



Petition Number: 1611-SE-03

Subject Site Address: 15859 Little Eagle Creek Avenue (the “Property”)

Petitioner: Julie Case Scharnowske (Ultimate Canine LLC) (the “Petitioner”)

Request: The petitioner is requesting approval of a Special Exception to allow a business that trains service, therapy, and family dogs (Kennel) in the AG-SF1: Agriculture / Single-Family Rural District.

Current Zoning: AG-SF1: Agriculture / Single-Family Rural District

Current Land Use: Agriculture / Rural Residential

Approximate Acreage: 6.63 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Petitioner’s Narrative
4. Site Plan
5. Existing Conditions

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 6.63 acres +/- in size and located at 15859 Little Eagle Creek Avenue (see [Exhibit 2](#)). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District (the “AG-SF1 District”). The Property is currently residential. The surrounding properties include residential and agricultural uses.

Land Use: As summarized in [Exhibit 3](#) (the “Petitioner’s Narrative”) and depicted in [Exhibit 4](#) (the “Site Plan”), the Petitioner is requesting this Special Exception to allow the training of service, therapy, and detection dogs. No new structures are proposed for the requested use.

The proposed use is defined as a Kennel¹ by the Unified Development Ordinance (the “UDO”), which is permitted as a Special Exception within the AG-SF1 District. The UDO² provides that the purpose of the AG-SF1 District is to “accommodate agricultural land uses and large-lot Single-family Dwellings.” The AG-SF1 District currently permits uses such as: farms and farm buildings, churches, golf courses, nurseries and greenhouses, schools, stables and single family dwellings. In addition to kennels, other Special Exception uses contemplated in the AG-SF1

¹ Chapter 12 of the UDO defines “Kennel” as “Any use of land on which four (4) or more dogs, or small animals (e.g. cats, rabbits, chickens), at least four (4) months of age are kept.”

² Article 4.2(A): AG-SF1: Agriculture / Single-Family Rural District; Propose and Intent.



District include: agritourism uses, large animal hospitals, private clubs and lodges, schools with dormitories, stockyards, riding stables, and zoos.

SPECIAL EXCEPTIONS

Definition: Chapter 12 (Definitions) of the Unified Development Ordinance (the “UDO”) defines a “Special Exception” as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted.”

Use Table: Chapter 13 (Use Table) of the UDO provides that “[a] Special Exception designation is not meant to imply that the use will be disallowed, but that the use requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for those Zoning Districts in which it is permitted. The determination of whether the Special Exception may be approved shall be subject to a public hearing by the Board of Zoning Appeals and review in accordance with Article 10.11 Special Exceptions.”

Purpose: Article 10.11(B) (Processes and Permits; Special Exceptions; Purpose) of the UDO states “[a] Special Exception is a use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted. The determination of whether the Special Exception is approved shall be contingent upon: (i) the Special Exception meeting the standards of this Ordinance and those standards as set forth in this Article; and (ii) the Board weighing, in each case, the public need and benefit against the local impact, giving effect to the proposals of the Applicant for ameliorating adverse impacts through special site planning and development techniques and contributions to the provisions of public improvements, sites, right-of-way and services.”

ANALYSIS

The below analysis coincides with the review criteria for a Special Exception set forth in the Unified Development Ordinance³, as summarized herein.

Criteria #1: The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.

³ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



Comment: It is unlikely that approving the requested Special Exception would be injurious to the public health, safety, morals, and general welfare of the community because the use as proposed is consistent with the character of the area.

Criteria #2: The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.

Comment: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The property will continue to primarily be used in a residential manner, and the proposed Special Exception should not have a negative impact on surrounding properties because: (i) the operation and design of the use should not impact surrounding properties; (ii) the use is otherwise contemplated as appropriate in the AG-SF1 District; and (iii) the development and use of the site would otherwise comply with applicable regulations.

Criteria #3: The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.

Comment: The Unified Development Ordinance contemplates the proposed use within the AG-SF1 District. The proposed operation and design of the use should not impact surrounding properties and will not impede the use and development of adjacent properties. The property will continue maintain its residential character and the proposed Special Exception would be compatible with other permitted uses of the AG-SF1 District and potential conflicts resulting from other future and adjacent uses should be diminutive.

Criteria #4: Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.

Comment: The Special Exception will not require additional public facilities, services or infrastructure.

Criteria #5: Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.



Comment: The Special Exception is proposed to operate by appointment only and would be secondary to the existing residential use. As a result, additional traffic generated by the Special Exception and the impact on Little Eagle Creek Avenue is expected to be diminutive.

Criteria #6: The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Rural Residential” land use classification. As summarized below, the Special Exception is generally consistent with the goals and objectives of the Comprehensive Plan.

Development policies of this land use classification include⁴: (i) Encourage artisan farms and equestrian uses to maintain the rural, country-like atmosphere; (ii) protect and enhance the Eagle Creek Trail as a recreational amenity; (iii) encourage open space through incentives (such as density bonuses); (iv) ensure that infill development is compatible in mass, scale, density, materials and architectural style to existing development; and (v) ensure that growth and development is compatible both from a use and density perspective with minimal impact on the natural and visual environment.

The Comprehensive Plan identifies appropriate land uses in this land use classification to include: (i) farmsteads; (ii) individual houses on large lots; (iii) equestrian uses; (iv) subdivisions with a rural feel; (v) artisan farms⁵; and (vi) considerable open space.

Criteria #7: The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and the Unified Development Ordinance, and as may be applicable to such use, will be met.

Comment: The Unified Development Ordinance contemplates the use within the AG-SF1 District. The use and property will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

⁴ Westfield-Washington Township Comprehensive Plan, pages 25-30.

⁵ Appendix A of the Westfield-Washington Township Comprehensive Plan defines “Artisan Farm” as “[a] small farm with owners living on site that produces goods or services for the local table market (not the commodity market). This term includes but is not limited to orchards, tree nurseries, hay, vegetables, and the raising of limited numbers of animals such as horses, llamas, alpacas, sheep, goats, and chickens.



PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Special Exception. This petition is scheduled to receive its public hearing at the November 1, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO⁶ and Indiana law provide that the Board of Zoning Appeals in granting a Special Exception, may prescribe conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a Special Exception as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Any conditions prescribed by the Board shall be recorded in the Office of the Recorder of Hamilton County, Indiana. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the Special Exception or related Improvement Location Permit, pursuant to Chapter 11: Enforcement & Penalties.

Review Criteria: The Board of Zoning Appeals may approve a Special Exception only upon a determination that the Special Exception at the proposed location meets the following⁷:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
2. The Special Exception will be designed, constructed, operated, and maintained so as to:
(i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.

⁶ Article 10.11(l) Processes and Permits; Special Exceptions; Conditions of the UDO.

⁷ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

DEPARTMENT COMMENTS

Approval: If the Board finds that adequate evidence is shown that the Special Exception meets the applicable review criteria, then the Department recommends approving the Special Exception, with the recommended conditions below, and adopting the written review criteria findings as summarized herein.

Recommended Conditions:

1. The Kennel shall be limited in scope and operated in substantial compliance to the Petitioner's Narrative (Exhibit 3) and Site Plan Exhibit (Exhibit 4). Any expansion or substantial alteration to the scope and operation of the use, as determined by the Director, shall require approval by the Board of Zoning Appeals.
2. The Kennel shall be limited to an accessory use incidental and secondary to the use of the property as a dwelling unit.
3. The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the commencement of the Special Exception use.

Denial: If the Board is inclined to reject or deny the Special Exception, then the Department recommends denying the Special Exception, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.