



REVISED

**CITY OF TEMPE
REQUEST FOR COUNCIL ACTION**

**Council Meeting Date: 05/26/2016
Agenda Item: 6A1**

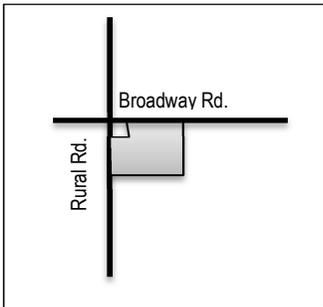
ACTION: Hold a public hearing for a six-month review of conditions of approval for a Use Permit to allow an animal kennel and outdoor dog run for TEMPE DOGS 24/7, located at 937 East Broadway Road, Suite 7. The applicant is Tempe Dogs 24/7.

FISCAL IMPACT: There is no fiscal impact on City funds.

RECOMMENDATION: Staff – Approval, subject to previously approved conditions

BACKGROUND INFORMATION: TEMPE DOGS 24/7 (PL150115) is located in the Broadway Marketplace shopping center at the southeast corner of Rural and Broadway Roads. The business includes dog daycare, boarding, and grooming. On August 27, 2015, the City Council denied an appeal and upheld the Development Review Commission’s decision for approval of Use Permit for an animal kennel and outdoor dog run. The approval of the Use Permit included a condition to return to the City Council six (6) months after occupancy of the site for review of compliance with the conditions of approval. The business received occupancy on November 18, 2015. Although permitted, the business has not constructed the outdoor dog run for the facility. The applicant has provided additional business data on the operations. At this time, the city has not received complaints on the business. **The previous appellant and applicant submitted a letter outlining an agreement they arrived upon that included: elimination of the outdoor dog run as part of the business, modification of one condition, and deletion of three conditions. This letter and the resulting modifications to the conditions are included in the attachments.** The original request included the following:

- 1. Use Permit to allow an animal kennel and outdoor dog run.



Property Owner of Project	Weingarten Nostat, Inc.
Applicant	Stephen Biles, Tempe Dogs 24/7
Zoning District	PCC-1 (Planned Commercial Center Neighborhood)
Lot Size	7.46 acres
Building area	5,637 s.f.
Vehicle Parking	367 (322 required)
Bicycle Parking	10 (8 required)
Hours of Operation	8:00 am – 8:00 pm (daycare and grooming), 24 hours per day (boarding)

ATTACHMENTS: Development Project File, **letter from appellant and applicant, requested modifications to conditions of approval**

STAFF CONTACT(S): Ryan Levesque, Deputy Community Development Director – Planning, (480) 858-2393

Department Director: Dave Nakagawara, Community Development Director
Legal review by: Sonia M. Blain, Deputy City Attorney
Prepared by: Karen Stovall, Senior Planner

COMMENTS

Tempe Dogs 24/7 occupies a 5,637 square-foot suite on the east side of the shopping center located at the southeast corner of Rural and Broadway Roads. Services include dog daycare, boarding, and grooming.

On May 5, 2015, the Hearing Officer approved a Use Permit to allow an animal kennel and outdoor dog run associated with Tempe Dogs 24/7. The Hearing Officer's decision was appealed to the Development Review Commission and the City Council. Both the Development Review Commission and the City Council denied the appeals and upheld the approval of the Use Permit. The City Council's approval included a condition that the applicant should return to the City Council 6 months after occupancy of the site for a review of compliance with the conditions of approval. The applicant was also required to provide data pertaining to the number of after-hour customer visits to the business. The applicant has provided this data along with a letter explaining how they have complied with the conditions of approval. The applicant states that 206 customer check-ins or check-outs occurred between 8:30 pm and 6:30 am during the time period of December 1, 2015 and April 30, 2016.

PUBLIC INPUT

At the completion of this staff report, no public input has been received regarding the request to review for compliance with the conditions of approval.

