



SAN RAFAEL

THE CITY WITH A MISSION

Community Development Department – Planning
Division

Meeting Date: June 28, 2022
Agenda Item: 3
Case Numbers: PLAN22-031;
ZO22-002
Project Planner: Jayni Allsep
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REPORT TO PLANNING COMMISSION

SUBJECT: Proposed Amendment to Table 14.05.020 of Section 14.05.020 of the San Rafael Municipal Code to allow “animal care facilities” excluding exterior kennels, pens or runs, as a conditionally permitted use in the Office (O) District; Citywide-all real property located within O – Office District; Peter Spoerl, applicant; File Nos.: PLAN22-031; ZO22-002

EXECUTIVE SUMMARY

The proposed zoning text amendment would allow animal care facilities in the Office (O) District, subject to approval of a use permit by the Zoning Administrator. Staff believes that the proposed amendment is consistent in principle with General Plan 2040 in that it would expand the variety of commercial uses allowed in the Office District, which would contribute to a “complete community” with a diversity of land uses in locations that conveniently serve and benefit the community. Animal care facilities are consistent with the wide range of uses already allowed within the Office District, including residential uses, and they are already conditionally permitted in the General Commercial (GC), Neighborhood Commercial (NC), and Commercial Office (C/O) Districts. The public health, safety and general welfare would be served by the proposed amendment because it would require that animal care facilities within the Office District be located entirely within the interior of a building, overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes, and appropriate sanitation, odor control, and sound attenuation would be required in accordance with State and local regulations.

RECOMMENDATION

It is recommended that the Planning Commission take the following action:

- Adopt a resolution recommending City Council approve the zoning text amendment.

BACKGROUND

Relevant sections of the San Rafael Municipal Code (SRMC) are outlined below:

[Chapter 14.03 DEFINITIONS \(Zoning\)](#)

This chapter defines "Animal care facility" as a use providing grooming, housing, medical care, or other services to animals, including veterinary services, animal hospitals, overnight or short-term boarding ancillary to veterinary care, indoor or outdoor kennels, and similar services.

[Chapter 14.05 - COMMERCIAL AND OFFICE DISTRICTS](#)

This chapter contains land use regulations for commercial and office districts. As shown in Table 14.05, animal care facilities excluding exterior kennels, pens or runs, are conditionally permitted in the General Commercial (GC), Neighborhood Commercial (NC), and Commercial Office (C/O) Districts, subject to approval of a Use Permit by the Zoning Administrator. Animal care facilities are currently not permitted in the Office (O) District.

Chapter 10.24 - DOG KENNELS AND PET SHOPS

This chapter regulates businesses operating as dog kennels and pet shops and includes the following definitions:

10.24.010 Definitions.

(a) "Dog kennel" means any lot, building, structure, enclosure or premises whereon or wherein four or more dogs are kept or maintained for any commercial purpose; provided, however, that if other animals or birds or fowl are bought, sold or bartered, the classification to apply shall be that of a pet shop; and provided, further, that the term "dog kennel" shall not be construed as applying to a duly licensed veterinary hospital nor to the Marin County humane society.

(b) "Pet shop" means any lot, building, structure, enclosure or premises whereon or wherein is carried on a business of buying and/or selling or bartering birds, animals or fowl; but this definition shall not be construed as applying to the buying or selling of livestock, nor to the business or activities of a duly licensed veterinary hospital, nor to the business or activities of the Marin County humane society, nor to a duly licensed dog kennel. Note: a pet shop *is not* considered an animal care facility; it falls under the category of animal retail sales.

Chapter 8.13 - NOISE

This chapter addresses general noise limits, including noise generated by animals, which would be regulated under intermittent noise standards. Intermittent noise limits range from 50 dBA for nighttime limits in residential zones to 70 dBA limits in industrial zones.

PROJECT DESCRIPTION

The proposed zoning text amendment would allow animal care facilities in the O District, subject to approval of a use permit by the Zoning Administrator, and consistent with what is allowed in other Commercial Districts within the City. It is important to note that Table 14.05.020 specifically excludes exterior kennels, pens or runs from the type of animal care facilities permitted in commercial districts. Therefore, even though the Code definition of animal care facilities includes services such as housing, veterinary services, animal hospitals, boarding, and indoor and outdoor kennels, the specific exclusion included in Table 14.05 would not permit any animal care services in commercial and office districts that include exterior kennels, pens or runs.

