

Planning Commission Minutes
July 27, 2023

(The agenda was filed with the City Clerk of The City of Oklahoma City at 7:51 a.m. on July 24, 2023)

21. (SPUD-1535) Application by David M. Box, Williams, Box, Forshee & Bullard P.C., on behalf of Corsair Cattle Company, to rezone 415 NW 5th Street from DBD Downtown Business District to SPUD-1535 Simplified Planned Unit Development District. Ward 6.

The applicant was present. There were protestors present.

RECOMMENDED DENIAL.

MOVED BY GOVIN, SECONDED BY MEEK

AYES: CLAIR, POWERS, MEEK, PRIVETT, NEWMAN, GOVIN, PENNINGTON,
NOBLE

ABSENT: LAFORGE



STAFF REPORT
The City of Oklahoma City
Planning Commission
July 27, 2023

Item No. IV. 21.

(SPUD-1535) Application by David M. Box, Williams, Box, Forshee & Bullard P.C., on behalf of Corsair Cattle Company, to rezone 415 NW 5th Street from DBD Downtown Business District to SPUD-1535 Simplified Planned Unit Development District. Ward 6.

I. GENERAL INFORMATION

A. Contacts

1. Applicant/Developer Representative

Name David M Box
Company Williams, Box, Forshee & Bullard P.C.
Phone 405-232-0080
Email dmbox@wbflaw.com

B. Case History

This application was continued from the June 22, 2023 meeting.

C. Reason for Request

The purpose of this application is to allow an outdoor play area for a dog daycare facility.

D. Existing Conditions

1. Comprehensive Plan Land Use Typology Area: Downtown (DT)

DT applies to the city center, Oklahoma City's most intense development area, envisioned as a regional center for commerce and tourism. Urban experience, interaction, creativity and knowledge exchange, and economic dynamism are guiding objectives that necessitate high intensity and extremely close proximity among businesses, residents, destinations, and amenities.

2. Size of Site: 0.1033 acres

3. Zoning and Land Use

	Subject Site	North	East	South	West
Zoning	DBD	DBD	DBD	DBD	DBD
Land Use	Parking	Office	Dog Daycare	Office	Parking

II. SUMMARY OF SPUD APPLICATION

- 1. This site will be developed in accordance with the regulation of the **Downtown Business District** (OKC Zoning Ordinance, 2020, as amended), except that the following restrictions will apply:**

In addition to all uses permitted in the Downtown Business District, the following use shall be permitted.

8300.10 Animal Sales and Services: Kennel and Veterinary, General [dogs shall not be allowed outside between the hours of 6:30 p.m. and 7:00 a.m.]

- 2. Maximum Building Height:**

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

- 3. Maximum Building Size:**

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

- 4. Maximum Number of Buildings:**

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

- 5. Building Setback Lines**

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

- 6. Sight-proof Screening:**

The existing screening shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

- 7. Landscaping:**

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

8. Signs:

8.1 Free Standing Accessory Signs

Freestanding signs will be in accordance with the base zoning district regulations.

8.2 Attached Signs

Attached signs will be in accordance with the base zoning district regulations.

8.3 Non-Accessory Signs

Non-Accessory signs will be prohibited.

8.4 Electronic Message Display Signs

Electronic Message Display signs will be prohibited.

9. Access:

The existing access shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

10. Sidewalks

The existing sidewalks shall be permitted to remain and deemed to conform to applicable regulations.

II. Other Development Regulations:

1. Architecture:

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, exterior building wall finish on all main structures, exclusive of windows and doors, shall consist of a minimum 70% brick veneer, rock or stone masonry, stucco, and cementitious siding (including, but not limited to, the brand commonly known as James Hardie). No more than 30% EIFS (Exterior Insulation Finish System) shall be permitted. Exposed metal or exposed concrete block buildings shall not be permitted.

2. Open Space:

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the base zoning district regulations shall apply.

