

STAFF EVALUATION

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Reviewed By: Mike Hayes, Planning & Zoning Division Manager 728-5244
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Case No.: Use Permit No. 21-00012

Planning Commission Date: October 13, 2021

City Council Date: November 10, 2021

General Information

Applicant

Kristopher W. Wilgus

Property Owner

Toan Van Nguyen and Kim Anh Vu

Location

2409 and 2411 Kecoughtan Road [LRSN 1003602 and 1003603]



Requested Use

Use Permit to allow for an animal day care.

Description of Proposal

The applicant is proposing to operate a fully staffed 24 hour canine day care business, Redletter Runners. Up to 20 canines are proposed to be onsite at any given time.

The establishment will occupy a former bank building where the dogs will be kept and trained. The former bank parking lot and drive-thru on the side of the building are proposed to be used as an outdoor dog run area.

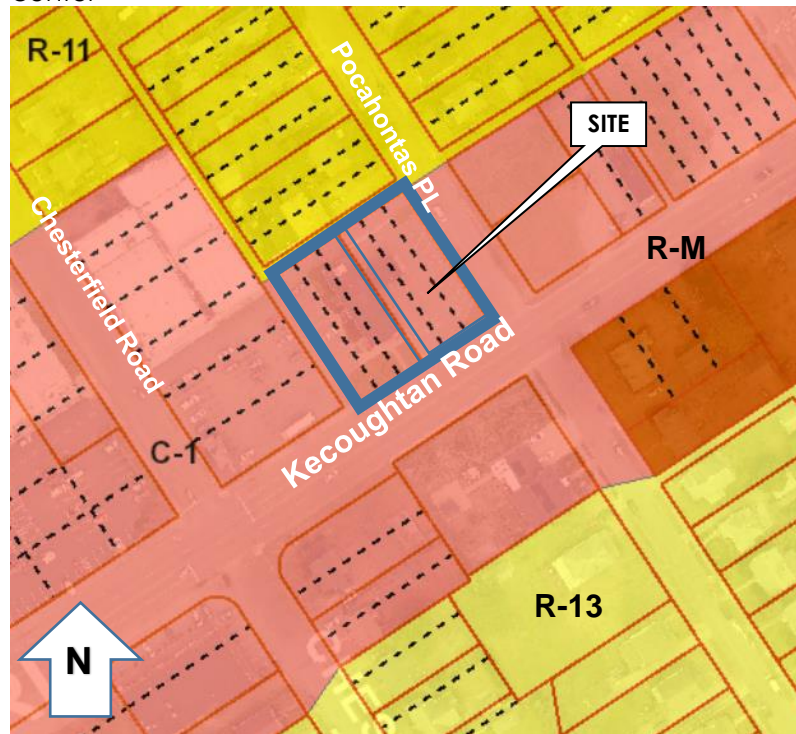
The applicant is requesting a 24 hour operation while staff is proposing more limited hours of operation from 6:00 AM to 10:00 PM with a limitation on the use of the dog run between 6:00 AM and 7:00 AM.

Existing Land Use

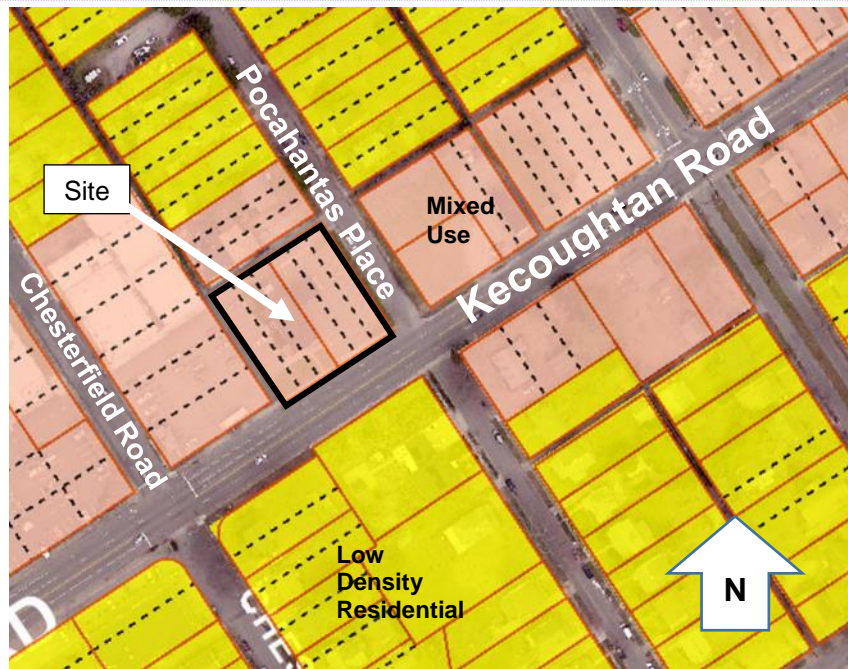
Traditional bank building used as an office.

