

**TOWN OF LEESBURG
NOTICE OF TOWN COUNCIL PUBLIC HEARING
TO CONSIDER SPECIAL EXCEPTION APPLICATION
TLSE-2013-00012
MY DOG'S DAYCARE**

Pursuant to Sections 15.2-1427, 15.2-2204, 15.2-2205 and 15.2-2285 of the Code of Virginia, 1950, as amended, the **Leesburg Town Council** will hold a public hearing on **Tuesday, November 12, 2013 at 7:30 p.m.** in the Town Council Chambers, 25 West Market Street, Leesburg, Virginia, 20175 to consider Special Exception Application TLSE-2013-0012, My Dog's Daycare a request permit an indoor day time dog care facility for up to 60 dogs at an existing warehouse unit in Leesburg Business Park.

The subject property is located at Unit 110 of 75 Lawson Road SE, Leesburg, Virginia 20176 in the Leesburg Business Park subdivision in an existing unit 3,600 square feet in size that is zoned I-1, Industrial/Research Park District. The property is further described as Loudoun County Parcel Identification Number (PIN) 189-26-8520-009 and Loudoun County Tax Map Number /48//51B2/110/. The Town Plan designates this property as "Regional Office" on the Land Use Policy Map.

Special Exception Application TLSE-2013-0012 is a request to allow an indoor daytime dog day care center subject to the Kennel standards of Section 9.3.12 of the Zoning Ordinance.

Additional information and copies of this application are available at the Department of Planning and Zoning located on the second floor of the Leesburg Town Hall, 25 West Market Street, Leesburg, Virginia 20176 during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by contacting Irish Grandfield, Senior Planner at 703-771-2343 or igrandfield@leesburgva.gov.

At these hearings, all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations at the Town Council meeting should contact the Clerk of Council at (703) 771-2733 three days in advance of the meeting. For TTY/TDD service, use the Virginia Relay Center by dialing 711.



Date of Council Meeting: November 12, 2013

**TOWN OF LEESBURG
TOWN COUNCIL PUBLIC HEARING MEETING**

Subject: TLSE-2013-0012, My Dog's Daycare, a special exception application to permit an indoor day time dog care facility.

Staff Contact: Irish Grandfield, AICP, Senior Planner, Dept. of Planning & Zoning.

Recommendation: Staff recommends **conditional approval** of the proposed special exception subject to the conditions at the end of this report.

Issue: Should a special exception be granted to allow an indoor day time dog care facility in the I-1 zoning district at Unit 110 in Leesburg Business Park?

Fiscal Analysis: Approval of this application will generate additional business tax revenue to the Town.

Background: The Applicant Michael Edelheit is requesting Special Exception approval to allow an indoor day time dog care facility for up to 60 dogs in the I-1 zoning district at Unit 110, 75 Lawson Road SE in Leesburg Business Park. The property is 4.25 acres in size; the unit is 3,600 square feet. The property is identified as Loudoun County Parcel Identification Number (PIN) #189-26-8520-009. The *Town Plan* designates this property as "Regional Office" on the Land Use Policy Map. Consistent with TLZO Sect. 3.4.14, the Applicant is requesting a modification of one use standard related to a 200 foot setback from property boundaries for Kennels (TLZO Sect. 9.3.12).

Planning Commission Public Hearing and Recommendation: This application was concurrently advertised due to the nature of the application and minor conditions of approval. At the time this memo was prepared; the Planning Commission had not yet held its public hearing scheduled for November 7, 2013. Staff spoke with one adjacent property owner, the Northern Virginia Park Authority, who expressed no concerns with the application. No comments have been received from any of the other adjacent and surrounding properties. An update of the Planning Commission hearing will be provided to Council prior to the Council public hearing.

Staff Analysis: Staff notes the following findings:

- A. Compliance with TLZO Sec. 3.4.12:** The proposed use complies with the approval criteria of TLZO Sec. 3.4.12 (see pages 4-5 of the Planning Commission Staff Report – Attachment 1). There is no adverse impact on the use of neighboring properties as this site is already developed. The traffic impact of having is limited as are other potential impacts since the use is contained indoors to the warehouse unit.

B. Special Use Criteria: TLZO Section 9.3.12 provides three specific use standards. Staff finds the proposal meets two of the criteria. As well, staff finds justification for the requested modification of the other one (see discussion on pages 5-6 of the Planning Commission staff report (Attachment 1). Staff supports the modification request of the 200-foot setback use standard based on the following:

- The intent of the criteria is to provide appropriate separation from outdoor kennels to other nearby uses where there could be a negative impact. Considering the proposed dog day care facility is completely enclosed, staff believes the intent of the performance standard can be met by ensuring the warehouse unit has proper interior noise attenuation and odor control measures. Staff is recommending conditions of approval to address these issues.
- Tuscarora Creek and the adjacent forested floodplain create an effective buffer to the Beauregard Estates subdivision to the south with the nearest residential building located 550 ft. away.
- The adjoining property line located 51.1 ft. to the east contains commercial uses (ECHO building) that would not be adversely affected by our proposed use because the Daycare will be held strictly inside the building.