3. Street Improvements:

N/A.

4. Site Lighting:

The site lighting in this SPUD shall be in accordance with Chapter 59, Article XII, Section 59-12350 of the Oklahoma City Municipal Code, 2020, as amended.

5. Dumpsters:

The existing yard shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, dumpsters shall be located within an area screened by a fence or masonry wall of sufficient height that screens the dumpster from public streets and residences and shall be placed no closer than 50 feet from all property lines adjacent to residential zoning district or use.

Trash collection facilities in this SPUD shall be in accordance with Chapter 49 of the Oklahoma City Municipal Code, 2020, as amended.

6. Parking:

The existing parking shall be permitted to remain and deemed to conform to applicable regulations. In the event of development, the design and number of all parking facilities in this SPUD shall be in accordance with Chapter 59, Article X of the Oklahoma City Municipal Code, 2020, as amended.

7. Maintenance:

Maintenance of the common areas in the development shall be the responsibility of the property owner or Property Owners Association. No structures, storage of material, grading, fill, or other obstructions, including fences, either temporary or permanent, that shall cause a blockage of flow or an adverse effect on the functioning of the storm water facility, shall be placed within the common areas intended for the use of conveyance of storm water, and/or drainage easements shown. Certain amenities such as, but not limited to, walks, benches, piers, and docks, shall be permitted if installed in a manner to meet the requirements specified above.

8. Drainage:

Development of this parcel will comply with Chapter 16 of the Oklahoma City Municipal Code, 2020, as amended.

9. Other:

The existing Canin Turf, an artificial turf designed for dogs, shall be washed down with a disinfectant at least once per day.

Dogs will never be outside without at least one dog handler present. Said dog handler shall be trained in fundamental principles and techniques of managing dog behavior. The handler will be equipped with the knowledge and tools to positively interrupt undesirable behavior, such as barking. Should a dog continuously bark after four (4) positive behavior interruptions, the dog will be sent inside the building.

III. Supporting Documents

Exhibit A: Legal Description

Exhibit B: Conceptual Site Plan

III. REVIEW COMMENTS

This application was submitted to the following agencies, departments, and/or divisions for review and comment. An asterisk indicates that the agency, department, and/or division responded with no adverse comments.

A. Outside Agencies

1. Oklahoma City-County Health Department

2. Oklahoma City Urban Renewal Authority (OCURA)

3. Oklahoma Gas and Electric (OGE)

4. Oklahoma Natural Gas: Please be advised ONG has an underground or aboveground facility in the area. If you need our facilities relocated to accommodate your excavation or construction, ONG will provide you a cost estimate. Prior to excavation, please contact OKIE-ONE 1-800-522-6543 a minimum of 48 hours prior for exact location of our facilities.

5. Oklahoma Water Resources Board (OWRB)

6. School District(s) Oklahoma City

7. Oklahoma Department of Transportation (ODOT)

B. City Departments

1. Airports

- 2. Central Oklahoma Transportation and Parking Authority (COTPA)**
- 3. Fire**
- 4. Information Technology/Geographic Support**
- 5. Parks and Recreation**
- 6. Police**
- 7. Public Works**
 - a. Engineering**
 - b. Streets, Traffic and Drainage Maintenance**

Storm Sewer Availability

- 1) The Public Works Drainage Division staff has reviewed the subject application. All development, new construction, and/or substantial improvements planned within the proposed area shall be subject to chapter 16 of the Oklahoma City Municipal Code.
- 2) Storm sewers in accordance with the City's Drainage Ordinance will be required. Development abutting section line roads with drainage flows that exceed the capacity of OKC standard ditch detail (D-100) will necessitate the installation of enclosed storm sewer and/or concrete channel. These improvements shall be placed to provide a minimum of 35' clearance distance from the centerline of the section. Concrete channels must be entirely outside public right-of-way.
- 3) A flood and/or drainage study will be required to establish finished floor elevations, common lot areas or private drainage easements. A final plat should not be submitted until the study has been reviewed and approved by the Public Works Department.
- 4) Plans for drainage improvements within the private drainage reserves and/or common areas must be submitted for review, and payment of inspection fees shall be made prior to construction. Building permits will not be issued until construction is complete. If a subdivision abuts a stream, the private drainage easements and/or common area along stream shall extend to flow line of stream at a minimum.
- 5) Place the following note on the plat and construction plans: Maintenance of the Common Areas and/or Private Drainage Easements shall be the responsibility