In addition, the proposed zoning text amendment includes the following additional use regulations for animal care facilities located in the O District:

- Applicants for animal care services uses in the O district must submit documentation demonstrating adequate sound attenuation improvements within the facility to establish their ability to fully comply with the general noise limits of Section 8.13.040(B) of the SRMC; and
- Overnight boarding of animals in conjunction with animal care services in the O district shall be limited to only that which is strictly necessary for medical purposes in conjunction with the provision of veterinary services.

ANALYSIS

Section 14.27.060 of the SRMC requires that prior to any amendment of the City's zoning code, the City Council must find that the proposed amendment is consistent in principle with the General Plan, and that the public health, safety and general welfare would be served by the proposed amendment.

The proposed zoning text amendment would be consistent in principle with General Plan 2040 in that it would expand the variety of commercial uses allowed in the Office District, which would contribute to a diversity of land uses. The proposed amendment also includes appropriate restrictions that address potential land use compatibility issues. As noted above, no exterior kennels, pens or runs would be allowed as part of any animal care service use in the Office District, and overnight boarding of animals would be

limited to only that which is strictly necessary for medical purposes in conjunction with the provision of veterinary services. In addition, the proposed text amendment includes "Additional Use Regulations" as reflected in Exhibit A of Draft Resolution, which require that applicants submit documentation demonstrating adequate sound attenuation improvements within the facility to establish the ability to fully comply with the general noise limits contained in Section 8.13.040(B) of the SRMC. Other restrictions could be imposed on a project-by-project basis as conditions of the Use Permit to address potential effects on public health, safety and general welfare.

Specific general plan goals, policies and programs applicable to the proposed amendment are addressed below:

General Plan 2040 Guiding Principles

[Figure 2-2: General Plan 2040](#) illustrates the guiding principles that underpin General Plan 2040. The principles express a vision of San Rafael as a thriving city. At the core of this vision is a commitment to conserve and strengthen the foundational assets that make San Rafael the place it is today – its neighborhoods, beautiful open spaces, Downtown, strong sense of community, historic legacy, and quality public services. There are five essential principles that flow from this foundation: economic vitality, opportunity for all, adapting to the future, housing our growing community, and mobility.

As noted in the General Plan 2040 Land Use Element, the General Plan embraces the idea that San Rafael should remain a "complete community" that includes a diversity of land uses. In addition, there is nothing to suggest that the ability to permit animal care facilities within the Office District would generate undue traffic impacts. According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th edition, trip generation rates for veterinary clinics are at 21.5 daily trips per 1,000 square feet of floor area, which is significantly lower than several of the other business, office, retail and services uses already permitted "by right" within the Office District.

General Plan 2040 includes policies to provide a variety of neighborhood, community, and regional commercial uses, which support the proposed amendment:

General Plan 2040 Land Use Element

Goal LU-2: A Complete Community. San Rafael is a complete community, with balanced and diverse land uses. San Rafael reflects a mosaic of land use patterns that have changed over time and will continue to evolve in the future. Our desire to maintain existing land use patterns must be balanced with the development necessary to provide jobs, meet housing needs, respond to the challenges of a changing economy, and sustain an evolving, vital community. We continue to value and cherish our diverse neighborhoods, while making them more resilient and adapting to changing conditions.

Policy LU-2.1: Land Use Map and Categories. Use the General Plan Map as the framework for future land use decisions. The Map displays the distribution of different land use categories in the San Rafael Planning Area. Each category is associated with a particular set of uses and densities/intensity standards. All proposed projects must meet these standards, as well as other applicable standards established by the City's zoning regulations. Some uses in each category are "conditional," meaning they are allowed only in limited areas or may be subject to specific conditions.

Policy LU-2.13: Odor Impacts. Consider odor impacts when evaluating land uses and development projects near wastewater treatment plants, treatment plant expansion projects, waste transfer stations, and other odor potential sources.