Recommendation and Conditions: Staff recommends **approval** of TLSE-2013-0012 My Dog's Daycare, including one zoning ordinance modification, subject to the following conditions:

- 1. Substantial Conformance:** This special exception use is granted for Unit 110 of Leesburg Business Park located at 75 Lawson Road. Development of this special exception use shall be in substantial conformance with the special exception plat entitled "My Dog's Daycare" prepared by Paciulli Simmons & Associates and revised through October 17, 2013.
- 2. No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.
- 3. Capacity:** The dog daycare facility shall be limited to a maximum of sixty (60) dogs at any given time.
- 4. Hours of Operation:** The facility may operate Monday through Saturday during the hours 7:00 am to 7:00 pm. and Sunday between 1:00 pm and 5:00 pm. There shall be no overnight boarding of animals at the facility.

5. **Soundproofing:** Unit 110 at 75 Lawson Road shall be adequately soundproofed with acoustic wall and ceiling tiles so as not to present a nuisance to other businesses at the site.
6. **Lighting:** Any additional new outdoor lighting installed for the dog day care use shall be full cut-off and limited to only that necessary for the safety of patrons and employees using the facility.
7. **Odor Emissions:** Odors shall be properly contained and/or treated before release so as not to present a nuisance to other businesses at the site.
8. **Stream Protection:** At the lower end of all designated dog relief areas the applicant shall construct and maintain a 5-foot by 5-foot area with approximately 12 inches thickness of engineered soil (Mulch, Peat moss, stones #7 and #57) to filter dog waste pollutants before they runoff or enter the ground. A 6-inch by 6-inch timber curb shall be put in place and maintained around the designated dog relief areas so that the runoff does not sheet flow directly into the pond.
9. **Dog Relief Site Maintenance:** The designated dog relief areas shall be inspected hourly during operating hours to ensure solid waste is removed from the site.
10. **Pet Waste Notification Sign:** The applicant shall install and maintain a pet waste sign citing the applicable sections of the Town Code related to dog waste and instructing dog attendants on the proper way to handle pet waste in the designated dog relief areas.

Attachments

1. Planning Commission Staff Report dated November 7, 2013
2. Resolution



Date of Planning Commission Meeting: November 7, 2013

**TOWN OF LEESBURG
PLANNING COMMISSION PUBLIC HEARING**

Subject: TLSE-2013-0012, My Dog's Day Care, a special exception application to permit an indoor day time dog care facility at Unit 110, 75 Lawson Road SE.

Staff Contact: Irish Grandfield, AICP, Senior Planner, Dept. of Planning & Zoning.

Recommendation: Staff recommends conditional **approval** of the proposed special exception subject to the conditions contained in this report.

I. APPLICATION SUMMARY

The Applicant Michael Edelheit is requesting Special Exception approval to allow an indoor day time dog care facility for up to 60 dogs in the I-1 zoning district at Unit 110, 75 Lawson Road SE in Leesburg Business Park (see Figure 1). No new construction is proposed. A plat (Attachment 1) and Statement of Justification (Attachment 2) have been submitted in support of the application. Consistent with TLZO Sect. 3.4.14, the Applicant is requesting a modification of one use standard related to a 200 foot setback from property boundaries for Kennels (TLZO Sect. 9.3.12). Staff recommends conditional approval finding the proposal consistent with the Zoning Ordinance and Town Plan.