of the property owner. No structures, storage of material, grading, fill or other obstructions, including fences, either temporary or permanent shall be placed within the common areas and/or drainage easements shown.

- 6) Drainage easements shall be clearly denoted as public or private in owner's dedication, on the plat, and/or in the plat notes.
- 7) Construction within the limits of this SPUD will require an erosion control plan in accordance with EPA Storm Water Discharge permitting: CFR Vol. 57, No. 175, September 9, 1992. A copy of the EPA Notice of Intent (NOI) will be required prior to the issuance of work orders or permits for construction activities disturbing an area of 1/2 acre or greater.
- 8) Sidewalk shall be installed for all new construction and/or at the time of a residential use to a more intense use on all lots having frontage on public streets classified as a major or minor arterial.
- 9) All private roads /streets will have private storm sewer systems.
- 10) Engineer/developers will be contacting PW for detention determination before they submit their final plat and plans.

c. Stormwater Quality Management

d. Traffic Management*

8. Utilities

a. Engineering

Paving

Wastewater Availability

- 1) No service required, No Objections.

b. Solid Waste Management

- 1) The City can provide solid waste collection services to commercial customers providing refuse is not excess of 270 gallons per customer per pick up § 49-30 (a). Otherwise the customer will have to utilize a private hauler for dumpster service.

a. Water/Wastewater Quality

Water Availability

- 1) No service required, No Objections.

9. Planning

a. Comprehensive Plan Considerations

1) LUTA Development Policies:

Site Design, Building Form, and Location

- Utilize Best Management Practices (BMP) for stormwater.
- Provide parking in structured garages or decks.
- Incorporate commercial uses at street level to maintain an active, pedestrian friendly streetscape.
- Align walls of new construction with prevailing facades of adjacent buildings, unless doing so results in substandard sidewalks.
- Design buildings to include facades, storefront windows, and attractive signage and lighting to create pedestrian-scale visual interest.
- Avoid unbroken stretches of blank walls.

The SPUD would allow an existing outdoor dog play area to remain at a dog day care. The subject site is within the Downtown Design Review District. The SPUD maintains the DBD as the base zone of the SPUD, which has regulations, guidelines and a design process that address site design and building form.

Automobile Connectivity

- Keep alleys open and functional.

No changes to the alley are proposed.

Compatibility: The comprehensive plan includes a land use compatibility matrix used to identify potential conflicts between major land use categories. Projects in higher intensity LUTAs (DT) may be more appropriate for significant transitions of density, scale and mass. *The existing DBD zoning allows a mix of uses and requires a design review process for renovation, demolition, and new construction. The Zoning Code specifies that a SPUD may be appropriate within a special design district in cases where a use or a mix of uses within the design district is prohibited but may be appropriate to a specific site. In this case, the SPUD is requested for an outdoor dog play area, a use not permitted within the DBD. The proposed outdoor use triggers potential operational impacts.*

Operational Impact: The comprehensive plan calls for mitigation measures if new projects propose uses that generate noise levels above those found in typical residential settings, have detectable odors, spill light above that

found in typical residential settings, or operate after 10 p.m. within proximity to residential uses. When located near residential uses, the comprehensive plan calls for containing operating effects (including noise and odor) within building walls, using vertical screening to block any mechanical equipment and service areas, and directing light away from adjacent residential areas. *The request to add the use 8300.10 Animal Sales and Services: Kennel and Veterinary General, would allow the existing exterior animal enclosures and dog runs. The use may generate noise levels or odor adjacent to surrounding uses. Mitigation offered in the SPUD includes: a requirement that dogs cannot be outside between 6:30 p.m. and 7:00 a.m.; a requirement that the proposed artificial turf be washed down with disinfectant at least once per day; and requirements for the dog handlers and when dogs must be taken inside for barking.*