Program LU-2.13A: Evaluation of Odor Impacts. Evaluate odor impacts as part of development review.

A review of the General Plan 2040 Land Use Map and the Zoning Map show that Office districts are generally located adjacent to the US 101 corridor in North San Rafael on property with a general plan land use designation of "Office Mixed Use". This category corresponds to areas where office is the prevailing land use. Typical activities include general offices, medical and professional offices, and administrative or headquarters offices. Staff believes that animal care facilities are compatible with these types of office uses, provided that the facility is entirely within a completely enclosed building, overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes, and appropriate sanitation, odor control, and sound attenuation is provided as addressed below.

Staff also considered the potential for odor impacts from animal care facilities. Animal care facilities that fall under the category of veterinary care are regulated by the State of California Business and Professions Code, and all veterinary premises are required to be registered with the State's Veterinary Medical Board (VMB), which operates under the State of California Department of Consumer Affairs (DCA). All premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced, and all instruments, apparatus and apparel used in connection with those practices, shall be kept clean and sanitary at all times, and shall conform to those [minimum standards established by the board](#). These minimum standards include a requirement that the disposal of waste material shall comply with all applicable state, federal, and local laws and regulations.

Based on the above, the potential for odor impacts on adjacent uses is considered low given that no exterior kennels, pens or runs would be permitted in the Office District and overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes in conjunction with the provision of veterinary services. When considering specific Use Permit applications for animal care facilities, conditions could be imposed to address site-specific operational conditions if warranted. For example, if a facility is proposed in a multi-tenant building, an odor control plan could be required as a condition of the Use Permit, which would require the applicant to specify the administrative and engineering controls (e.g. carbon filtration) the facility will implement to control odors.

In the event that odor issues related to the operation of an animal care facility arise, compliance with State and local regulations would be enforced by the San Rafael Police Department or its designee. SRMC Section 6.10.010 stipulates that the Marin County animal control regulations set forth in Title 8 of the Marin County Code are adopted by reference. The Marin Humane Society is appointed as the animal services agency for the County. One of the many powers and duties of the animal services agency is to enforce the laws of the state of California relating to the care, treatment and impounding of animals, and specifically to issue citations and make arrests for violations of the provisions Chapter 8 of the County Code and related state laws.

Noise Element

Goal N-1: Acceptable Noise Levels. Protect the public from excessive, unnecessary, and unreasonable noise.

Policy N-1.2: Maintaining Acceptable Levels of Noise. Use the following performance standards to maintain an acceptable noise environment in San Rafael:

- New development shall not increase noise levels by more than 3 dB Ldn in a residential area, or by more than 5 dB Ldn in a non-residential area.
- New development shall not cause noise levels to increase above the "normally acceptable" levels shown in Table N-1.
- For larger projects, the noise levels in (a) and (b) should include any noise that would be generated by additional traffic associated with the new development.

Policy N-1.9: Maintaining Peace and Quiet. Minimize noise conflicts resulting from everyday activities such as construction, sirens, yard equipment, business operations, night-time sporting events, and domestic activities.

Program N-1.9A: Noise Ordinance. Maintain and enforce the noise ordinance, which addresses common noise sources such as amplified music, mechanical equipment use, and construction. Updates to the ordinance should be periodically considered in response to new issues (for example, allowing portable generators during power outages).

As noted in the General Plan 2040 Noise Element, most urban land uses generate some degree of noise. Industrial and commercial uses generate noise from heating, ventilation, and air conditioning (HVAC) systems, as well as machinery, compressors, chillers, boilers, loading dock activities, and various processes. These are referred to as stationary noise sources. For certain businesses, conditional use permits may be used to establish hours of operation or limits on activities to reduce the potential for noise conflicts. Various Code requirements may be applied to identify noise muffling and buffering requirements and establish measurable noise thresholds for activities.

Table 9-2 of the General Plan 2040 Noise Element presents the noise compatibility guidelines for San Rafael, which have been adapted from the State guidelines. The table indicates the exterior noise levels that should be considered normally acceptable, conditionally acceptable, normally unacceptable, and clearly unacceptable for major categories of land uses. Where exterior noise levels fall within the “conditionally acceptable” or “normally unacceptable” ranges, acoustical studies are typically required before those land uses are approved.

