



ALBEMARLE COUNTY PLANNING
STAFF REPORT SUMMARY

Project Name: SP202400004 and SE202400004 The K9 Hotel	Staff: Syd Shoaf, Senior Planner II
Planning Commission Hearing: January 28, 2025	Board of Supervisors Public Hearing: To be scheduled
Owner: Cody and Nikki Marcum	Applicant: Cody and Nikki Marcum
Acreage: 5.00 acres	Special Use Permit: Section 18-10.2.2 (17) for a commercial kennel
TMP: 04800-00-00-077A3 Location: 3225 Gilbert Station Road	By-right use: Rural Areas (RA). Allows agricultural, forestal, and fishery uses as well as residential uses (maximum density of 0.5 unit/acre in development lots). Up to six single family dwellings could be developed.
Magisterial District: Rivanna	Conditions: Yes EC: No
Proposal: <u>SP202400004:</u> Special use permit (SP) request for a new commercial kennel with a capacity of up to 12 dogs. <u>SE202400004:</u> Special exception (SE) request to reduce the required setbacks from residential/rural properties under Section 18-5.1.11.	Comp. Plan Designation: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/acre in development lots) in Rural Area 2 in the Comprehensive Plan.
DA (Development Area): N/A	Requested # of Dwelling Units: 1 existing
Character of Property: The site is 5 acres with a single-family residence containing some Critical Slopes and a stream buffer. The main point of access is through a driveway off Gilbert Station Road that crosses two other properties before the subject property.	Use of Surrounding Properties: The surrounding properties are zoned Rural Areas with adjacent properties undeveloped; beyond the adjacent properties, nearby properties are developed with single-family residences.
Positive Aspects: 1. Consistent with the review criteria for special use permits contained in the Zoning Ordinance.	Concerns: 1. None
Recommendation: Staff recommends approval of SP202400004 The K9 Hotel with conditions.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

Syd Shoaf, Senior Planner II
January 28, 2025
To be scheduled

PETITION:

PROJECT: SP202400004 and SE202400004 The K9 Hotel

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 04800-00-00-077A3

LOCATION: 3225 Gilbert Station Road

PROPOSAL: A request for a special use permit for a new commercial kennel for a capacity of up to 12 dogs on a 5-acre parcel. Associated with this request is a special exception application in accordance with Section 5.1 (a) to reduce the required setbacks from residential properties under Section 5.1.11.

PETITION: Sections 10.2.2.17 and 5.1.11 of the Zoning Ordinance to allow a commercial kennel.

ZONING: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

ENTRANCE CORRIDOR: No

OVERLAY DISTRICT: None

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots) in Rural Area 2 in the Comprehensive Plan.

CHARACTER OF THE AREA

The subject property is located on the east side of Gilbert Station Road (State Route 640) which is north of Stony Point Road (State Route 20). The property is 5 acres in size and contains an existing single-family residence where the applicant lives. The property is accessed through a 30’ access easement which is a gravel driveway from Gilbert Station Road. The gravel driveway goes through two other properties before reaching the subject property. In areas where it is steep, the driveway is paved. The property is hilly and contains portions of the Water Protection Ordinance (WPO) Buffer and Critical Slopes areas (Attachment 1 – Existing Conditions Map).

The surrounding properties are all zoned Rural Areas. The adjacent properties are all undeveloped. Beyond the adjacent properties, nearby properties contain single-family residences and other Rural Areas uses such as farm and agriculture (Attachment 2 – Zoning Map). The closest residences are approximately 700 feet away from the proposed use.

PLANNING AND ZONING HISTORY

The 5 acre property and 30’ access easement were created by a Family Subdivision plat recorded in Deed Book 1198, Page 219 on November 25, 1991. According to the recorded plat, the subject property may not be further divided.

DETAILS OF THE PROPOSAL

The applicant proposes a commercial kennel for up to 12 dogs. The applicant has provided a detailed project narrative and conceptual plan (Attachment 3 – Applicant Narrative and Attachment 4 – Applicant Conceptual Plan). The proposed commercial kennel building would be approximately 640 square feet with an approximately 1,560 square foot outdoor run area.

