



City of San Antonio

Legislation Details (With Text)

File #: 17-6083
Type: Zoning Case
In control: Board of Adjustment
On agenda: 11/6/2017
Title: A-17-197: An appeal by David Darr of the Director's decision to issue a Zoning Verification Letter that allows for outdoor recreational activity for animals at an Animal Clinic, located at 12058 Vance Jackson Road. Staff recommends Denial. (Council District 8)
Sponsors:
Indexes:
Code sections:
Attachments: 1. A-17-197 Attachments, 2. A-17-197 Appeal Application

Date	Ver.	Action By	Action	Result
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Case Number: A-17-197
Applicant: David Darr
Owner: VP Huebner LLC
Council District: 8
Location: 12058 Vance Jackson Road
Legal: Lot 9, Block 22, NCB 14732
Description:
Zoning: "C-2 S CC MLOD-1 ERZD" Commercial Camp Bullis Military Lighting Overlay Edwards Recharge Zone District with Specific Use Authorization and Special City Council approval for a small animal clinic with overnight boarding on the property.
Case Manager: Catherine Hernandez, Development Services Administrator

Request

An appeal by David Darr of the Director's decision to issue a Zoning Verification Letter that allows for outdoor recreational activity for animals at an Animal Clinic.

Applicable Code References

- (a) UDC 35-A101. Animal Clinic. A facility for the prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury in small domestic animals, with all care conducted within a completely enclosed building, provided that noise or odors created by activities within the building are not perceptible beyond the property line, and that no animals are kept outside the building at any time. Overnight boarding of animals is permitted unless expressly prohibited by the zoning district

regulations.

- (b) UDC 35-481. Appeals to the Board of Adjustment. The Board of Adjustment is empowered to consider an appeal of a decision by an administrative official, in this case, the Development Services Director. The appeal must be submitted by a person aggrieved the decision. The appeal must include details regarding the incorrect interpretation made by the administrative official, along with any supporting evidence. The Board must consider the appeal at a quasi-judicial public hearing, pursuant to UDC Section 35-404. Their authority allows the Board to affirm, modify or reverse the Director's determination from which the appeal is taken and make the correct order, requirement, decision or determination, with the concurring vote of 75% of its members.

Background

Development Services Department received an application for a Zoning Verification Letter on August 1, 2017. The application included three requests:

- 1) Confirmation of the current zoning of the property.
- 2) Confirmation that the current zoning permits “a facility for the prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury in small domestic animals.”
- 3) And “formal verification that animals are allowed outside for recreational time that is supervised by employees in a designated area under the current zoning designation stated above. San Antonio’s Unified Development Code (“UDC”) definition of “small animal clinic” states that, “no animal may be kept outside the building”. However, the animal’s supervised outdoor recreation time does not translate to being “kept” outdoors as there will not be any boarding or boarding structures (cages) onsite.”

The Zoning Verification Letter issued by staff concluded that the current zoning of the property allows an animal clinic for the prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury in small domestic animals. Further, staff concluded that allowing supervised, outdoor recreation time does not equate to being “kept” outside, so long as there were no outdoor training, boarding, runs, pens, or paddocks.

Initially, the application for an appeal sought to reverse the decision of the Director to permit outdoor recreational time for animals and to prohibit animals from being outdoors at the subject property. However, on November 2, 2017 the subject property was rezoned by City Council to “C-2 CD S” with Conditional Use and Specific Use Authorization for a Veterinary Hospital - Small Animal with Outdoor Uses permitted with the following conditions:

- No more than eight (8) animals in outside areas at one time.
- Physical employee supervision of animals when animals go outside.
- An eight foot (8’) fence along the east side of the property.
- No outdoor runs, pens, paddocks, boarding, and training.

Through that rezoning, a Conditional Use and Specific Use Authorization was given to the subject property that permits animals outdoors for recreation purposes. As the result of this approved rezoning for the subject property, the Board of Adjustment is only considering the interpretation of the definition for a Small Animal Clinic.