Zoning & Zoning History

The subject site is zoned Neighborhood Commercial District (C-1). A use permit is required for animal day care in C-1

*Surrounding Land Use and Zoning***North:** R-11 (One Family Residential), single family houses.**South:** C-1 (Neighborhood Commercial), single family houses.**East:** C-1 (Neighborhood Commercial), vacant lots.**West:** C-1 (Neighborhood Commercial), neighborhood shopping center*Public Policy*

The Hampton Community Plan (2006, as amended) recommends mixed use for the subject property. This property is also a part of an existing commercial node identified in the Kecoughtan Road Corridor Master Plan (2006, as amended). Mixed Use, as defined by the Community Plan, encourages development of two or more compatible land uses and densities as primary uses within one parcel, building structure, or the same block.



Listed below are Hampton Community Plan (2006 as amended) policies related to this request:

LU-CD Policy 4: Evaluate land use proposals from a regional, city-wide, and neighborhood perspective.

LU-CD Policy 17: Preserve and enhance the identity and scenic qualities of city corridors and gateways.

LU-CD Policy 36: Protect adjacent neighborhoods and promote compatible land uses within the city's residential corridors.

ED Policy 4: Nurture small and start-up businesses.

ED Policy 10: Foster the successful redevelopment of well-situated vacant and underutilized commercial and industrial properties within the city.

The property is within the Kecoughtan Road Corridor Master Plan Area (2006, as amended). Specifically, the property resides within West Kecoughtan Road Neighborhood Commercial Center Initiative Area and is part of the Wythe Shopping Center.

The Plan recommends redefining this Corridor through the improvement of the existing retail buildings with façade improvements, coordinated signage, and a new streetscape. The Initiative Area surrounding the Wythe Shopping Center, is one of two older shopping plazas along the Kecoughtan Corridor, where commercial uses will be consolidated as much as is practical, while

still supporting viable neighborhood businesses elsewhere along the Corridor.



(ABOVE LEFT) Consolidate commercial uses to two locations.

Other goals are to eliminate non-neighborhood friendly commercial uses; redefine the Kecoughtan Road Corridor primarily as a residential boulevard and gateway to the adjacent neighborhoods; and ensure that new developments and redevelopments preserve and enhance the essential qualities of the area that makes it unique.

Applicable Regulations

The current zoning of C-1 allows an animal day care with a use permit and requires additional standards for the use. There are recommended site-specific conditions attached with this use permit, regarding such items as the outdoor dog run, hours of operation, and landscape buffering due to the lot being adjacent to residentially zoned areas.

The additional standards for Animal Day Care in C-1 specified by the zoning ordinance require compliance with:

- Noise limitations in City Code Sec 22-9;
- Animal control requirements in City Code Chapter 5, including but not limited to requirements regarding licensing and care of the animals
- For the outdoor run, the following additional standards apply: animals shall not be kept unattended in the outdoor run between 10 PM to 7 AM; the outdoor run shall be fenced with a minimum fence height of (6) feet. In the event the subject parcel abuts any lot zoned as a residential or multi-family district, the outdoor run must be setback 20 feet from that parcel, the fence must be opaque, and if within 100 feet of that lot, it must be screened. Technically, the subject property does not directly abut the residentially zoned property, as there is a public alley separating the properties, the additional standards for the outdoor run near a residential lot would not apply. However, given the fact that adjacent residential properties are in such close proximity to this proposed use, staff is recommending these requirements apply as part of the use permit conditions.

In addition, Animal Day Care uses are not permitted to have keeping of animals over 24 hours.

These are the baseline conditions. Additional conditions or stricter modification of the above conditions may occur through the use permit process based upon site specific conditions.

Traffic/Parking

The subject property currently has marked parking spaces on the 2409 Kecoughtan Road side (west side) of the building. The applicant proposes using the parking lot on the drive-thru side (east side) of the building for a dog run. This use will meet its parking requirement with the remaining parking being located on the west side (2409 Kecoughtan) of the building.

Community Meeting

The applicant scheduled a community meeting on July 13, 2021. This was held at the Kenneth Wallace Neighborhood Resource Center at 2315 Victoria Boulevard. The applicant did not use the list of surrounding property owners provided by staff. Eight people were present, including the Neighborhood Commissioner for District Nine.

Analysis

Use Permit Application No. 21-00012 is a request for a use permit to permit operation of an animal day care. The subject property includes adjacent lots developed together at 2409 and 2411 Kecoughtan Road [LRSN: 1003602 & LRSN:1003603] totaling approximately 0.52 acres. The property is currently zoned Neighborhood Commercial District (C-1). This zoning district allows for an animal day care use subject to additional standards and an approved use permit. While the zoning ordinance contains a set of additional standards which are required to be met, the use permit process allows for Planning Commission and City Council to consider other conditions as appropriate based upon site-specific factors.

