

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, April 28, 2009

Mr. Clark called the meeting to order at 7:30 P.M.

Attendance: Mr. Paul Clark, Chair; Mr. Jim Briggs; Mr. Jim Brunner; Mr. Mark Leonard; Mr. John Palcher; Mr. Jeff Gammell and Mr. Jim Durham. Also present: Mr. Ryan Lee, Planner, and Mr. Scot Liberman, City Attorney.

Approval of minutes:

MOTION: Mr. Briggs moved to approve the Planning Commission Regular Meeting minutes of March 31, 2009, as written. Mr. Brunner seconded the motion. The motion was approved 5-0-2 with Mr. Gammell and Mr. Durham abstaining.

PUBLIC HEARINGS

Camp Bow Wow - Conditional Use

Mr. Lee reviewed the Conditional Use application submitted by Jeff Doering of K4 Architecture for Camp Bow Wow requesting approval to establish a kennel use on the property located at 1701 Thomas Paine Parkway. The zoning on the property is Light Industrial, I-1, with a Neighborhood Center, NC, overlay district. The applicant intends to utilize the existing warehouse and vacant space with minor modifications to the structure. The surrounding land uses include industrial to the north, east and west. Office uses are located to the south as well as a vacant piece of Residential Planned Development, R-PD, land which is a reserve area for the Lexington Meadows Condominium development.

Stormwater runoff is behind the building currently and sheet flows across the lot into an existing drainage swale moving west to the retention pond at the corner of Thomas Paine Parkway and Bigger Road. The existing 2 overhead doors and man door on the south side of the building will be used as the passageways for the animals to go between the indoor play areas and the outdoor play areas.

Mr. Lee stated staff did visit the Thomas Paine Parkway location with an analog decibel reader and determined the ambient sound levels were 50 decibels or less. This was based on the fact the analog decibel reader could not register a decibel reading of 50 decibels or lower and no decibel reading registered. The Unified Development Ordinance (UDO) standards allow a 50 decibel ambient sound level to transmit from an industrial zoned property to a residential zoned property.

The following points were contained in the staff analysis:

1. The subject property is located in a Light Industrial zoning district and is adjacent to Office Service and Residential Planned Development districts to the south. The Thomas Paine Condominiums are located approximately 190 feet to the east.

2. The proposed kennel will house up to 150 dogs daily and provide overnight boarding of up to 75 dogs.
3. Hours of operation are from 7:00 AM to 7:00 PM. The drop-off of dogs typically occurs between the hour of 7:00 and 8:00 AM with pickups typically occurring after 5:00 PM.
4. The application states that dogs will be outside for only 10 minutes at a time. The applicant stated verbally that the time outside was for the dogs to relieve themselves.
5. The outdoor play areas described in the application will be cordoned off by a 7 foot high vinyl privacy fence. The ground surface area will comprise several inches of pea gravel overtop of the existing asphalt.
6. The applicant states that dog feces will be picked up and disposed of in the proposed dumpster. Dog urine will be allowed to sheet flow from the gravel to a swale at the rear of the property, then discharge into an off-site retention pond west of the site and then into the storm system. The applicant states the indoor and outdoor areas are chemically treated daily to neutralize urine and sanitize the areas.
7. The applicant provides information in their application addressing sound emanation from the proposed kennel. The applicant provided studies from Kentwood, Michigan and Troy, Michigan as examples similar to the proposed Centerville site. The Troy study measured noise levels of 10 dogs outside.
8. The applicant stated verbally that the proposed Camp Bow Wow will be similar in size to their facility located in Blue Ash, Ohio.
9. A site visit to the Camp Bow Wow located in Blue Ash was conducted on Thursday, April 16, 2009. The following information and observations were obtained:
 - a. The site is located in a heavy industrial area at the southeast corner of Kenwood Road and Creek Road in Blue Ash. There is a much higher ambient sound level at this location as compared to the proposed Centerville location. There is a single family neighborhood directly south of this facility.
 - b. The demographics of the Blue Ash location, including the City of Montgomery, Sycamore Township and Symmes Township area is very comparable to the demographics of the proposed Centerville location.
 - c. According to the franchise owner, the average attendance was 80 dogs, with a peak attendance being 140. On the day of staff's site visit, there were 104 dogs in the facility including 34 dogs to be boarded overnight. The owner also stated that noise was an issue in Blue Ash and a study conducted at the time her store was proposed, the average noise levels were estimated at 90 decibels (db).