2) Service Efficiency:

- Water: *Served*
- Sewer: *Fully Served*
- Fire Service: *Urban Service Level*

3) Environmentally Sensitive Areas: The following apply to the proposed development site:

- Riparian Areas: *N/A*
- Upland Forests: *N/A*
- Vulnerable Aquifers: The aquifer in this area is considered highly vulnerable to depletion. The comprehensive plan recommends preserving natural open spaces and utilizing low impact development techniques whenever possible in new developments in order to maintain water quality and allow for the infiltration of stormwater onsite.

4) Transportation System: This site is located along NW 5th Street, a General Urban Street based on the Downtown Development Framework (DDF). Transit (bus and streetcar) service is available Downtown.

5) Other Development Related Policies

- Require sidewalks on both sides of all streets in urban LUTAs. (C-7)
- Share parking between contiguous developments. (C-31)
- Commercial buildings should be built at the street rather than behind a parking lot in order to promote pedestrian circulation, multipurpose shopping trips, and walkable and attractive streetscapes. (SU-28)

b. Plan Conformance Considerations

The subject site is located Downtown, north of NW 5th Street between Walker and Hudson Avenues. The site is currently developed with an outdoor play yard for a dog daycare and indoor grooming and boarding facility located to the east, facing NW 5th Street. A public alley runs along the north boundary of the site, and the

surrounding area is developed with office buildings, the EMBARK bus facility, restaurants, apartments, and parking.

The subject site is zoned Downtown Business District (DBD). The SPUD is requested to allow the use unit *Animal Sales and Services: Kennel and Veterinary General (8300.10)* for the continued operation of the outdoor play area. The use is not currently permitted in the DBD District. The *Animal Sales and Services: Kennel and Veterinary, Restricted* use (8300.11) is allowed, but requires all operations to be within an enclosed building.

The proposed outdoor use triggers potential operational impacts, specifically noise and odor. Mitigation offered in the SPUD includes: a requirement that dogs cannot be outside between 6:30 p.m. and 7:00 a.m.; a requirement that the proposed artificial turf be washed down with disinfectant at least once per day; and requirements for the dog handlers and when dogs must be taken inside for barking. Additional measures may be necessary to mitigate noise during daytime hours.

This application is subject to review by the Downtown Design Review Committee (DDRC). On July 20, 2023, the DDRC recommended denial of SPUD-1535 (5-0), with the comments that there are existing non-conforming features at the site, specifically the fence and artificial turf installation. The DDRC also recommended that the Planning Commission watch the DDRC meeting to hear the discussion that has taken place.

IV. STAFF RECOMMENDATION

Staff recommendations are advisory only and do not constitute Planning Commission decisions. Staff recommendations are based on a technical evaluation of information submitted at the time of review. Determination of conformance with policies contained in the comprehensive plan is the purview of the Planning Commission. Planning Commission decisions require a vote of five members to approve or deny an item. The Planning Commission may consider in its decision-making process any additional relevant information presented at the public hearing by the public, applicant, and/or City departments.

Approval of the application subject to the following Technical Evaluation:

1. A maximum of four dogs shall be outside at one time.
2. For all sections of the Master Design Statement, remove any language stating the current condition is permitted to remain and deemed to conform to applicable regulations. All sections shall be replaced with wording that says the development shall conform to the applicable regulations and guidelines of the Downtown Design District.

3. Specify in Section 1 of the Master Design Statement that the site will be developed in accordance with the regulations of the **Downtown Business District**, *including the design review process*.