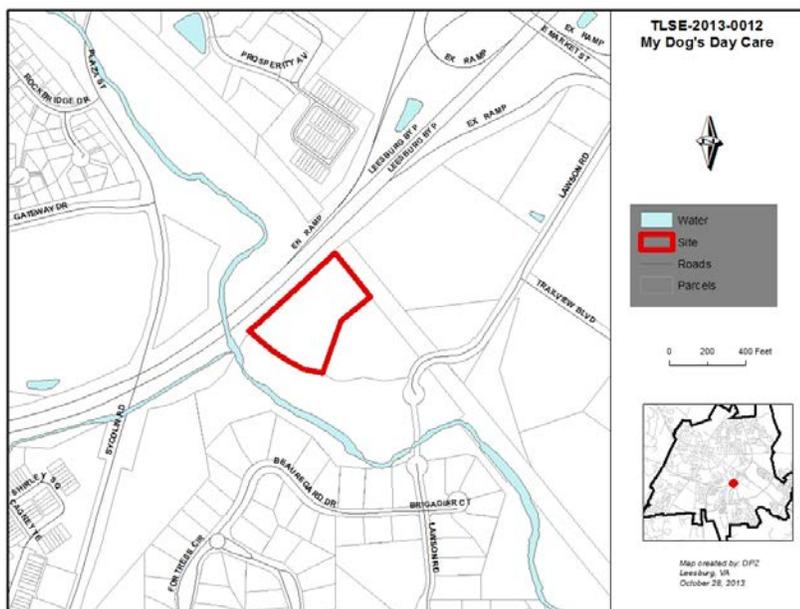


Figure 1. Application Property

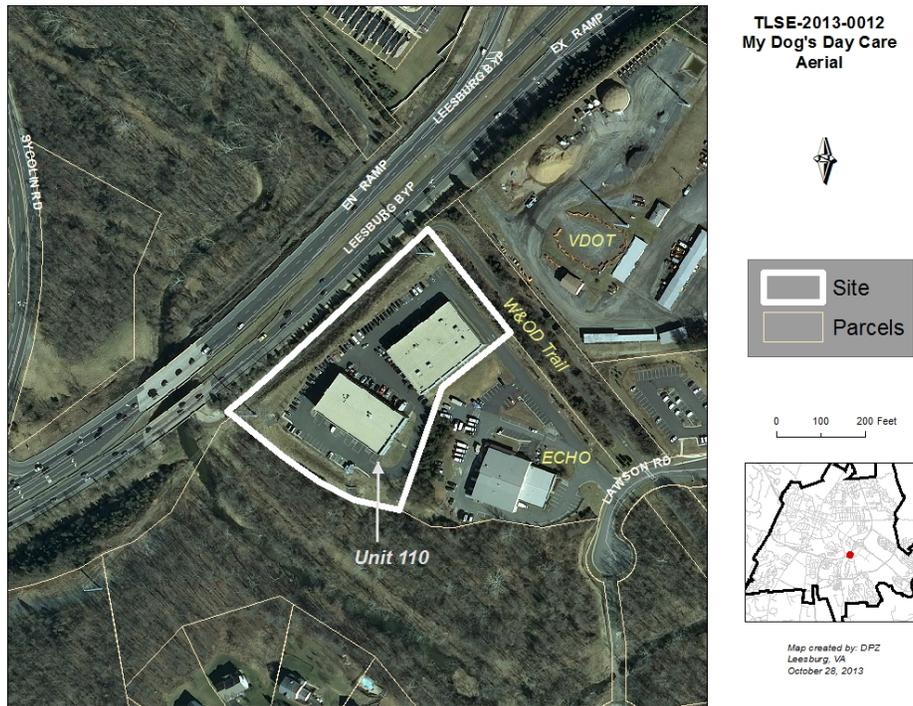


Figure2. Aerial

- II. CURRENT SITE CONDITIONS:** The subject property is an existing warehouse at Unit 110, 75 Lawson Road SE (see Figure 2, Aerial View). The property is 4.25 acres in size; the unit is 3,600 square feet. The property is identified as Loudoun County Parcel Identification Number (PIN) #189-26-8520-009. The *Town Plan* designates this property as “Regional Office” on the Land Use Policy Map.
- III. ZONING HISTORY:** The property was rezoned in 1984 for industrial use and is zoned I-1, Industrial/Research Park District subject to the proffers and concept plan of rezoning case number TLZM-1984-0050, so it is administered as County PD-GI with proffers. (see Figure 3). The Applicant is seeking this special exception to permit an indoor day time dog care facility for up to 60 dogs subject to the Kennel standards of Section 9.3.12 of the Zoning Ordinance.

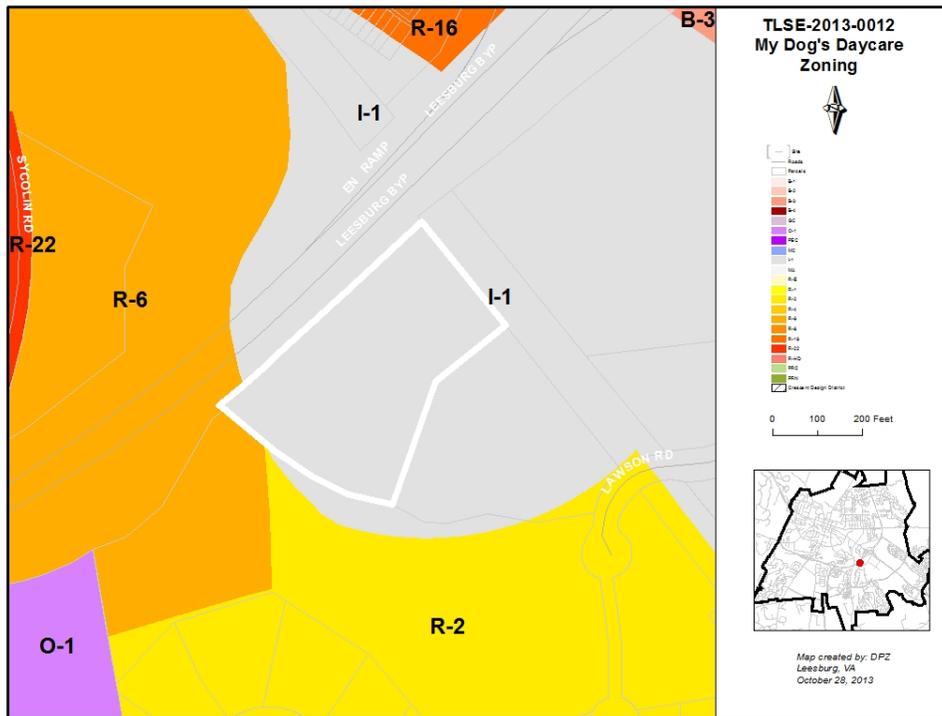


Figure 3. Zoning

IV. USES ON ADJACENT PROPERTY: Properties to the east and north are zoned I-1, Industrial/Research Park District. ECHO is located in the building to the southeast fronting on Lawson Road. The W&OD trail borders the Leesburg Business Park to the north. Tuscarora Creek and the adjacent forested floodplain create an effective buffer to the Beauregard Estates subdivision to the south.

V. STAFF ANALYSIS

- A. **Scope of Consideration:** There are two sets of criteria in the Zoning Ordinance that are applicable to this application. The first is the use criteria for a kennel as listed in TLZO 9.3.12. The second is the four general approval criteria for special exceptions per TLZO 3.4.12.
- B. **Town Plan Compliance:** The Town of Leesburg Zoning Ordinance (TLZO) Section 3.4.12 requires an assessment of how the proposed special exception use will comply with applicable provisions of the *Town Plan*. The following elements of the *Town Plan* are applicable given the Applicant's proposal.