- d. Staff observed the site from across Creek Road approximately 150 feet away from the outdoor play areas. Most dogs appeared to be outside and many were barking and some workers were yelling at the dogs. The noise of the barking dogs observed was greater than the ambient sound levels in the area as well as nearby traffic on Creek Road.
 - e. Staff observed the site from the neighboring residential properties to the south. These homes are inundated with noise generated from Camp Bow Wow.
 - f. Dogs are permitted unrestricted access to the outdoor play areas. Overhead doors are left open throughout the day only having a plastic rain shield in front of the open doors. All dogs could potentially be outdoors at once. This is counter to the claim of the applicant that only 10 to 15 dogs will be outdoors at one given time. The open doors focus the noise emanating from inside the building to a single direction away from the building.
 - g. Dog urine and cleaning product discharge from the outdoor play areas outlet directly into the storm sewer and does not sheet flow into existing drainage on site. There were no detectable odors outside of the building.
 - h. Staff spoke with the Planning Staff for the City of Blue Ash. The City Planner stated that Blue Ash has received many noise complaints from neighbors since the dog daycare opened 2 ½ years ago.
10. The ambient sound level on the subject property is considered to be quiet. A low rumble can be heard from highway traffic on I-675 (approximately 1200 feet from the property) and the occasional noise from the adjacent daycare center. The loudest sounds were birds. The sound meter used by staff does not register sound below 50 db. The ambient sound levels measured did not register. The ambient sound levels are below the minimum night-time requirement of the Unified Development Ordinance (UDO).
11. A noise study was performed by City Staff to evaluate the impact of a proposed kennel at the subject property. This study demonstrated that given the observations and data collected at the Blue Ash store, the noise generated by a kennel would be greater than the maximums permitted by the UDO. The db level affecting residential properties located over 200 feet away are more than 10 db above permitted which is perceived to be twice as loud as the maximum daytime level permitted by the UDO.

12. Outflow of urine and cleaning product from outdoor play area sheet flows across asphalt areas into a drainage swale at the rear of the property and is of concern at the quantities proposed. The Ohio Environmental Protection Agency (OEPA) requires a permit for this use given the number of dogs proposed for this site. In discussions with OEPA, the proposed kennel would not be permitted to discharge dog waste in this manner. The proposed site plan would have to be modified to provide for the sanitary removal of dog urine. No permit has been filed with OEPA at this time.

Mr. Lee stated that staff has issues concerning how the proposed use would have negative impact on neighboring properties in terms of noise and runoff and how it will be mitigated on the site. Based on those concerns, staff recommended the Conditional Use application request be denied.

Mr. Palcher asked the distance staff members were from the Blue Ash site when taking the meter readings.

Mr. Lee stated approximately 150 feet.

Mr. Leonard asked the amount of observation time staff spent at the Blue Ash site.

Mr. Lee stated staff was at the site approximately 2 hours.

Mr. Gammell asked if the barking of the dogs occurred at a constant rate of noise.

Mr. Lee stated the barking noise did occur at a constant rate.

Mr. Clark stated there is an existing 7 foot solid privacy fence on the Blue Ash site and asked if that was taken into account at the time of staff's observation of the Thomas Paine site and if the OEPA regulations would be enforced.

Mr. Lee stated staff moved back an approximate additional 5 to 10 feet to compensate for the lack of a fence on the site.

Mr. Liberman stated the applicant would be required to satisfy all regulations of the OEPA prior to opening the facility.

Mr. Clark stated he had received a 7 to 8 page petition and a letter submitted by Mr. Paul Kraemer, resident of the Thomas Paine Condominiums, in opposition to the proposed use.

Mr. Clark opened the Public Hearing.

Mr. Larry Hatfield and Mr. Jeff Doering, K4 Architecture; Mr. Mitel Shaw, future franchise owner; and Mr. John Shoff, Starton Chemical, were present for the review of the application.

Mr. Hatfield stated Camp Bow Wow has been in business for 12 years and is a facility that is primarily daycare, however, limited overnight kennel services are available. In order to successfully operate a business of this type, it must be run well and kept clean. He stated it is evident the primary concern is the issue of sound.

Mr. Doering stated a sound study was done this date at the Blue Ash location, and being an overcast day, the sound levels registered 55 decibels which also takes into account the traffic noise from Kenwood Road. The doors stay open all day, however, there were no dogs outside at that time. In moving to the fence area, the meter readings were about 65 decibels as dogs passed the open door area and barked at that time. In backing up to the south approximately 100 feet, the ambient sound levels stayed the same.

Prior to this meeting, Mr. Hatfield stated readings were taken of the sound in the Council Chamber of people talking and those readings were about 63 decibels. He stated that dogs do not have enough energy to produce over 90 decibels of sound. As an impromptu study, Mr. Hatfield stated he parked his car at the rear of the property on Thomas Paine Parkway, turned up the radio at its highest volume level and registered sound levels at 94 decibels approximately 10 feet away from the car. From various areas along the property line, the levels were between 55 to 68 decibels.