The existing single-family residence would remain on site where the applicant plans to continue to reside.

COMMUNITY MEETING

The required community meeting for the proposal was held at Stony Point Elementary School on Monday, April 15, 2024, at 6 pm. The applicant shared details and answered questions regarding the

proposal to members of the public who were present. Approximately 10 members of the public were present. There were concerns regarding the number of dogs allowed as well as noise impacts from the dogs. Additionally, there were concerns related to traffic and environmental impacts in the area.

ANALYSIS OF THE SPECIAL USE PERMIT REQUEST:

Special Use Permits are evaluated under reasonable standards, based on zoning principles which include the proposal's compliance with the Comprehensive Plan. Any impacts caused by the proposal may be addressed through conditions which must be reasonably related and roughly proportional to the impacts.

Section 33.8(A) states that the Commission, in making its recommendation, shall consider the following factors:

1. No substantial detriment. Whether the proposed special use will be a substantial detriment to adjacent parcels.

The proposed commercial kennel building and outdoor dog run area are proposed to be approximately 75 feet from the closest property line. Section 18-5.1.11 (b) requires that for soundproof confinements, no such structure shall be located closer than 200 feet to any agricultural or residential lot line. The applicant has submitted a special exception (SE202400004) to vary this requirement from 200 feet to 75 feet. Analysis for the special exception is provided later in the staff report.

The applicant has proposed for the commercial kennel building to be completely enclosed and soundproofed. Additionally, a 7-foot-tall privacy fence will be provided around the proposed outdoor run area, which would prevent dogs from straying around the property and reduce noise when the dogs are outside. A condition of approval is recommended that limits outdoor hours.

Section 18-10.4 provides that the minimum side setback for structures shall be 25 feet. The applicant would meet this requirement if this were a typical building structure, however, since it is for a commercial kennel a minimum of 200 feet is required from the adjacent lot line.

The parcels in the nearby area are all zoned Rural Areas and the adjacent parcels are all undeveloped. Beyond the adjacent parcels, the closest residential dwelling is approximately 700 feet away. To access the subject property, a 30' access easement would be utilized which crosses two other properties first.

The subject property is hilly where the existing residence and proposed commercial kennel building site are located at the top of the hill. The subject property has existing vegetation that screens it from adjacent properties which also have existing vegetation.

Both Virginia Department of Transportation (VDOT) and Albemarle County Transportation staff had no concerns regarding traffic. The proposed use is not expected to have a significant increase in traffic to the nearby area. No transportation or driveway improvements are needed to support the use as proposed.

As mentioned before, the applicant intends to provide adequate soundproofing for the proposed structure which would limit potential noise. Additionally, the applicant also plans to continue to reside on the property and can address any dog barking immediately.

The proposed location of the commercial kennel which is setback 75 feet from the closest residential/agricultural property line, the proposed mitigation efforts from the applicant, and the minimal traffic impacts are not expected to result in a substantial detriment to adjacent parcels.

2. Character of the nearby area is unchanged. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.

The proposed Conceptual Plan limits land disturbance to the minimum necessary for construction of the commercial kennel building, the outdoor run, and associated parking. In some cases, already disturbed areas will be utilized. The remainder of the 5-acre lot will maintain its current character which consists of a single-family residence and wooded areas.

The applicant has provided proposed building designs and a cross section which illustrate how the buildings will look on site (Attachment 3 – Applicant Materials). The proposed building is one-story that is approximately 8.5 feet tall. The proposed building would be no more than 640 square feet in size, which is far less than the size limitation on by-right major home occupation uses which are allowed 1,500 square feet max.

The adjacent parcels are not expected to change by the proposed special use permit. The proposed commercial kennel would be located closest to TMP 48-77E, approximately 75 feet away from the shared property line. A special exception has been submitted to vary the requirement of Section 18-5.1.11 (b) for soundproof buildings being located 200 feet away from a residential or agricultural property line to 75 feet.