All Engineering Division and Water/Wastewater Utilities Division requirements must be met. Additional changes to the SPUD may be required during either Divisions review of construction plans and prior to City Council approval.

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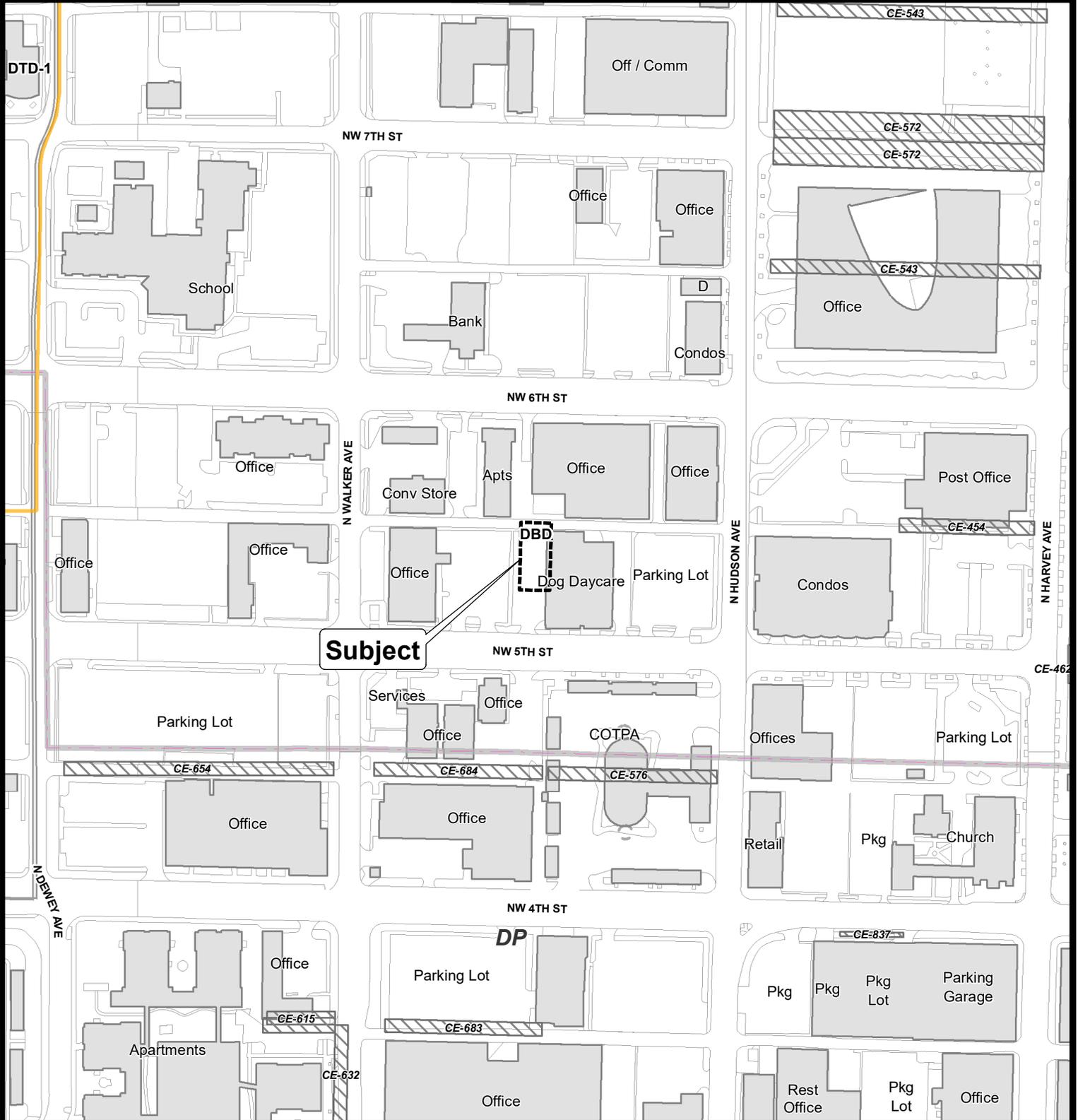
Case No: SPUD-1535

Applicant: David M. Box, Williams, Box,

Forshee & Bullard, P.C. on behalf of Corsair Cattle Co.

