

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for February 14, 2007 PLANNING COMMISSION MEETING

-REVISED REPORT-

- PROJECT #:** Change of Zone #06084
- PROPOSAL:** A text amendment deleting the prohibition on open kennels associated with veterinary clinics, and allowing kennels in the H-3 and H-4 zoning districts as a conditional use.
- CONCLUSION:** The provisions of Lincoln Municipal Code (LMC) Title 6 prohibit kennels within the city limit; however, proposed amendments to Title 6 are being considered by the Board of Health. The Zoning Ordinance only allows kennels in the AG, AGR, B-4, I-1 and I-2 zoning districts. Limiting a use to only those districts is fairly restrictive and is atypical unless it is either such an intense land use that it is incompatible with most other uses, or the impacts associated with it are such to require special limitations. While kennels are not appropriate in all zoning districts, they would be compatible in more than the five districts currently allowed. This amendment allows kennels in the H-3 and H-4 districts as a conditional use, and includes conditions to help mitigate impacts typically associated with them. This amendment also strikes the prohibition on open kennels associated with veterinary clinics. This acknowledges animal boarding is a customary and incidental use associated with such clinics and should be allowed.

<u>RECOMMENDATION:</u>	Approval
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HISTORY: This request was delayed for four weeks by the Planning Commission at the January 17, 2007 public hearing at the request of the Planning Department. Staff requested the delay to allow time for staff to gain a better understanding of the animal care/boarding industry and refine the draft text if necessary.

ANALYSIS:

1. Kennels are regulated by LMC Title 27 (Zoning Ordinance), and are allowed in the AG, AGR, B-4, I-1 and I-2 zoning districts as a permitted use. Kennels are also regulated by LMC Title 6 (Animals), which prohibits them within Lincoln's city limit except for the Humane Society, an animal shelter or research facility, zoos, or animal hospitals operated by licensed veterinarians.

2. A local agent for a nationally-franchised company named Camp Bow Wow has been attempting to site a facility in the Lincoln area, but has been unable to find a suitable location. The use is described by the owner as a “Premier Doggy Day and Overnight Camp”, and is considered a kennel (specifically, a commercial boarding kennel) for the purposes of LMC. The intent of this text amendment and associated amendments to LMC Title 6 now under consideration by the Board of Health are intended to provide areas within the city where such businesses can locate.
3. At the 1/17/07 public hearing, the rationale of allowing veterinary clinics in the city that also board animals while kennels are simultaneously prohibited was questioned. Staff visited all those veterinary clinics that advertise boarding and in all cases found boarding to be an accessory use to the principal use of the veterinary clinic, the same as animal grooming or pet food sales are. It was also evident that whether boarding is advertised or not, the majority of veterinary clinics offer the service.
4. Title 6 of Lincoln Municipal Code makes a distinction between veterinary clinics and kennels, as does Title 27 (Zoning Ordinance). This is consistent with the North American Industry Classification System (NAICS, formerly the SIC) which classifies veterinary clinics and kennels into different categories. Veterinary clinics are classified as “Professional, Scientific, and Technical Services”, and kennels are classified as “Other Services.” Generally, the basis for classification is based upon similarity of processes used to produce goods and services.
5. LMC Title 6 has five definitions for uses that include the term ‘kennel’. The intent of this amendment is to allow those kennels as defined by LMC Section 6.02.140 - Commercial Boarding Kennel as a conditional use in the H-3 and H-4 zoning districts. That definition states “Commercial boarding kennel shall mean any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska.” A condition of the proposed conditional use provisions allows only those kennels as defined as a “Commercial Boarding Kennel” in Title 6.
6. Impacts typically associated with kennels include noise from dogs barking, and odor caused by confined animals. The proposed conditions for the conditional use are intended to mitigate these impacts by confining boarding inside the building, and requiring outdoor play areas to be 100% screened and located at least 100' away from any land zoned R-1 through R-8.
7. As proposed, this amendment does not change the current provisions regarding kennels in the AG, AGR, B-4, I-1 and I-2 districts. The requirements for the AG and AGR districts were not amended because the minimum lot areas (20 acres in AG and

- 3 acres in AGR) help provide separation among uses, and because there are few areas inside the city limit zoned AG and AGR. The B-4, I-1 and I-2 districts were not included because kennels are already permitted in those districts, and all three districts allow a wide range of uses generally compatible with kennels.
8. Being allowed in only the AG, AGR, B-4, I-1 and I-2 zoning districts and outside the city limit, areas where kennels can be located are limited and often not in proximity to the population centers where customers live. While a kennel is not an appropriate land use in residential or low intensity commercial /office areas, it is an appropriate land use in additional zoning districts beyond those currently allowed.
 9. For kennels to be allowed in the city, Title 6 must be amended. The proposed Title 6 amendments will be considered by the Board of Health at their February 13, 2007 meeting. Any changes to Title 6 recommended by the Board of Health must be approved by the City Council.
 10. The January 11 agenda for the Mayor's Neighborhood Roundtable was full and this item could not be included on it. Since then, staff has been instructed that the Roundtable will not be presented zoning text amendments until further notice.