Mr. Shaw stated the dogs are fed and let outside at approximately 8:00 AM to run between inside and outside play areas. He stated he and his wife decided to open a Camp Bow Wow based on the fact no other facilities of this type exist in this area where dogs can be dogs and are not caged for most of the day. Also, a 24 hour webcam is available to view the dog activities by dog owners. It also allows clients to observe the employees as well. He stated dogs are social animals and they should be able to be social animals which is the purpose of bringing this type of facility to the area.

Mr. Hatfield stated fencing and landscaping will absorb sound and, therefore, help control sound levels. He suggested they enlist the services of a professional of a sound company to do a study with the assistance of City staff. He also stated Mr. Shaw would be happy to meet with property owners and residents in the area to discuss the proposed use and be a part of the study should they choose to do so.

Mr. Durham asked, for clarification, if the applicant offered to engage a sound engineer who would also work with the City and residents to prepare a study where the perimeters would be established, taking into consideration the types of fencing, landscaping, distances, etc., that would be used. He stated at this the studies done by staff would have to be used by the Planning Commission. Based on that information, the readings are 1 to 1.5 times the sound that would be permitted in an industrial zoned adjacent to a residential zone, it would result in his "no" vote. He stated if a sound study is being offered to be done by a sound engineer, he would be willing to table the application.

Mr. Hatfield affirmed that was their offer to have a sound engineer to the study.

Mr. Doering stated they had been in contact with the OEPA to determine what type of licensing and treatment would be required in terms of waste management on the Thomas Paine site.

Mr. Paul Kraemer, 6441 Harrison Court, stated the residents of Thomas Paine Condominiums had many concerns including the sound issue. They typically hear emergency vehicles trying to negotiate their way through the intersection at Clio and Bigger Roads, however, they do not experience traffic noise from I-675 which is approximately .5 miles away. He stated they did, however, hear the sound test done by staff even with their doors and windows closed. The second concern is that of odor as with the prevailing west breezes, it will blow their way. The third issue is that of an increase in traffic volume. Another issue is that of safety, there is a concern of either dogs escaping or getting away from their owners at the time of drop-off and pick-up. A final concern was that of what type of negative impact would a facility of this type have on their property values. He stated a petition was submitted to the City with 90 signatures objecting to the facility at this location which is representative of the stance the Thomas Paine Community has for this project. He stated there were 2 residents that did not object to the project. He requested the Conditional Use application be denied.

Ms. Ann Frayne, attorney representing Speigler Brake Systems located directed adjacent to the property in questions, stated her client's building is only 20 feet from this property and they often open their windows in nice weather since it is a quiet neighborhood. Ms. Frayne quoted sections from the UDO that require a Conditional Use not to be a detriment to the surrounding uses. She stated with a children's daycare in the area and residential uses in that area, it is likely balls, Frisbees, etc, will go into the drainage swale and be retrieved where the flow of urine and feces have been chemically treated when present. She asked that the conditional Use not be granted even if the sound and odor studies show reading to be with the requirements as the use itself will be detrimental to the community on many levels.

Mr. Byron Hall, 6425 Little John Circle, stated the one (1) issue not addressed is the welfare of the dogs. He stated outdoor areas for the dogs is located on the south side of the building which is not safe for the dogs. The best location would be on the north or east side, however, the existing building is not laid out to do that.

Ms. Nancy Bianchi, 6859 Sycamore Creek and Director of the Childtime Learning Center to the south of the proposed project, stated they have a maximum of 20 kids outside at one time. She stated the neighbors can hear their kids, however, it is not the same as 20 barking dogs. She stated there is an additional concern of a 7 foot fence restricting a large dog. She stated there is a concern of the chemical runoff since the child daycare is downstream from the property location. She stated Mr. Hall made a good observation about the dogs being on the south side of the building because in the afternoon sun, the front of the child daycare building is difficult to keep cool even with the air conditioning. She stated they would be interested in knowing what type of screening would be installed on the site in addition to the fence, since nap times occur throughout the day and barking dogs will interrupt that time. She also was concerned with the idea of allergies some kids have to dog hair and saliva. Ms. Bianchi agreed there is no place that exists in the area that offers the type of service being proposed, however, she felt this was the wrong location.

Mr. Malone, owner of the building 2 property west of the proposed site, was concerned with the future chemically treated runoff containing urine and feces. He stated there is a large wildlife population that visits that area everyday and it should be a definite concern. Further, Mr. Malone stated his concern is the allergies of children as he lost a daughter to an allergy condition in 1988.

Ms. Betty Mickey, 6368 Joseph Place, was concerned with the increase in traffic volume that will not obey the traffic laws in that area.

There being no other speakers, Mr. Clark closed the public hearing.

MOTION: Mr. Durham moved to table the Conditional Use application submitted for Camp Bow Wow until a sound study is completed and submitted to City Staff. Mr. Gammell seconded the motion. The motion was approved unanimously 7-0.

There being no further business, the meeting was adjourned.

Paul Clark