Animal care facilities fall under the general land use category of commercial and professional office buildings and businesses. For these uses, an interior noise level of 50 dBA is recommended, and exterior noise levels of up to 70 dBA are considered normally acceptable, based on the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. Exterior noise levels of up to 75 dBA are considered conditionally acceptable. Conventional construction, but with closed windows and fresh air supply systems or air conditioning will normally suffice.

Based on the above, animal care facilities would be compatible with the noise environment that is typical of areas zoned O-Office. As noted above, Office districts are generally located adjacent to the US 101 corridor in North San Rafael where ambient noise levels range from 60 to 70 dBA. It is noted that the noise compatibility guidelines contained in Table 9-2 are typically used to assess the compatibility of the proposed use with the exterior noise environment. See below for a discussion of noise limits regulated by Chapter 8.13 of the SRMC (Noise Ordinance).

Chapter 8.13 - NOISE addresses general noise limits, including noise generated by animals, which would be regulated under intermittent noise standards. Intermittent noise limits range from 50 dBA for nighttime limits in residential zones to 70 dBA limits in industrial zones.

As noted above, no exterior kennels, pens or runs would be allowed as part of any animal care service use in the Office District, and overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes in conjunction with the provision of veterinary services. In addition, as noted above, the proposed text amendment includes “Additional Use Regulations” as reflected in Exhibit A of Draft Resolution, which require that applicants submit documentation that demonstrates adequate sound attenuation improvements within the facility in order to fully comply with the general noise limits contained in Section 8.13.040(B) of the SRMC. These restrictions and requirements would mitigate potential noise impacts associated with animal care facilities on adjacent land uses.

Conclusion

Based on the analysis above, staff believes that the proposed zoning text amendment would be consistent in principle with General Plan 2040 in that it would expand the variety of commercial uses allowed in the Office District, which would contribute to a “complete community” with a diversity of land uses in locations that conveniently serve and benefit the community. Animal care facilities are consistent with the wide range of uses already allowed within the Office District, including residential uses, and they are already conditionally permitted in the General Commercial (GC), Neighborhood Commercial (NC), and Commercial Office (C/O) Districts. The public health, safety and general welfare would be served by the proposed amendment because it would require that animal care facilities within the Office District be located entirely within the interior of a building, overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes, and appropriate sanitation, odor control, and sound attenuation would be required.

ENVIRONMENTAL DETERMINATION

The project qualifies for a Categorical Exemption from the California Environmental Quality Act (“CEQA”) pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this zoning amendment or its implementation would have a significant effect on the environment.

PUBLIC NOTICE / CORRESPONDENCE

A notice of hearing for the project was conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was mailed to interested parties on June 9, 2022 and was published in the Marin IJ on June 11, 2022. In addition, an email notification was sent to interested parties on June 11, 2022. Those noticed included, among others, all neighborhood associations, and the Federation of San Rafael Neighborhoods. As of the writing of this staff report, no public comment has been received. Any communication received will be forwarded to the Planning Commission.

OPTIONS

The Planning Commission has the following options:

1. Adopt the Resolution recommending to the City Council adoption of the zoning text amendment; or
2. Recommend approval of the application with certain modifications or changes;
3. Continue the hearing (to a date certain or an undefined date) to allow the applicant to address any of the Commission’s comments or concerns; or
4. Recommend that the project be denied.

EXHIBITS

1. Draft Resolution with Attachment A – Amended Text

EXHIBIT 1

RESOLUTION NO. 22-

RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN AMENDMENT TO TITLE 14 OF THE SAN RAFAEL MUNICIPAL CODE (ZONING), TABLE 14.05.020 UNDER SECTION 14.05.020, LAND USE REGULATIONS (GC, NC, O, C/O, R/O, FBWC) TO ALLOW “ANIMAL CARE FACILITIES” EXCLUDING EXTERIOR KENNELS, PENS OR RUNS, AS A CONDITIONALLY PERMITTED USE IN THE OFFICE (O) DISTRICT (ZO22-002)

WHEREAS, the City of San Rafael Community Development Department has received an application requesting a Zoning Text Amendment (ZO22-002); and

