table NDC-1, Land Use Designations: Density, Intensity, and Implementing Zoning Districts. The GC zoning district is identified as a preferred implementing zoning district for properties with a GC land use designation.

**(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-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

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

Traffic: The submitted traffic statement, which takes into account the uses on the entire property, indicates that there would be 249 daily trips for Barkingham Place with 33 AM Peak Trips and 44 PM Peak Trips. There are 10 daily trips with one am Peak Trip and five pm trips for Temple Martial Arts and Fitness Club.

Water and Sewer: Water and sewer service currently exist on-site via an 8-inch Cast Iron water main and 8-inch ductile sewer line.

Solid Waste: For solid waste calculations, the facility is classified as a kennel at 6,001 square feet. Based on the approximately 6,000 square feet, 43.20 tons of solid waste is anticipated on an annual basis. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals through 2054.

Drainage. The site was developed in the 1940s and 1960s; there are no on-site improvements necessitated by the proposal, and therefore, the current drainage system for the site will not be impacted or modified.

**(C) Consistency.** *A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*




Pursuant to **LDR Section 3.2.1, Basis for determining consistency**, the performance standards set forth in this Article either reflect a policy from the adopted Comprehensive Plan or a principle of good planning practice. The performance standards set forth in the following sections as well as compliance with items specifically listed as required findings in appropriate portions of Section 2.4.5 shall be the basis upon which a finding of overall consistency [Section 3.1.1(C)] is to be made. However, exclusion from this Article shall not be a basis for not allowing consideration of other objectives and policies found in the adopted Comprehensive Plan in the making of a finding of overall consistency.

The following policies apply to the conditional use request:

## Neighborhoods, Districts, and Corridors Element

Policy NDC 1.1.14 *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

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.*

Objective NDC 1.3, Mixed-Use Land Use Designations *Apply the mixed-use land use designations of Commercial Core, General Commercial, Transitional, Congress Mixed-Use, and Historic Mixed-Use to accommodate a wide range of commercial and residential housing opportunities appropriate in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.*

Policy NDC 1.3.10 *Use the General Commercial land use designation to accommodate a wide range of non-residential and mixed-use development, and limited stand-alone residential development, along major corridors and in certain districts in the city.*

## 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 request is to include additional services at the established domestic animal service facility located along a major corridor that spans the north-south limits of Delray Beach. The additional services of daytime boarding and pet hotel will provide additional everyday support services to residents in the nearby area as many residents have pets that need care when their owners are at work or on vacation. The facility is at the northern city limits and could provide services not only to residents of Delray, but to also to nearby Boynton Beach area residents. If additional services, such as outside use area or veterinarian care, are requested at a later date, a modification to the approved conditional use would be required.

**(D) Compliance with the LDRs.** *Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), 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.*

Pursuant to **LDR Section 4.4.9(D)(14), GC District, Conditional Uses and Structures Allowed**, a conditional use is required for Pet services, pet hotels, and veterinary clinics, subject to Section 4.3.3(W,) domestic animal services. 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, 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.

### Board Action Options

- A. Move to recommend **approval** to the City Commission regarding a Conditional Use request to allow a Domestic Animal Services facility offering Pet Services including day care and pet grooming, and a Pet Hotel for Barkingham Palace located at 1551 North Federal Highway, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan.
- B. Move to recommend **approval** to the City Commission regarding a Conditional Use request to allow a Domestic Animal Services facility offering Pet Services including day care and pet grooming, and a Pet Hotel for Barkingham Palace located at 1551 North Federal Highway, finding that the request is consistent with the Land Development Regulations and the Comprehensive Plan, **subject to conditions**.
- C. Move to **Deny** a Conditional Use to allow a Domestic Animal Services facility offering Pet Services including day care and pet grooming, and a Pet Hotel for Barkingham Palace located at 1551 North Federal Highway, finding that the request is inconsistent with the Land Development Regulations and the Comprehensive Plan.
- D. **Continue with direction.**