Prepared by:

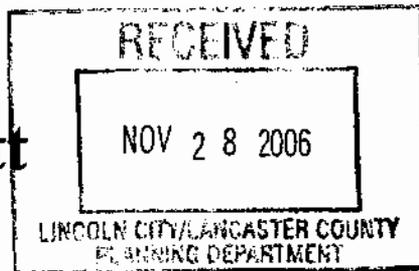
Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
January 31, 2007

APPLICANT: Marvin Krout
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Lincoln/Lancaster County Planning Department
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Lincoln, NE 68508
402.441.7491

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Attachment: Summary of proposed text amendment

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Gary L. Aksamit
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November 27, 2006

Bruce Dart, Director
Lincoln/Lancaster County Health Dept.
3140 "N" Street
Lincoln, NE 68510

Judy Halstead
Resource and Program Development Coordinator
Lincoln/Lancaster County Health Dept.
3140 "N" Street
Lincoln, NE 68510

Re: *Camp Bow Wow*

Dear Bruce and Judy:

I appreciate your taking the time with me and my clients this past week to discuss the steps necessary for my client's proposed Camp Bow Wow franchise to lawfully operate in the City of Lincoln. The facility and business, while not a traditional dog kennel, is none-the-less close enough to that type of use to need to satisfy City regulations with regard to kennels. As we discussed, kennels are generally prohibited in the City of Lincoln with limited exceptions. Accordingly, we would ask that you bring forward to the animal control advisory committee for discussion the possibility of amending the necessary health regulations to permit Camp Bow Wow to operate within the City.

Both my client and I are willing to participate as may be needed to accommodate this request. It is our understanding that a kennel proposal was brought forward several years ago and was not adopted. We think it to be worth the effort to try again. With the continuing growth of the City of Lincoln, there are a number of existing kennels that will be within the City limits in the near future. The appropriate regulations for those kennels to be lawful within the City of Lincoln should be put in place today which will also then permit new businesses such as my client's to be able to offer its services to residents in the City.

I am also exploring with my client the possibility of opening the Camp Bow Wow facility as an animal hospital operated by a licensed veterinarian. As you know, that is a permitted use in the H-4 zoning district. Further, there is no regulatory or statutory definition or licensing requirement for an animal hospital. It appears to me that the material provision in the current Health Department Ordinance to be satisfied is that the facility must be operated by a licensed veterinarian. Assuming my clients are successful in entering into such an agreement for the facility, we will consult with you before finalizing that arrangement. If we are successful in pursuing that avenue, my clients will be able to open their business sooner while the changes are made to the existing health provisions to permit kennels outside of animal hospitals.

Pierson, Fitchett, Hunzeker, Blake & Katt

Bruce Dart and Judy Halstead
November 27, 2006
Page 2

We look forward to working with you on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter W. Katt", with a long horizontal flourish extending to the right.

Peter W. Katt
For the Firm
lawkatt@pierson-law.com

PWK:sb

cc: Tom Ryan and Colleen Clark
Marvin Krout, Planning Dept

(G:\AF\6200-6299\6293.001 Ryan, Tom & Colleen Clark--Camp Bow Wow\Dart Halstead 11-27-6 ltr.wpd)

Review Comments for Application #: CZ06084

Comments as of: Thursday, January 04, 2007

Status of Review Complete

Reviewed By 911

ANY

Comments

Status of Review Active

Reviewed By Building & Safety

ANY

Comments

Status of Review Active

Reviewed By Building & Safety

ANY

Comments

Status of Review Complete

12/28/2006 3:16:07 PM

Reviewed By Fire Department

NCSBJW

Comments We have no issues from the perspective of our department.

Status of Review Complete

12/28/2006 3:34:05 PM

Reviewed By Fire Department

NCSBJW

Comments we have no issues from the perspective of our department.

Status of Review: **Approved**

01/02/2007 2:19:06 PM

Reviewed By: **Health Department**

ANY

Comments: **LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will DATE: January 2, 2007

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Kennels in City Limits

EH Administration CZ #06084

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed change of zone (text) with the following noted:

Relative to residential zoning setback distances, the LLCHD supports their inclusion in the proposed zoning districts of H-4 and I-1. The LLCHD recommends providing a setback of 300 feet to residential from outdoor kennels and 100 feet to residential zoning from indoor kennels. Title 6 - Animals of the Lincoln Municipal Code will reference the applicable Title 27 chapters regarding the required setback distances.

Status of Review: **Active**

Reviewed By: **Law Department**

ANY

Comments

Status of Review: **Complete**

01/04/2007 8:26:47 AM

Reviewed By: **Lincoln Police Department**

NCSBJW

Comments: **Mr. Will,**

The Lincoln Police Department does not object to the Kennels in City Limits Change of Zone (PUD) CZ06084.

Sergeant Don Scheinost, #798
Lincoln Police Department
Management Services
(402) 441-7215

Status of Review: **Active**

Reviewed By: **Planning Department**

BRIAN WILL

Comments

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments

Status of Review: Active

Reviewed By Planning Department

RAY HILL

Comments

Status of Review: Complete

01/04/2007 12:21:13 PM

Reviewed By Public Works - Development Services

NCSBJW

Comments: Engineering Services has no objection to CZ#06084.

Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

Status of Review: Complete

12/29/2006 11:26:23 AM

Reviewed By Public Works - Watershed Management

NCSBJW

Comments: Brian

Watershed Management has no comments on this text amendment. thanks

Ben Higgins
Watershed Management
Public Works and Utilities
City of Lincoln, NE
(402) 441-7589