Existing Zoning: DBD

Location: 415 NW 5th St.



Note: "Subject" is located approximately 1,700' South of NW 10th St.

Simplified Planned Unit Development



The City of OKLAHOMA CITY



0 100 200 Feet

Case No: SPUD-1535

Applicant: David M. Box, Williams, Box,

Forshee & Bullard, P.C. on behalf of Corsair Cattle Co.

Existing Zoning: DBD

Location: 415 NW 5th St.



Aerial Photo from 2/2022

Note: "Subject" is located approximately 1,700' South of NW 10th St.

Simplified Planned Unit Development



The City of
OKLAHOMA CITY



0 100 200
Feet



STAFF REPORT

Downtown Design Review Committee

07/20/2023

Agenda Item VII. A.
Case No. SPUD-01535
Property Address 415 NW 5th St
Applicant Name David Box, Williams, Box, Forshee & Bullard, PC
for The Dog House OKC, Inc.
Corsair Cattle Co
522 Colcord Dr
Oklahoma City, OK 73102
District: DBD

Continued from 06/15/2023 DDRC meeting

A. ITEMS FOR CONSIDERATION

1. Recommendation

Provide a recommendation to the Planning Commission for a request to rezone from DBD Downtown Business District to a Simplified Planned Unit Development SPUD-01535.

B. BACKGROUND

1. Location

This site is located on the north side of NW 5th St, between N Walker Ave and N Hudson Ave.

2. Site History/Existing Conditions

According to the 1919 Sandborn Maps, there were 10 houses on the northside of the street in this block. None of those structures remain today. Currently, the site is a parking lot serving the adjacent building to the east. The applicant is operating a dog boarding, day care and grooming business in the adjacent building.

3. Surrounding Environment

The surrounding area contains office uses, the Embark bus facility, restaurants, and apartments.

4. Intended Use

The Master Design Statement requests adding the following additional use to the existing DBD uses: 8300.10 Animal Sales and Services: Kennels and Veterinary, General (dogs shall not be allowed outside between the hours of 6:30 pm. And 7:00 a.m.). This request is to allow exterior animal enclosures and dog runs.

5. Other

SPUD-01244 was filed on 7/16/2020 requesting the same use unit as the current request. A public hearing was held before the Downtown Design District on

8/20/2020. By a vote of 3-1, DDRC recommended the following comments be forwarded to the Planning Commission:

- 1) That the proposed SPUD does not include language affecting the review process or requirements for changes to the exterior of the property;
- 2) That the proposed SPUD retains the DBD base zoning district and all regulations and guidelines related to the purview of the Downtown Design Review Committee; and
- 3) A recommendation to the Planning Commission to watch this video and hear the discussion that has taken place at DDRC. (NOTE: this was a ZOOM meeting))

On 9/23/2020, SPUD-01244 was withdrawn.

Code Enforcement violations have been issued in 2023 for the use of the outdoor space by dogs associated with the adjacent business, The Dog House.

At the 06/15/2023 DDRC meeting, this item was continued at the request of the applicant.

C. ITEMS IN COMPLIANCE

1. Unless noted below in Section D. Issues and Considerations, all other case items of this proposal comply with the Development Regulations and Guidelines of the Downtown Design District zoning ordinance as referenced below:

None

Note: All other Regulations and Guidelines of the Downtown Design District zoning ordinance not listed above are either not applicable to this case or apply to elements of this project to be considered as a separate case at a later date.

