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## Planning Commission Staff Report

**TO:** PLANNING COMMISSION

**FROM:** SAMANTHA NOVOTNY, PLANNER I *SN*  
(480) 503-6602 SAMANTHA.NOVOTNY@GILBERTAZ.GOV

**THROUGH:** ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *Am*  
(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

**MEETING DATE:** NOVEMBER 2, 2022

**SUBJECT:** UP22-48 DOGTOPIA: A CONDITIONAL USE PERMIT FOR APPROXIMATELY 1.39 ACRES LOCATED AT 876 N MCQUEEN ROAD TO ALLOW A KENNEL IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY, SUBJECT TO CONDITIONS

**STRATEGIC INITIATIVE:** Prosperous Community

Allow for a diversity of uses to include a dog boarding facility for the community.

### RECOMMENDED MOTION

Make the Findings of Fact and approve UP22-48 Dogtopia: A Conditional Use Permit (CUP) for approximately 1.39 acres located at 876 N McQueen Road to allow a kennel in the Community Commercial zoning district with a Planned Area Development (PAD) overlay, subject to conditions.

### APPLICANT

Company: Gammage & Burnham  
 Name: Vanessa MacDonald  
 Address: 40 N Central Avenue, 20<sup>th</sup> Fl.  
 Phoenix, AZ 85004  
 Email: vmacdonald@gblaw.com

### OWNER

Company: Dogtopia  
 Name: Michael Perlman  
 Phone: (480) 447-0655  
 Email: michael.perlman@dogtopia.com

## BACKGROUND/DISCUSSION

### History

Date	Description
<i>July 7, 1992</i>	The east half of the Continental Tech Center PAD was rezoned Z92-06 (Ordinance No. 748) to allow retail and single-family residential surrounded by a golf course.
<i>June 22, 1993</i>	Town Council approved Z95-9 (Ordinance No. 945) to reconfigure the 10-acre commercial parcel at the northwest corner of McQueen and Guadalupe Roads so that the hotel/resort overlay excluded the Walgreens site.
<i>July 8, 1997</i>	Town Council approved Z97-6 (Ordinance No. 1045) to eliminate the hotel/resort overlay from the development plan and conditions of approval on approximately 11 acres of the Continental Tech Center PAD located at the northwest corner of McQueen and Guadalupe Roads.
<i>July 10, 1997</i>	The Design Review Board approved DR97-20 Sterling House Assisted Living Facility, the site plan, landscaping, grading and drainage, building elevations, and signage on the east side of El Dorado Drive and north of Guadalupe Road.
<i>February 15, 2001</i>	The Design Review Board approved DR00-140 Retail Shops B, the final site plan, landscape plan, preliminary grading and drainage plan, building elevations, and site lighting for Shops B at the northwest corner of McQueen and Guadalupe Roads, subject to condition
<i>June 7, 2002</i>	Staff administratively approved DR02-34 a Master Sign Program for El Dorado Tech Center II, including Retail Shops B.

### Overview

The business Dogtopia is proposed to locate in an existing multi-tenant building at the northwest corner of McQueen Road and Guadalupe Road. Dogtopia's business model includes services such as dog day care and animal boarding. This Conditional Use Permit (CUP) analysis is only for allowing kennel/animal boarding, which includes care for 24 hours or longer for five or more animals. Dog day care (less than 24 hours) is a permitted use by right in Community Commercial (CC), and therefore is not included in this CUP.

## Surrounding Land Use & Zoning Designations:

	Existing Land Use Classification	Existing Zoning	Existing Use
North	General Commercial	Community Commercial with PAD overlay	Strip mall mix of retail, restaurant, and commercial uses
South	General Commercial	Community Commercial with PAD overlay	Commercial
East	General Commercial	General Commercial	McQueen Road, then Fiesta Ranch Auto Center
West	General Commercial	Community Commercial with PAD overlay	Congregate Living Facility
Site	General Commercial	Community Commercial with PAD overlay	Strip mall mix of retail, restaurant, and commercial uses

## DISCUSSION

The site is zoned Community Commercial with a PAD overlay, and as such requires a CUP to allow a *kennel* use. The Land Development Code (LDC) defines *kennel/animal boarding* as:

“A.R.S. §11-1001, an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five or more dogs under controlled conditions.”

The proposed facility will consist of a lobby area, evaluation rooms, designated dog playrooms based on dog size, individual kennels, staff break room, a bathing station room, utility rooms, and staff offices. The applicant has stated the approximate capacity will be 120 dogs for daytime boarding, 60 dogs for overnight boarding, and 20 staff members.

