



Legislation Text

File #: UVAR-23-0005, **Version:** 2

A Use Variance to allow the Humble Paws Animal Care Facility use within the MX-L/cr (Mixed-Use Large with prior conditions of record) zone district consisting of 7,500 square feet located at 925 W. Cucharras St.

Presenter:

Ryan Tefertiller, Urban Planning Manager, Planning + Neighborhood Services
Peter Wysocki, Director, Planning + Neighborhood Services

Summary:

Owner: Mondial Investments, LLC / Jeff Slavens
Developer: Humble Paws / Manuel Martinez
Representative: N/A
Location: 925 W. Cucharras St.

The owner and tenant of 925 W. Cucharras St. are requesting a use variance to allow the existing Humble Paws animal care facility to continue to operate at the site. The use was established without necessary approvals. Adjacent property owners and users initiated a complaint to the City's Neighborhood Services Division due to dog noise and safety concerns. Enforcement Staff confirmed a zoning violation and initiated a notice of violation in July of 2023. The applicant must either abate the violation by moving the business to an appropriately zoned site or gain approval of a use variance.

Background:

Please see the attached City Planning Commission Staff Report for a complete analysis of the proposed application.

Review Criteria:

The review criteria for a use variance as set forth in City Code Section 7.5.527.E of the UDC are noted below.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the Use Variance would result in undue property loss and not solely a mere inconvenience or financial disadvantage;
2. That the Use Variance is necessary for the preservation and enjoyment of a property right of the and if not approved, the property or structure cannot yield any beneficial use;
3. That the Use Variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property;

4. That the hardship is not the result of the applicant's own actions;
5. That because of these conditions, the application of the UDC prohibition on the requested use on the subject property would effectively prohibit or unreasonably restrict the use of the property; and
6. That the Use Variance is not being requested primarily to avoid the time or expense of complying with UDC standards generally applicable to similar properties and development.

Staff finds that the proposed application does not meet the review criteria.

Previous Council Action:

N/A

Financial Implications:

N/A

City Council Appointed Board/Commission/Committee Recommendation:

City Planning Commission voted unanimously (5-0-4 with Hente, Briggs, Foos, and Cecil absent) to deny the use variance at the November 17, 2023 meeting.

Proposed Motions:

Should the City Council wish to approve the use variance application, the following motion is suggested:

Move to approve UVAR-23-0005 based on the findings that the required Use Variance Criteria found in Section 7.5.5027.E. are met once the following technical modifications are completed:

1. Update the site plan to clearly illustrate north arrow, property lines, building footprint, setbacks, parking, and all other standard site elements.
2. Add a final landscape plan from a licensed landscape architect to the application documenting compliance with screening, buffering, and outdoor animal area standards.
3. Add a solid and opaque screen between all outdoor animal use areas and adjacent properties.
4. Add and label existing utility services to the plan.

Should the City Council wish to deny the use variance application, the following motion is suggested.

Move to deny UVAR-23-0005 based on the findings that the required Use Variance Criteria found in Section 7.5.5027.E. are not met.