Lastly, the current access to the site is through a 30' access easement that crosses two parcels before reaching the subject property. Both Virginia Department of Transportation (VDOT) and Albemarle County Transportation staff had no concerns regarding traffic. The proposed use is not expected to have a significant increase in traffic to adjacent parcels or the nearby area.

Staff believes that the proposed uses will not change the character of adjacent parcels or the nearby area.

3. Harmony. Whether the proposed special use will be harmony with the purpose and intent of this chapter,

The proposed commercial kennel is expected to be in harmony with the area.

with the uses permitted by right in the district,

The proposed kennel would not affect the by-right uses in the district on this property or adjacent properties.

with the regulations provided in Section 5 as applicable,

The proposed commercial kennel will be subject to the regulations in Section 5.1.11 listed below.

Each commercial kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:

- a. Except where animals are confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals shall be closer than 500 feet to any agricultural or residential lot line. For non-soundproofed animal confinements, an external solid fence not less than six feet in height shall be located within 50 feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator;
- b. For soundproofed confinements, no such structure shall be located closer than 200 feet to any agricultural or residential lot line. For soundproofed and non-

- soundproofed confinements, sound measured at the nearest agricultural or residential property line shall not exceed 55 decibels;
- c. In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.
 - d. In areas where such uses may be in proximity to other uses involving intensive activity such as shopping centers or other urban density locations, special attention is required to protect the public health and welfare. To these ends the commission and board may require among other things: Separate building entrance and exit to avoid animal conflicts; Area for outside exercise to be exclusive from access by the public by fencing or other means.

The applicant's proposal complies with all the applicable supplemental regulations in Section 18-5.1.11 aside from 5.1.11 (b). The applicant has submitted a special exception (SE202400004) to reduce the 200-foot setback to 75 feet for the proposed soundproof building. Staff does not believe the proposed 75-foot setback presents an issue because given that the building will be sound-proofed. Similar special exceptions have been approved for kennels in the County that have operated with no noise issues.

Aside from the building's location, the applicant has provided that all buildings will be enclosed and soundproofed. Additionally, the applicant has provided that the animals will be confined in an enclosed building from 10:00 pm to 6:00 am. With these mitigation efforts, staff recommends approval of the special exception. The Board will act on the special exception and no action is required by the Commission.

and with the public health, safety, and general welfare.

The public health, safety, and general welfare of the community are protected throughout the special use permit process, which assures that the proposed use is appropriate in the location requested. Zoning, Engineering, Building Inspections, Transportation Planning, the Virginia Department of Transportation (VDOT), Albemarle County Fire Rescue, and the Virginia Department of Health (VDH) have all reviewed this application and have provided no objections.

If the special use permit is approved, the use cannot commence without the appropriate site development plans (as applicable), building permits, and zoning clearances. These processes will ensure that all State and County regulations, special use permit conditions, and all necessary building and fire inspections have been approved.

4. *Consistency with the Comprehensive Plan. Whether the proposed special use will be consistent with the Comprehensive Plan.*

The Rural Area Chapter ([Chapter 7](#)) of the Comprehensive Plan designates the subject properties for this proposal for Rural Area land uses. The intent of the Rural Area designation is to allow uses that preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources.

The proposed commercial kennel does not actively support agricultural or forestal. However, proposed development on the site is limited to a small area on the subject property which is approximately 5 acres. This development is of a size and scale that would be consistent with major home occupations that may be permitted by-right as an accessory use to a single-family residence. The use does not propose to impact the Water Protection Ordinance (WPO) Buffer and Critical Slopes that exist on the site.

The following specific objective of the Comprehensive Plan is relevant to this site:

- Chapter 7 Rural Areas, Objective 2: Protect and preserve natural resources, which include mountains, hills, valleys, rivers, streams, groundwater, and retain continuous and unfragmented land for agriculture, forestry, biodiversity, and natural resource protection.

Overall, the applicant’s proposal is not inconsistent with the Comprehensive Plan.

SUMMARY

Staff has identified the following positive aspect with this request:

1. Consistent with the review criteria for special use permits contained in the Zoning Ordinance.

Staff has identified no concerns with this request.