D. ISSUES AND CONSIDERATIONS

1. Development Regulations

This proposal does not comply with the Development Regulations of the Downtown Design District zoning ordinance as follows:

a) RE: Proposed Uses

- 1) Description: The applicant is requesting a use not currently permitted in the Downtown Design District.
- 2) Reference: Table 7200.1: Downtown Design District Uses Regulations

The following requested use is not included in the DBD Use Regulations table:

8300.10 Animal Sales and Services: Kennels and Veterinary, General

Reference: §7200.1. Downtown Design Districts (DBD, DTD-1, DTD-2).

“A. *Purpose and Intent. This commercial district is intended to support diverse forms of business and residential activity, including, mixed-uses in a single building, within the*

central area of the City. Development regulations and guidelines in this district are intended to:

- (1) promote the development and redevelopment of the downtown area in a manner consistent with the unique and diverse design elements and urban character of the downtown districts;*
- (2) ensure that a proposed use is compatible with the commercial, cultural, historic, and governmental significance of the downtown districts;*
- (3) promote the downtown area as a vital mixed-use area;*
- (4) create a network of pleasant, safe, and connected public spaces and pedestrian amenities in the downtown area;*
- (5) enhance existing structures and circulation patterns;*
- (6) encourage preservation and restoration of the Historic Resources and Architectural Resources of the Downtown districts; and*
- (7) encourage appropriate and complementary transitions between each of the downtown districts and between those districts and the surrounding zoning districts.”*

Reference: §7200.2. Downtown Business District (DBD).

“A. Purpose and Intent.

The DBD District is intended to support diverse forms of business and residential activity, including mixed-uses in a single building, within the central area of the City. Development regulations and guidelines in this district are intended to promote the development and redevelopment of the downtown area in a manner consistent with the unique and diverse design elements and urban character of the downtown district; ensure that uses are compatible with the commercial, cultural, historical and governmental significance of downtown; promote the downtown as a vital mixed-use area; create a network of pleasant, safe, and connected public spaces and pedestrian amenities; enhance existing structures and circulation patterns; and encourage preservation and restoration historic features.”

Reference: §14100.3. Appropriate Use of PUD and SPUD

“C. Rezoning to a PUD or Spud within a special design district or design overlay district may be appropriate in cases where a use or a mix of uses within the design district is prohibited, but may be appropriate to a specific site. Where rezoning is proposed within a special design district or design overlay district, the PUD or SPUD should:

1. *Incorporate the development regulations and guidelines of the design district; and*
 2. *Be subject to the design review process for the design district.”*
- 3) Considerations: The exterior dog run use is proposed to be located in the northern two-thirds of the existing parking lot. The SPUD proposes to leave the site within the Downtown Design District and does not propose changes to any regulation or guideline, with the exception of adding the exterior animal enclosures and dog runs. Future construction, including creating an outdoor dog area and installation of animal enclosures or other site features, will be subject to design review and require a Certificate of Approval, separate from the SPUD application.
- Staff has received written opposition from several property owners (see Attachment #1 – NOTE: all individual letters received were included in this attachment submitted by Richard Dowell). All are expressing concern about incompatibility with adjacent and surrounding uses.

E. STAFF RECOMMENDATION

Because the proposed SPUD, and the related concerns from surrounding property owners, only address a specific use and do not alter the purview or the design-related requirements of the Downtown Design District, staff has not recommended a recommendation of approval or denial, but has recommended forwarding comments relevant to the Downtown Design Review Committee’s purview.

Staff recommends the following comments be forwarded to the Planning Commission regarding SPUD-01535:

1. That the proposed SPUD does not include language affecting the review process or requirements for changes to the exterior of the property; and
2. That the proposed SPUD retains the DBD base zoning district and all regulations and guidelines related to the purview of the Downtown Design Review Committee.

Note: Staff recommendations do not constitute Committee decisions.

Attachments: Application, Master Design Statement, Legal Description, Current Site Plan and SPUD Boundary, Attachment #1 protest, Photos