An animal day care facility is defined within the zoning ordinance to allow for the care of animals for a period of time less than twenty four (24) hours per animal per client. This allows for animal day care without having "boarding" which would be considered a "kennel" within the zoning ordinance. A kennel is not a permitted use within the Neighborhood Commercial District (C-1) zoning district. The subject parcels are separated from the residentially zoned property at its rear by a twenty (20) foot alley. This separation means that the additional standards required by the zoning ordinance, such as opaque fencing and landscape screening, for lots directly abutting residentially properties do not automatically apply to this site but may still be considerations within the purview of this use permit.

The Hampton Community Plan (2006, as amended) recommends commercial use for the subject property. The proposed use is a commercial land use. The policies in the Hampton Community Plan (2006 as amended) related to this request support actions which nurture and support redeveloping small businesses on underutilized commercial properties. Furthermore, the site is located in one of the two commercial nodes along Kecoughtan Road as referenced within the Kecoughtan Road Corridor Master Plan (2006). Specifically, the site is located in the West Kecoughtan Road Neighborhood Commercial Center Initiative Area. The site is also a part of the Wythe Shopping Center along the Kecoughtan Road Corridor serving as one of two commercial nodes identified in Kecoughtan Road Corridor Master Plan. This land use recommendation is aimed at concentrating commercial uses to specific areas as much as is practical while still supporting neighborhood businesses.

The applicant has proposed a 24 hour operation including use of the outdoor run 24 hours per day. They have also proposed using astro-turf or rubber tiles for the outdoor run and using their staff to collect animal waste.

From a land use perspective, City staff finds the proposed 24 hour operation is inappropriate at this location, which is situated in such close proximity to established single family residences. The Neighborhood Commercial District (C-1) is designed to generally permit land uses that can co-exist in close proximity to residential neighborhoods. If the hours of operation were more limited, staff believes an animal day care could be an appropriate land use at this location. The proposed use of an artificial surface and proposed method of collecting animal waste also raises concerns regarding storm water pollution.

During the course of helping the applicants prepare and staff reviewing the use permit application for presentation to Planning Commission, staff has worked with the applicant to clarify the exact scope of the proposed business in a number of ways. For instance, there was been some confusion about the proposed location of the outdoor run. The narrative stated that the dog run would be located on parking lot to the right of the building, however, the recent demarcated site plan indicates the dog run would be along the front yard of the property. This would be a significant difference which would not be able to be approved by zoning officials as the accessory dog run would be within required green areas, which cannot contain active uses. The applicant has agreed to the location of the run in the parking lot to the right of the building as depicted on the conditioned site plan. Another aspect which has been difficult to finalize is the disposal of the animal waste. Animal waste must be managed in order to prevent wastewater from entering the storm water system. Public Works staff worked with the applicants and have proposed that astro-turf on the existing parking lot could be graded in such a way to assist in containing the wastewater and that a connection to the sanitary sewer system could potentially be made at the rear of the lot as a way to dispose of the animal wastewater. If the use permit is approved by City Council, a final design for the waste management would have to be submitted and approved prior to the issuance of a certificate of occupancy and zoning approval for the animal day care.

The extended hours are a concern for staff. Based on an analysis comparing dog day care businesses in the Hampton-Roads area to the proposal presented by the applicants, there appear to be some significant differences. For example, the hours listed for the majority of local area dog day care businesses list typical hours of operation as being 7 AM – 9 PM. Hours of operation are a typical land use consideration, especially when a business is proposing to locate in proximity to residential homes. In addition, a 24 hour operation may constitute a "kennel" which is not permitted in the Neighborhood Commercial District (C-1). Limitations on hours of operation help ensure this use functions as an animal day care and not a kennel. Other land use concerns include making sure that the proposed fencing around the dog run is appropriate for this highly visible location along the Kecoughtan Road Corridor as well as assuring that the dog run location is appropriate. Accordingly, staff has recommended conditions to limit the hours of operation, require staffing at all times, and require a waste disposal plan that is compliant with the City Code, as well as to include fencing and screening of the site, as described further below. In addition, the dog run location has been specified in the drawing included in the staff report (Exhibit A).

While staff believes that the proposed conditions satisfactorily address the concerns with the application, staff is currently unclear as to whether the applicant will agree to all of the proposed conditions. **(Note: Unlike rezoning conditions, use permit conditions do not require the consent of the applicant.)** Staff is recommending approval of this use permit contingent on the 16 conditions being met. Please see the attached proposed conditions for details.

Staff recommends approval of Use Permit Application No. 21-00012 subject to 16 conditions.