RECOMMENDATION:

Based on the findings contained in this staff report, staff recommends approval of the special use permit applications with conditions consistent with those drafted below:

1. Development of the use must be in general accord with the conceptual plan titled, “Plat Showing Survey of TMP 48-77A3” drawn by Residential Surveying Services dated October 3, 2024. To be in general accord with the Conceptual Plan, development must reflect the following major elements essential to the design of the development:
 - a. Location of proposed building;
 - b. Location of proposed parking area

Minor modifications to the plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. The maximum height of structures must not exceed one-story in height.
3. The number of kennels may not exceed twelve (12) dog kennels.
4. The maximum size of the kennel building must not exceed 650 square feet in size and must be sound-proofed.
5. The maximum size of the outdoor run area must not exceed 1,560 square feet in size.
6. The outdoor run must be surrounded by a sound-dampening fence and as described in the applicant’s narrative.
7. The kennel building must be soundproofed.

POSSIBLE PLANNING COMMISSION MOTIONS:

- A. Should the Planning Commission **choose to recommend approval** of this special use permit:

Move to recommend approval of SP202400004 The K9 Hotel with conditions as stated in the staff report.

- B. Should the Planning Commission **choose to recommend denial** of this special use permit:

Move to recommend denial of SP202400004 The K9 Hotel. *Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.*

SPECIAL EXCEPTION APPLICATION

SE202400004 PROPOSAL

The special exception is to modify the supplemental regulations for commercial kennels as it applies to Parcel ID 04800-00-00-077A3. Under Albemarle County Code Section 18-5.1.11 (b), for soundproofed confinements, no such structure shall be located closer than 200 feet to any agricultural or residential property lot line. However, Albemarle County Code Section 18-5.1 (a) allows the Board of Supervisors to modify or waive any requirements of Section 18-5.1.

The special exception is to reduce the 200-foot requirement to 75 feet to accommodate the construction of a soundproofed commercial kennel (Attachment 6 – SE202400004 Special Exception Request).

ANALYSIS OF THE SPECIAL EXCEPTION REQUEST

Under County Code § 18-33.9 (A), factors, standards, criteria, and findings, however denominated, in the applicable sections of the Zoning Ordinance, are to be considered in special exception applications. The Board of Supervisors does not need to make specific findings in order to approve this special exception. Under County Code §18-5.1 (a), the Board of Supervisors may modify or waive any such requirement of County Code §18-5.1.

The criteria for consideration are listed in County Code Section 18-5.1 (a) and are analyzed below:

Upon a finding the such requirement would not forward the purposes of this chapter or other serve the public health, safety, or welfare;

The special exception request is not expected to affect the purposes of this chapter or affect the public health, safety, or welfare.

that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement;

A modified regulation would continue to satisfy the purposes of this chapter to at least an equivalent degree. The applicant is requesting for the soundproof confined building to be approximately 75 feet away from a residential or agricultural property line rather than a minimum of 200 feet away. If this were not a commercial kennel building, County Code Section 18-10.4 requires that the minimum side setback for structures shall be 25 feet. The proposed commercial kennel building would exceed the minimum side setback requirement by at least 50 feet. Additionally, the building will be soundproofed which would minimize potential noise impacts which would satisfy the intent of this chapter.

upon making any finding expressly required for the modification or waiver of a specific requirement; except that, in no case, shall such action constitute a modification or waiver of any applicable general regulation set forth in section 4 or any district regulation.

The special exception request does not influence any regulation in section 4 or any district regulation.

RECOMMENDATION

Based on these findings, staff recommends approval of the special exception application to reduce the 200-foot setback to 75 feet for soundproof confinements.

The Planning Commission is not required to make a recommendation on this special exception. However, if the Planning Commission chooses to provide comments on the special exception, staff will include those comments in the Transmittal Summary to the Board of Supervisors.

ATTACHMENTS:

Attachment 1 – Existing Conditions Map

Attachment 2 – Zoning Map

Attachment 3 – Applicant Narrative

Attachment 4 – Applicant Conceptual Plan

Attachment 5 – Public Comments received via Email

Attachment 6 – SE202400004 Special Exception Request