The property is located in the *Town Plan's* Southeast Policy area and is identified on the *Town Plan* Land Use Policy Map as "Regional Office" (see *Figure 4*). There is no specific guidance given relative to the proposed use. No new

development is proposed and staff finds that the Applicant's proposal is not inconsistent with the goals and objectives of the *Town Plan*.

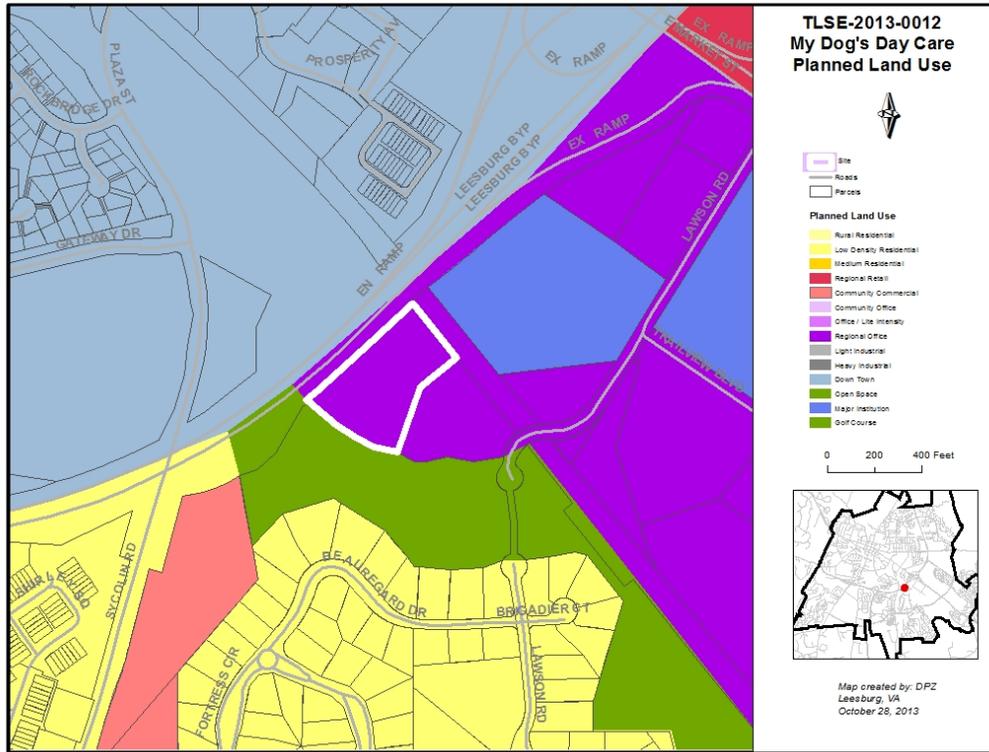


Figure 4. Town Plan Designated Land Use

- B. Transportation Analysis:** The applicant was granted a traffic impact analysis waiver based on the fact that the proposed use generates little traffic and the existing roads are sufficient to handle the proposed traffic. The dogs arriving at the dog day care facility will be transported either by their owners in individual vehicles or via a shuttle van service provided by the applicant. There are seven designated parking spots for the dog day care facility near the warehouse unit. Much like a child care facility, there is limited need for parking clients since they are typically there for a short period of time for drop-off or pick-up. The Zoning Administrator has determined that the parking standard for this use is the same as for a day care. The proposed parking meets the required standard.
- C. Utilities:** The site is served adequately by sewer and water. No new construction is proposed and the warehouse unit has sufficient utilities.
- D. Specific Use Standards for a Kennel:** TLZO Section 9.3.12 provides three specific use standard for kennels as discussed below

- A. *“There shall be a minimum lot size requirement of two (2) acres, and any structure used for the confinement, care or breeding of animals shall be located at least 200 feet from adjoining lot lines.”* - The Business Park is 4.25 acres in size meeting the first part of this standard.

With regards to the second part of the standards specifying a distance of at least 200 feet to adjoining property the applicant is requesting a modification (see attachment 3). At its closest point to the ECHO property lot line to the east Unit 110 is setback 51.1 feet. At its closest point to the Town property lot line to the south Unit 110 is setback 122 feet.

The applicant's Modification request provides the following justification:

- “1. The adjoining property line located 51.1 ft. to the east contains commercial uses (ECHO building) that would not be adversely affected by our proposed use because the Daycare will be held strictly inside the building.
2. The adjoining property line located approx. 122' to the south is owned by the Town of Leesburg and contains the floodplain of Tuscarora Creek. The use of this adjoining property would not be adversely affected by our proposed use as the dogs will not be on that property and will be indoors at all times of Daycare.
3. The property lines to the north (W&OD Trail) and west (By-Pass) are at least 200 ft. from the proposed use and therefore will not be adversely affected due to fully landscaped natural buffers.
4. The nearest residential building is 550 ft. to the south and is fully landscaped creating an adequate buffer. The intended use will not adversely affect the residential neighborhood.”

Staff finds all of the above justifications to be valid. Staff believes the intent of this performance standard is to have appropriate separation from outdoor kennels to other nearby uses where there could be a negative impact. Considering the proposed dog day care facility is completely enclosed, staff believes the intent of the performance standard can be met by ensuring the warehouse unit has proper interior noise attenuation and odor control measures. Staff is recommending conditions of approval to address these issues. Staff supports the modification request.

- B. *“All such animals shall be kept in pens designed and maintained for humane and secure confinement.”* - The facility will have no overnight boarding or outdoor pens. The inside will include different playtime/exercise areas, secure time out/rest areas for the dogs, a check in area, and a sitting area. The applicant operates Old Mill Kennels and has extensive experience with

providing quality care for dogs. The secure time out/rest areas will include pens that are secure and humane.