WHEREAS, this zoning text amendment to Title 14 of The San Rafael Municipal Code (Zoning), Table 14.05.020 Under Section 14.05.020, Land Use Regulations (GC, NC O, C/O, R/O, FBWC) would allow “Animal Care Facilities” excluding exterior kennels, pens or runs, as a conditionally permitted use in the Office (O) District, subject to approval of a Use Permit by the Zoning Administrator; and

WHEREAS, on June 28, 2022, the Planning Commission held a duly noticed public hearing on the proposed amendment to the San Rafael Municipal Code, Title 14, accepting all oral and written public testimony and the written report of the Community Development Department staff; and

WHEREAS, upon review of the application, the Planning Commission finds that this project qualifies for a Categorical Exemption from the California Environmental Quality Act (“CEQA”) pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this zoning amendment or its implementation would have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendment to the San Rafael Municipal Code as outlined in Attachment A of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

1. The amendment to San Rafael Municipal Code Title 14 – Zoning Ordinance is consistent with the guiding principles that underpin the San Rafael General Plan 2040 in that it would expand the variety of commercial uses allowed in the Office District, and would contribute to a “complete community” with a diversity of land uses in locations that conveniently serve and benefit the community. The amendment is consistent with the following specific and applicable policies:
 - a. **Policy LU-2.1: Land Use Map and Categories** in that the distribution of land use categories within the San Rafael Planning Area, as shown on the General Plan 2040 Land Use Map, was considered in staff’s analysis of the amendment’s conformance with General Plan 2040;
 - b. **Policy LU-2.13: Odor Impacts and Program LU-2.13A: Evaluation of Odor Impacts** in that the potential for odor impacts was considered in staff’s analysis of the amendment’s conformance with General Plan 2040;

EXHIBIT 1

- c. **General Plan Policies N-1.2: Maintaining Acceptable Levels of Noise and N-1.9 (Maintaining Peace and Quiet)**, and which aims to minimize noise conflicts resulting from everyday activities, including business operations; and **Program N-1.9A: Noise Ordinance** which calls to maintain and enforce the noise ordinance by including “Additional Use Regulations” as reflected in Exhibit A of Draft Resolution, which require that applicants submit documentation that demonstrates adequate sound attenuation improvements within the facility in order to fully comply with the general noise limits contained in Section 8.13.040(B) of the SRMC. These restrictions and requirements would mitigate potential noise impacts associated with animal care facilities on adjacent land uses.
2. The public health, safety and general welfare are served by adoption of the proposed amendment to the SRMC in that all animal care facilities located within the Office District would be required to be located entirely within the interior of a building, overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes, and appropriate sanitation, odor control, and sound attenuation would be required.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 28th day of June 2022.

Moved by Commissioner _____ and seconded by Commissioner

_____.

AYES:

NOES:

ABSENT:

SAN RAFAEL PLANNING COMMISSION

ATTEST:

Leslie Mendez, Secretary

BY:

Jon Previtali, Chair

Attachment A: Amendment to San Rafael Municipal Code Title 14 (Zoning),
Table 14.05.020 of Section 14.05.020

ZC22-001**AMENDMENTS TO MUNICIPAL CODE**

The row of regulations governing “Animal care facilities” under “Animal sales and service, excluding exterior kennels, pens and runs” as set forth under Table 14.05.020 of Section 14.05.050 of the San Rafael Municipal Code is hereby amended to read as follows [NOTE: none of the other cells or rows within Table 14.05.020 is modified by this amendment].

Table 14.05.020

Type of Land Use		GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
Commercial Uses								
Animal sales and service, excluding exterior kennels, pens								
Animal care facilities		CZ	CZ	<u>CZ</u>	CZ			<ul style="list-style-type: none"> • <u>Applicants for animal care services uses in the O district must submit documentation demonstrating adequate sound attenuation improvements within the facility to establish their ability to fully comply with the general noise limits of Section 8.13.040(B).</u> • <u>Overnight boarding of animals in conjunction with animal care services in the O district shall be limited to only that which is strictly necessary for medical purposes in conjunction with the provision of veterinary services.</u>
Animal retail sales	P	P		P				