POLICE INPUT

From December 1, 2015 to May 6, 2016, the City of Tempe Police reported no calls concerning noise, odor, or other business operations for Tempe Dogs 24/7.

CODE COMPLIANCE INPUT

No Code Compliance cases were opened related to the operations of Tempe Dogs 24/7.

Conclusion:

Based on the information provided by the applicant, the public input received, and the above analysis, staff recommends approval of the Use Permit. The request meets the criteria and has conformed to the conditions.

USE PERMIT CONDITIONS OF APPROVAL FROM AUGUST 27, 2015 CITY COUNCIL: (compliance with conditions as noted)

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. **Final inspection passed November 18, 2015.**
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process. **No intensification or expansion was requested, and the outdoor dog run was not constructed.**
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to reevaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit. **No complaints from this use.**
4. Animals shall be attended by staff during entire outdoor time and immediately brought into the facility if they begin to bark or create other types of noise that may cause a disturbance. No animals shall be left unattended outdoors. **No complaints from this use.**

5. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review. **Completed.**
6. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review. **Completed.**
7. Development Plan Review approval for the outdoor area and proposed shade canopy on the south side of the building is required. Obtain all necessary Development Services clearances and permits for structures in this area. **Approval was issued but outdoor area was not constructed.**
8. The applicant shall return to the City Council 6 months after occupancy of the site, for a review of compliance with these conditions as a public hearing. Prior to the review hearing, the applicant shall provide data pertaining to the number of after-hour (8:30 pm to 6:30 am) customer visits to the business. **Completed.**
9. Dog run times of use shall be limited to 7 AM to 9 PM. **Dog run was not constructed.**
10. Dog run usage limited to once every two to three hours, not to exceed a total of two hours per day, for bathroom breaks only. **Dog run was not constructed.**
11. No more than 7 dogs in the dog run at any one time. **Dog run was not constructed.**
12. Total number of dogs on site at any time not to exceed a monthly average of 85 dogs per day. The six month review will evaluate a request for 100 per day. **Data demonstrates compliance.**
13. Drop off and pickup hours limited to 6:30 a.m. to 8:30 p.m., with after hours by appointment. **No complaints from this use.**
14. A water disposal drain shall be installed inside the dog run for cleaning and maintenance purposes. The dog run shall be cleaned daily. **No complaints from this use.**
15. All dog drop off and pickup shall be conducted from the north parking lot. The gate between the two buildings shall be self-closing and maintain use of a latching gate (unlocked). **No complaints from this use.**
16. The dog run shall have only one door, unless required for life safety. Perimeter wall to 8'+ in height with an additional 2' wrought iron above, total 10' or more. The canopy canvas shall extend to the perimeter of the wall. Interior fluted block walls shall be installed, unless the cost exceeds 10% of the total cost of the dog run. **Dog run was not constructed.**
17. Organic waste that is removed daily shall be placed in sealed bags and placed in exterior refuse containers. Exterior refuse pick-up shall be provided 6 days a week. **No complaints from this use.**

HISTORY & FACTS:

- | | |
|---------------|---|
| May 5, 2015 | Hearing Officer approved a Use Permit to allow an animal kennel and outdoor dog run for TEMPE DOGS 24/7 (PL150115), located at 937 East Broadway Road, Suite 7. The applicant was Drew Wood, Grant L. Olds Architects. |
| July 14, 2015 | Development Review Commission upheld the Hearing Officer's decision to approve a Use Permit to allow an animal kennel and outdoor dog run for TEMPE DOGS 24/7 (PL150115), located at 937 East Broadway Road, Suite 7. The appellant was John and Mary Hoyt. |

August 27, 2015

City Council upheld the Development Review Commission's decision to approve a Use Permit to allow an animal kennel and outdoor dog run for TEMPE DOGS 24/7 (PL150115), located at 937 East Broadway Road, Suite 7. The appellant was John and Mary Hoyt.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-308 Use Permit

Table 3-202A Permitted Land Uses (R/O, CSS, CC, PCC, RCC)