- C. *“In consideration of an application for a permit, the Town Council shall take into account the number and kinds of animals proposed to be kept and the characteristics thereof and may impose additional conditions.”* – Staff is recommending a series of conditions to address capacity, soundproofing, odor emissions, and other operational issues (see conditions of approval).

E. General Approval Criteria

Zoning Ordinance Section 3.4.12 establishes the following criteria for the Planning Commission and Town Council to use, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application. Listed below are the specific criteria with staff response.

- A. *“The proposed use will not adversely affect the use of neighboring properties.”* - The dog day care use is entirely indoors. Potential compatibility issues have been addressed through the conditions of approval. In addition, the applicant specifically tailored his Sunday hours of operation to meet the desires of the church that meets in the unit above the dog daycare facility.
- B. *“The use shall comply with applicable zoning district regulations and applicable provisions of the adopted Town Plan, including but not limited to the Plan’s Land Use Compatibility policies.”* – Subject to the proposed conditions of approval, the facility conforms to the I-1 Zoning District regulations and is compatible with the adjacent land uses.
- C. *“The location, size, and, height of buildings, structures, walls, and fences, and the nature and extent of screening, buffering, and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings.”* – The existing warehouse unit will not be enlarged and no new development is proposed. Screening, buffering, landscaping, and site design issues were all addressed at the time of development of this business park. Nearby lands are already developed and the proposed use is indoors.
- D. *“The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.”* – The dog day care use generates limited traffic. Lawson Road and the existing business park driveway are sufficient to handle the expected traffic. Staff finds that the proposal will not inhibit safe and convenient pedestrian and vehicular travel.

F. Conditions and Safeguards

Zoning Ordinance Section 3.4.14 grants Town Council the authority to impose conditions and safeguards deemed necessary for the protection of general welfare and individual property rights. Such conditions may relate to topics including hours of operation, noise, and odor containment. Staff is recommending a set of conditions of approval that are included in Section VII of this report.

VII. Recommendation and Conditions of Approval:

Staff recommends **conditional approval** of TLSE-2013-0012, My Dog's Day Care Center subject to the following conditions:

1. **Substantial Conformance:** This special exception use is granted for Unit 110 of Leesburg Business Park located at 75 Lawson Road. Development of this special exception use shall be in substantial conformance with the special exception plat entitled "My Dog's Daycare" prepared by Paciulli Simmons & Associates and revised through October 17, 2013.
2. **No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.
3. **Capacity:** The dog daycare facility shall be limited to a maximum of sixty (60) dogs at any given time.
4. **Hours of Operation:** The facility may operate Monday through Saturday during the hours 7:00 am to 7:00 pm. and Sunday between 1:00 pm and 5:00 pm. There shall be no overnight boarding of animals at the facility.
5. **Soundproofing:** Unit 110 at 75 Lawson Road shall be adequately soundproofed with acoustic wall and ceiling tiles so as not to present a nuisance to other businesses at the site.
6. **Lighting:** Any additional new outdoor lighting installed for the dog day care use shall be full cut-off and limited to only that necessary for the safety of patrons and employees using the facility.
7. **Odor Emissions:** Odors shall be properly contained and/or treated before release so as not to present a nuisance to other businesses at the site.
8. **Stream Protection:** At the lower end of all designated dog relief areas the applicant shall construct and maintain a 5-foot by 5-foot area with approximately 12 inches thickness of engineered soil (Mulch, Peat moss, stones #7 and #57) to filter dog waste pollutants before they runoff or enter the ground. A 6-inch by 6-

inch timber curb shall be put in place and maintained around the designated dog relief areas so that the runoff does not sheet flow directly into the pond.

9. Dog Relief Site Maintenance: The designated dog relief areas shall be inspected hourly during operating hours to ensure solid waste is removed from the site.

10. Pet Waste Notification Sign: The applicant shall install and maintain a pet waste sign citing the applicable sections of the Town Code related to dog waste and instructing dog attendants on the proper way to handle pet waste in the designated dog relief areas.

VIII. Sample Planning Commission Draft Motion

Approval:

I move that special exception application TLSE 2013-0012, My Dog's Day Care be forwarded to Town Council with a recommendation of conditional approval, subject to the conditions of approval contained in the staff report dated November 7, 2013 on the basis that the approval criteria of Zoning Ordinance Sections 3.4.12 and 9.3.12 have been satisfied and that the proposal would serve the public necessity, convenience, general welfare and good zoning practice; and further recommend approval of the following modification:

- A modification of TLZO 9.3.12 (1) (200 foot property line setback) adjacent to ECHO site on to the east to accept the existing approximately 51.1 foot setback in lieu of the 200 foot setback and adjacent to the Town property to the south to accept the existing approximately 120 foot setback in lieu of the 200 foot setback.