### Public and Courtesy Notices

X Courtesy Notices were sent to:

- Chamber of Commerce
- La Hacienda
- Kokomo Key
- Delray Estuary
- Old Palm Grove

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.	<b><i>Pet Boarding and Doggie Daycare</i></b> , Monday thru Friday 7:00 am – 6:00 pm and Saturday 7:30 am – 5:00 pm. The facility is open for appointment on Sundays between the hours of 7:00 am – 8:00 am and 4:00 pm and 5:00 pm for pick up. (no daycare on Sunday)  <b><i>Pet Services</i></b> , Monday – Friday 8:30 am – 4 pm No grooming on the weekends
(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 indicated that the concrete block walls will block the noise from emanating from the building and provide sufficient mitigation so that the noise does not impact the neighbors. However, there are a few windows located on the north and west elevations, which have not been indicated by the applicant as impact rated, they are not adjacent to the neighboring residential properties. The applicant has provided photos of the doors, which are either glass or steel.
(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.	All outside services are limited to drop-off and pick-up and outdoor walks with animals on a leash and walked by a person. An outside use area is not part of the request.  The current code violation (20-02119) is for the fence and tents that are in a City right-of-way. If approved, the applicant can't move forward to City Commission until the improvements for the outdoor use area are removed.
(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.	The applicant has acknowledged this prohibition and indicated that no on-site disposal of carcasses will take place on the facility. A note for this is required to be placed on the site plan that will be certified.

<p><b>(6) Parking Requirements.</b> 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.</p> <ul style="list-style-type: none"> <li>(a) Pet services and veterinary clinics shall provide 4.5 spaces per 1,000 square feet.</li> <li>(b) Pet hotels and animal shelters shall provide one space per 300 square feet.</li> <li>(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.</li> </ul>	<p>There are 12 existing parking spaces on site. The current uses (pet services for grooming and a gym) require a total of 42 parking spaces, resulting in a legal nonconformity and a deficit of 30 parking spaces.</p> <p>The addition of the daytime boarding (pet service) does not increase the parking requirement, as it maintains the 4.5 parking spaces per 1,000sf calculation.</p> <p>The addition of the pet hotel will not increase the parking requirement, as it is calculated as a lower rate of 1 parking space per 300 square feet.</p>
<p><b>(7) Overnight boarding.</b> Only veterinary clinics, pet hotels, and animal shelters may offer overnight boarding services subject to the following:</p> <ul style="list-style-type: none"> <li>(a) An on-site attendant shall be present at all times during boarding services.</li> <li>(b) Pet hotels and animal shelters shall not be located within a mixed-use building with residential uses.</li> <li>(c) <i>Emergency Preparedness Plan.</i> 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: <ul style="list-style-type: none"> <li>1. Description of how the animals in the facility will be accommodated if the main power source is out for more than 12 hours.</li> <li>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. <ul style="list-style-type: none"> <li>a. Generators shall not be dependent on a municipal water supply for cooling purposes.</li> <li>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.</li> </ul> </li> <li>3. A minimum of one attendant on-site must be able to operate the generators.</li> <li>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.</li> <li>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).</li> </ul> </li> </ul>	<p>The applicant has confirmed that an on-site attendant will be present at the facility 24 hours seven days a week. The pet hotel is allowed in the subject building as it operates as a one-story standalone building. The applicant has also confirmed that the facility is equipped with a connection for a portable generator that is easily accessible and stored one mile from the facility. The generator does not need a water source and will be tested on a quarterly basis. An Emergency Preparedness Plan has been provided and is included in the attachments.</p>
<p><b>(8) Outside use areas.</b> Domestic animal service facilities may be approved for outside use areas pursuant to Section 4.6.6, subject to the following:</p>	<p>No outside use areas are included with the proposal.</p>



- (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:
  - 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.