Staff Analysis:

The Unified Development Code specifies indoor and outdoor animal-related uses differently.

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMIT	O-1 & O- 1.5	O-2*	N C	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Animal	Animal C			P	P	P	P	P	P			S	2418
Animal	Animal a boarding			P	P	P	P	P	P			P	2720
Animal	Animal a boarding								P	P		S	2720
Animal	Animal -						S		S			S	
Animal	Animal -								P	P		S	
Animal	Breeder								S	P		NA	
Animal	Cemeter					P	P		P			S	6730
Animal	Stockyar										S	NA	9300
Animal	Veterina									P		S	2418
Animal	Veterina								P	P		S	2418

Those seeking to include “outdoor training, boarding, runs, pens, or paddocks” are required “L” Light Industrial District or “I-1” General Industrial District zoning. However, the use “Animal and Pet Services (no outdoor training, boarding, runs, pens, or paddocks permitted)” is permitted by right in “C-2” with no prohibition of outdoor recreational activity or the prohibition for animals to be allowed outside to relieve themselves. The definition of this use is as follows:

Animal and pet services. These establishments provide animal and pet care services (except veterinary), such as boarding, grooming, sitting, and training.

As specific attention was attributed to the presence of “outdoor training, boarding, runs, pens, or paddocks” in the various animal service uses to determine the intensity of the zoning required to operate them, and the fact that the definition of “Animal and Pet Services” did not prohibit recreational activities of animals, staff concluded that the intent of the definition for “Animal Clinic” was to regulate the presence of outdoor structures (i.e. cages) and not allow the operation to “keep” animals outdoors, or board the animals outside overnight. Staff further concluded that the intent of the definition, as listed in Section 35-A101, was not to prohibit any outdoor recreational time for animals recovering from the “prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury”, but to regulate the operations ability to cage them or board them outdoors in “runs, pens, or paddocks” for any length of time.

Staff finds that not allowing animals outdoors for any amount of time is an unreasonable restriction for an animal clinic, as it would not permit animals to relieve themselves outside, get any fresh air, or run around after being kept in indoor kennels.

Staff Recommendation:

Staff recommends denial of A-17-197 because of the following reasons:

- 1) The intent of the definition of an animal clinic was not to prohibit any outdoor, recreational time for animals or to prohibit an animal from relieving themselves, but rather to regulate the ability of a clinic to keep them outdoors in “runs, pens, or paddocks”.
- 2) The interpretation that the intent and definition of the “Animal Clinic” use was to strictly prohibit any outdoor exposure for animals is unreasonably restrictive in that it would create

conditions that are contrary to the health of animals.

Board of Adjustment

The Board of Adjustment is asked to determine the intent of the definition of an Animal Clinic, and if the use of an “Animal Clinic” allows for any outdoor, supervised recreational time for animals.

In addition, in this case, the *Board of Adjustment* has the authority to review and consider the appeal before it, investigate facts, weigh evidence, and draw conclusions. The *Board* may reverse or affirm, in whole or in part, the administrative decisions brought forward by the appellant and discussed in this report.

Therefore, the *Board* is charged with reviewing the subject decisions described below pursuant to *Section 35-481* of the *UDC*:

1. Should the Board affirm or uphold the decision of the Director, then the result is that the Animal Clinics throughout San Antonio will be allowed to provide outdoor, supervised, recreational time for animals recovering from the “prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury”, so long as there is no outdoor training or boarding and so long as animals are not kept outdoors in runs, pens, or paddocks.
2. Should the Board reverse the decision of the Director, then the result is that any other small animal clinic use may not provide outdoor, supervised, recreational time for animals recovering from the “prevention, treatment, minor surgery, cure, or alleviation of disease and/or injury”, even if there is no outdoor training, boarding or outdoor runs, pens, or paddocks unless they are rezoned specifically for outdoor exposure.
3. Whether the Board upholds or reverses the Director’s decision, in whole or in part, the subject property will still be permitted to operate a Veterinary Hospital with outdoor uses because it was recently rezoned to specifically allow for it.