Denial:

I move that special exception application TLSE-2013-0012, My Dog's Day Care, be forwarded to the Town Council with a recommendation of denial on the basis that the Approval Criteria of Zoning Ordinance Sections 3.4.12 and 9.3.12 have not been satisfied as follows:

(list findings)

Attachments

1. Property plat
2. Statement of Justification
3. Modification Request

Attachment 2: Statement of Justification

Introduction

The Applicant, Mike Edelheit, is the owner of Old Mill Boarding Kennel which is located at 91 Lawson Road SE in the Town of Leesburg. Old Mill Boarding Kennel has been serving the communities pet care needs and assisting nonprofit animal welfare organizations for over 25 years and was just awarded The Legacy Business certificate at the 12th Annual Business Appreciation Awards. This certificate is in honor of their long term commitment to the Town of Leesburg. The Applicant is in the process of purchasing Unit 110 at 75 Lawson Road SE ("the property") in the Leesburg Business Park from Andy Lauer of Tetra Management Services LLC, 11450 Baron Cameron Ave. Reston, VA 20190, 703-796-1800. The Applicant seeks approval of a Special Exception to open a Dog Daycare under the name My Dog's Daycare LLC, to include group playtime, obedience training, and agility.

Background

The property is within a warehouse complex that consists of ten different condos. It is Unit 110 and is a vacant one story end unit. It is adjacent to and north of Tuscarora Creek at the terminus of Lawson Road, and is east of the Route 7/15 Bypass and south of the W&OD Trail. The building is 3,600 square feet and lies within the I-1 Zoning District. The Applicant is in the process of acquiring the property for a Dog Daycare which is permitted by special exception in the I-1 zoning district.

Current Application

The warehouse space, "property" that the Applicant is proposing for use as a Dog Daycare has been available for purchase/lease since the third quarter of 2006. The building is currently vacant and will be finished to provide adequate soundproofing, and ample drains for the removal of waste material per recommendation by Aref Etemadi, Deputy Director of Utilities.

The property will have adequate ventilation, and standard interior and exterior lighting. The inside will include different playtime/exercise areas, secure time out/rest areas for the dogs, a check in area, and a sitting area for pet owners to view the daily activities. The dogs will not be boarded overnight but will enjoy daycare activities during their daily stay while mom and dad are at work or are running errands. The dogs will enjoy socializing with new four legged friends so that they are tired and well behaved when the owner picks them up at night. There will be the option of agility training and behavior training as well as interaction with staff. The proposed business, My Dog's Daycare LLC will offer pet owners in the Town of Leesburg and surrounding areas a healthy, safe, and fun alternative to staying at home alone. This will mean less behavior issues and less guilt for mom and dad as they leave for a long work day. There area total of 10,794 dog licenses issued in the Town of Leesburg alone proving there is an audience for My Dog's Daycare LLC. There were 86 dogs surrendered to the Loudoun County animal shelter in June of 2012 proving that there

is a need for My Dog's Daycare LLC because it offers help to dog owners that work long hours, or need help with behavior issues, so that they can keep their family pet at home.

Written Statement (required by Zoning Ordinance Section 3.4.6 F)

A. Type of operation- The Applicant is seeking approval for the Special Exception use of a Dog Daycare in the I1 district. The facility will have no overnight boarding but will house companion dogs during the day. There will be group playtime, obedience training, and agility.

B. Hours of operation- The facility will be open 7 days a week, Monday through Friday 7:00 am to 7:00 pm, Saturday 7:00 am to 5:00 pm, and Sunday 1:00 to 5:00 pm (Sunday hours are set with respect to Faithway Baptist Church services at 10:00 a.m. and 5:30 p.m. and Sunday school from 11:15 a.m. to noon, as to not conflict with services or traffic.)

C. Traffic Impact Summary- A waiver request for the Traffic Impact Analysis has been submitted with this application as **Appendix A**, and a traffic analysis report has been done and is submitted along with this application from Christopher Turnball of Wells & Associates.

D. Impacts on adjacent uses and measures proposed to mitigate such impacts- Any impact on adjacent uses will be addressed in this application under the Statement of Compliance and will follow guidelines set forth in Town of Leesburg Zoning Ordinance Article 3 Section 3.4.12

Approval Criteria and Article 9 Section 9.3.12 for a Kennel.

Public Utilities- Per Aref Etemadi, Deputy Director of Utilities, the unit is on Town water and is on a common meter and does not need a separate meter nor needs to be upgraded.

Statement of Compliance (required by Zoning Ordinance Article 3 Section 3.4.6 C)

This statement of compliance will demonstrate the Applicant's compliance with the approval criteria set forth in Section 3.4.12 and applicable use standards of Section 9.3.12 required for a dog daycare.

3.4.12 Approval Criteria

A. The Proposed use will not adversely affect the use of neighboring properties - The property is 4.25 acres and is part of the fully constructed Leesburg Business Park. Unit 110, the property, is the end unit and has an open field to the front with a buffer of parkland, and the driveway out to the right. The unit is currently vacant. The Daycare will be open 7 days a week and Sunday hours, 1:00 p.m. to 5:00 p.m., are set with respect to Faithway Baptist Church services at 10:00 a.m. and 5:30 p.m. and Sunday school from 11:15 a.m. to noon, as to not conflict with services or traffic.

There are no proposed additions to the outside of the building, therefore, the property

will not adversely affect or encroach on the space of neighboring properties.
Renovations to the inside of the building will be minor and include:

1. *Acoustical wall and/or ceiling tiles installed to provide for adequate soundproofing.*
2. *Prevention of odor emission- strict cleaning guidelines will be implemented to maintain a clean, odor free environment and drains will be cut so that waste can be removed.*
3. *There will be a designated area outside for dogs to relieve themselves before entering the daycare. There will be a waste disposal station, www.dogipot.com, and the area will be maintained on an hourly basis to ensure cleanliness.*

B. The use shall comply with applicable zoning district regulations and applicable provisions of the adopted Town Plan, including but not limited to the Plan's Land Use Compatibility policies.- The property complies with applicable zoning district regulations. The property is currently part of a fully constructed business park that has previously met buffer requirements and does not require additional landscaping. The lighting has also previously been reviewed and standards have been met. The Applicant is proposing no outdoor changes or new structures. The area is already landscaped and no site plan is necessary. The property lies outside the H-1/H-2 architectural overlay districts and does not require review by the Board of Architectural Review.

Pursuant to TLZO Article 11 Section 11.3 and per Zoning Administrator Chris Murphy the parking requirements for this special exception will fall under a child care center. In this particular case Chris has determined the following, "The "dog day care" use comes under the ordinance definition of a "kennel" because animals are boarded for a fee. However, the use described differs significantly from a kennel in that there will be no overnight boarding, and patrons can either drop their dog off at the site or the dog can be picked up and driven to the site as part of the service. Based on these factors, and the relatively small scale of the proposal (no more than 60 dogs), I believe that the use requires a different parking standard than that used for a kennel. Instead of one parking space for every 300 s.f. of gross leasable floor area, I find the parking standard should be akin to that required for a "child care center", or 1.0 space per staff member or employee, excluding required handicapped spaces. Therefore, the number of employees will dictate the amount of required parking. Note that the three delivery vehicles, if kept on site, must also be provided with parking spaces." Currently the Applicant owns 65 Lawson Road, an adjacent parking lot which is being utilized to park the delivery vehicles.

C. The location, size and height of buildings structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent

or nearby land and/or buildings. - The property is part of an established fully constructed business park and therefore has already met zoning requirements.

D. *The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.*- The anticipated traffic generated will not be hazardous or conflict with existing traffic. There will be a kiss and go traffic pattern implemented in order to keep traffic circulating. The existing traffic pattern will not see a large increase due to clients being bussed over from the nearby kennel, which already has a traffic pattern and there has never been a complaint issued. A traffic report has been done and is included in this application as a memorandum from Christopher Turnbull, Transportation Engineer at Wells & Associates.

Zoning Ordinance 9.3.12 states:

A. *There shall be a minimum lot size requirement of two acres-* This requirement is met as the property is 4.25 acres.

Any structure used for the confinement, care or breeding of animals shall be located at least 200 feet from adjoining lot lines - For this requirement, the Applicant has entered a request for modification per Zoning Ordinance 3.4.13 to the Land Development Official and is attached to this application as **Appendix B**.

B. *All such animals shall be kept in pens designed and maintained for humane and secure confinement-* The dogs will be in playtime groups with rest intervals at which time they will be kept in humane and secure confinement. The Applicant currently owns Old Mill Boarding Kennel and will maintain the high quality of service and care for the dogs at the Daycare as he has for over 25 years at the current business.

C. *In consideration of an application for a permit, the Town Council shall take into account the number and kinds of animals proposed to be kept and the characteristics thereof and may impose additional conditions-* The Daycare can house up to 60 companion dogs with a staff to dog ratio of 1 to 10 for a total of 6 employees. The owners will fill out an in depth pet profile and sign an agreement that states dogs will be evaluated before being accepted into Daycare and that no dog with aggression of any kind towards a person, other dog or animal, food or object will be accepted into Daycare.

Town Plan Compliance:

The property is designated as Regional Office and My Dog's Daycare LLC will support this by offering support services to the surrounding area. Some of those that will be able to take advantage of the daycare service are: residents that have a long drive into work with a long work day and feel terrible because they have to leave their dog at home alone all day with the chance that they will tear up the house, dogs that have separation anxiety, residents who want to keep their family pet but feel they are not home enough and cannot spend time with their beloved dog, employees that work nearby and do not

want to leave their dogs at home alone but do not have time to drive the extra distance to another daycare in an adjacent city or town. The property and surrounding area is fully landscaped and adequately buffers any impact from the residential uses to the south.

Conclusion:

The proposed business, My Dog's Daycare LLC, is the perfect business for the existing vacant building. The open warehouse will allow for little to no renovations inside which will mean no disturbing activities will be required. The area inside will be sectioned off to allow for different play areas. There will be no additions to the outside of the building, or outdoor activities, and therefore will not impact any surrounding units or outside areas. The proposed business is a special exception use in the I-1 zoning district and will be a positive fiscal impact for the Town of Leesburg offering new employment opportunities and a home away from home for dogs.

Attachment 3 Modification Request

To: Susan Berry Hill
Land Development Official

This letter is with regards to the proposed dog daycare special exception application TLSE 2013-0012, the Applicant would like to respectively request a modification, per Article 3 Section 3.4.13, to modify 9.3.12.A:

A. "There shall be a minimum lot size requirement of two (2) acres, and any structure used for the confinement, care or breeding of animals shall be located at least 200 feet from adjoining lot lines".

This modification will apply for the eastern and southern property lines of the property 75 Lawson Road SE Leesburg. Please take into consideration:

1. the adjoining property line located 51.1 ft. to the east contains commercial uses (ECHO building) that would not be adversely affected by our proposed use because the Daycare will be held strictly inside the building.
2. the adjoining property line located approx. 122' to the south is owned by the Town of Leesburg and contains the floodplain of Tuscarora Creek. The use of this adjoining property would not be adversely affected by our proposed use as the dogs will not be on that property and will be indoors at all times of Daycare.
3. the property lines to the north (W&OD Trail) and west (By-Pass) are at least 200 ft. from the proposed use and therefore will not be adversely affected due to fully landscaped natural buffers.
4. the nearest residential building is 550 ft. to the south and is fully landscaped creating an adequate buffer. The intended use will not adversely affect the residential neighborhood.

Thank you ahead of time for consideration of this request.

PRESENTED: November 12, 2013

RESOLUTION NO. _____

ADOPTED: _____

A RESOLUTION: APPROVING TLSE-2013-0012, MY DOG'S DAYCARE, AN INDOOR DAYTIME DOG CARE FACILITY LOCATED ON PROPERTY IDENTIFIED AS PIN NUMBER 189-26-8520-009 AND LOCATED AT UNIT 110, 75 LAWSON ROAD S.E.

WHEREAS, Mr. Michael Edelheit has requested special exception approval to permit an indoor day time dog care facility for up to 60 dogs in the I-1 zoning district at Unit 110, 75 Lawson Road SE in Leesburg Business Park on property identified as Loudoun County Parcel Identification (PIN) number 187-30-6945; and

WHEREAS, the property is zoned I-1, Industrial/Research Park District; and

WHEREAS, the Planning Commission held a duly advertised Public Hearing on November 7, 2013 and recommended conditional approval; and

WHEREAS, staff recommends conditional approval subject to the conditions dated November 12, 2013; and

WHEREAS, the Town Council held a duly advertised Public Hearing on November 12, 2013; and

WHEREAS, Town Council has determined the proposed use meets the special exception standards for a kennel as set forth in the Zoning Ordinance; and

WHEREAS, Town Council has determined that the Approval Criteria of Zoning Ordinance Section 3.4.12 have been satisfied; and

WHEREAS, Town Council has determined that the proposal would serve the public necessity, convenience, general welfare and good zoning practice.

A RESOLUTION: APPROVING TLSE-2013-0012, MY DOG'S DAYCARE, AN INDOOR DAYTIME DOG CARE FACILITY LOCATED ON PROPERTY IDENTIFIED AS PIN NUMBER 189-26-8520-009 AND LOCATED AT UNIT 110, 75 LAWSON ROAD S.E.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that Special Exception application TLSE-2013-0012, My Dog's Daycare, including one zoning ordinance modification of Zoning Ordinance Section 9.3.12 (1) (200 foot property line setback) is hereby approved to permit an indoor daytime kennel use for up to 60 dogs in an existing warehouse unit at Unit 110, 75 Lawson Road SE on the property identified as Loudoun County Parcel Identification (PIN) number 189-26-8520-009, subject to the following:

SECTION I. The indoor kennel shall be subject to the following conditions:

1. **Substantial Conformance:** This special exception use is granted for Unit 110 of Leesburg Business Park located at 75 Lawson Road. Development of this special exception use shall be in substantial conformance with the special exception plat entitled "My Dog's Daycare" prepared by Paciulli Simmons & Associates and revised through October 17, 2013.
2. **No Expressed or Implied Waivers:** Approval of the special exception does not express or imply any waiver or modification of the requirements set forth in the Subdivision and Land Development Regulations, the Zoning Ordinance, or the Design and Construction Standards Manual (DCSM) except as specifically approved by Town Council or as shown as approved by Town Council on the Special Exception Plat and supporting documents.
3. **Capacity:** The dog daycare facility shall be limited to a maximum of sixty (60) dogs at any given time.
4. **Hours of Operation:** The facility may operate Monday through Saturday during the hours 7:00 am to 7:00 pm. and Sunday between 1:00 pm and 5:00 pm. There shall be no overnight boarding of animals at the facility.
5. **Soundproofing:** Unit 110 at 75 Lawson Road shall be adequately soundproofed with acoustic wall and ceiling tiles so as not to present a nuisance to other businesses at the site.

A RESOLUTION: APPROVING TLSE-2013-0012, MY DOG'S DAYCARE, AN INDOOR DAYTIME DOG CARE FACILITY LOCATED ON PROPERTY IDENTIFIED AS PIN NUMBER 189-26-8520-009 AND LOCATED AT UNIT 110, 75 LAWSON ROAD S.E.

6. **Lighting:** Any additional new outdoor lighting installed for the dog day care use shall be full cut-off and limited to only that necessary for the safety of patrons and employees using the facility.
7. **Odor Emissions:** Odors shall be properly contained and/or treated before release so as not to present a nuisance to other businesses at the site.
8. **Stream Protection:** At the lower end of all designated dog relief areas the applicant shall construct and maintain a 5-foot by 5-foot area with approximately 12 inches thickness of engineered soil (Mulch, Peat moss, stones #7 and #57) to filter dog waste pollutants before they runoff or enter the ground. A 6-inch by 6-inch timber curb shall be put in place and maintained around the designated dog relief areas so that the runoff does not sheet flow directly into the pond.
9. **Dog Relief Site Maintenance:** The designated dog relief areas shall be inspected hourly during operating hours to ensure solid waste is removed from the site.
10. **Pet Waste Notification Sign:** The applicant shall install and maintain a pet waste sign citing the applicable sections of the Town Code related to dog waste and instructing dog attendants on the proper way to handle pet waste in the designated dog relief areas.

SECTION II. A modification of Zoning Ordinance Section 9.3.12 (1) (200 foot property line setback) is hereby approved to permit a 51.1-foot setback for the use adjacent to the ECHO site on the east boundary of the subject property and a 120-foot setback adjacent to the Town property on the south boundary of the subject property.

PASSED this 12th day of November, 2013

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council