Dogtopia is proposing to occupy a vacant unit within the existing building that was completed 2002/2003. As a new tenant, one of the proposed modifications includes utilizing a rear building door as a drop-off area. At the time of the writing of this report, staff is still evaluating an Administrative Design Review application (DR22-144) for Dogtopia to ensure all site modifications meet Gilbert standards and

are compatible with the center’s existing design and architecture. If the use ceases, this CUP shall expire as defined in the LDC section on Expirations, Modifications, and Revocation for Use Permits.

The applicant indicated there will be 24-hour staff animal boarding, and the day care hours of operation are described in the narrative as follows:

Days of the Week	Customer Hours
Monday-Friday	7:00AM – 7:00PM
Saturday-Sunday	10:00AM – 5:00PM

## **FINDINGS**

The Planning Commission is required to make four findings in order to approve a CUP. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

- 1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.***

The proposed location of Dogtopia is part of an existing, fully developed commercial center and within an existing building. All services are proposed to occur inside the building. Animal services such as day care, grooming, and small-scale animal clinics are permitted by right within the CC zoning district. Kennels and animal boarding require approval of a CUP. The applicant has provided in the narrative details of the typical day functions of the business, which are expected to occur inside the building entirely. Staff finds the proposed use will not disrupt the current function of the shopping center, and will not be detrimental to health, safety, or general welfare of the persons living or working in the vicinity.

- 2. The proposed use conforms to the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.***

The addition of Dogtopia is meeting the intent of the General Plan policies, including the following:

- #7 Preserve and maintain Gilbert’s attractive appearance and quality of development that provide a sense of place.***

#18 Facilitate the activation, redevelopment, or revitalization of Gilbert's aging or under-utilized commercial and industrial properties and structures. Support infill development that is designed to acknowledge the surrounding context.

#46 Maintain and broaden the mix of unique shopping, service, and hospitality opportunities.

**3. *The proposed use conforms to the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.***

The proposed use is meeting the requirements set forth in LDC Section 5.2.2.B3 – Animal Services. The existing building and proposed tenant improvements meet the requirements for setbacks and parking in the CC zoning district, and meet the requirements as set forth in the Continental Tech Center PAD.

**4. *The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.***

Typical concerns of animal services may include noise and smells. Based on the Applicant's narrative and the accompanying Administrative Design Review (DR22-144), all business services are proposed to occur within the existing building. The loading and pick-up of animals on the west side of the building, and the west boundary of the parcel will be screened from view of the west neighboring use. All other services are proposed to occur entirely within the building. Staff believes the proposed Dogtopia use would not interfere with the use and enjoyment of nearby properties.

Pursuant to the above analysis, Staff is of the opinion that the project meets the four findings required for granting the modified CUP.

### **PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town, and neighborhood notice was provided per the requirements of the LDC Section 6.2.6.

Staff has received no comment from the public.

### **PROPOSITION 207**

An agreement to “Waive Claims for Diminution in Value” pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

### **STAFF RECOMMENDATION**

Make the Findings of Fact and approve of UP22-48 Dogtopia: A Conditional Use Permit for approximately 1.39 acres located at 876 N McQueen Road to allow a kennel in the Community Commercial zoning district with a Planned Area Development overlay, subject to conditions:

- a) The Project shall be in substantial conformance with the site plan and floor plan, shown on the Exhibits provided under Attachment No. 4.
- b) The facility must comply with any applicable licensing and Maricopa County Animal Care and Control requirements, including but not limited to kennel permits, the number of dogs allowed within the facility, maintenance, and inspections.
- c) Design Review is required for any exterior site alterations prior to issuance of a building permit.

Respectfully submitted,



Samantha Novotny  
Planner I

### **Attachments and Enclosures:**

- 1) Findings of Fact
- 2) Notice of Public Hearing/Vicinity Map
- 3) Aerial Photo
- 4) Exhibits
- 5) Applicant’s Narrative

**FINDINGS OF FACT  
UP22-48 DOGTOPIA**

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

**UP22-48 Dogtopia**  
**Attachment 2 - NOPH/Vicinity Map**

# Notice of Public Hearing

**PLANNING COMMISSION DATE:**  
**LOCATION:** 75 E Civic Center Dr  
Police Department - Amphitheater

Wednesday, November 2, 2022\* TIME: 6:00 PM

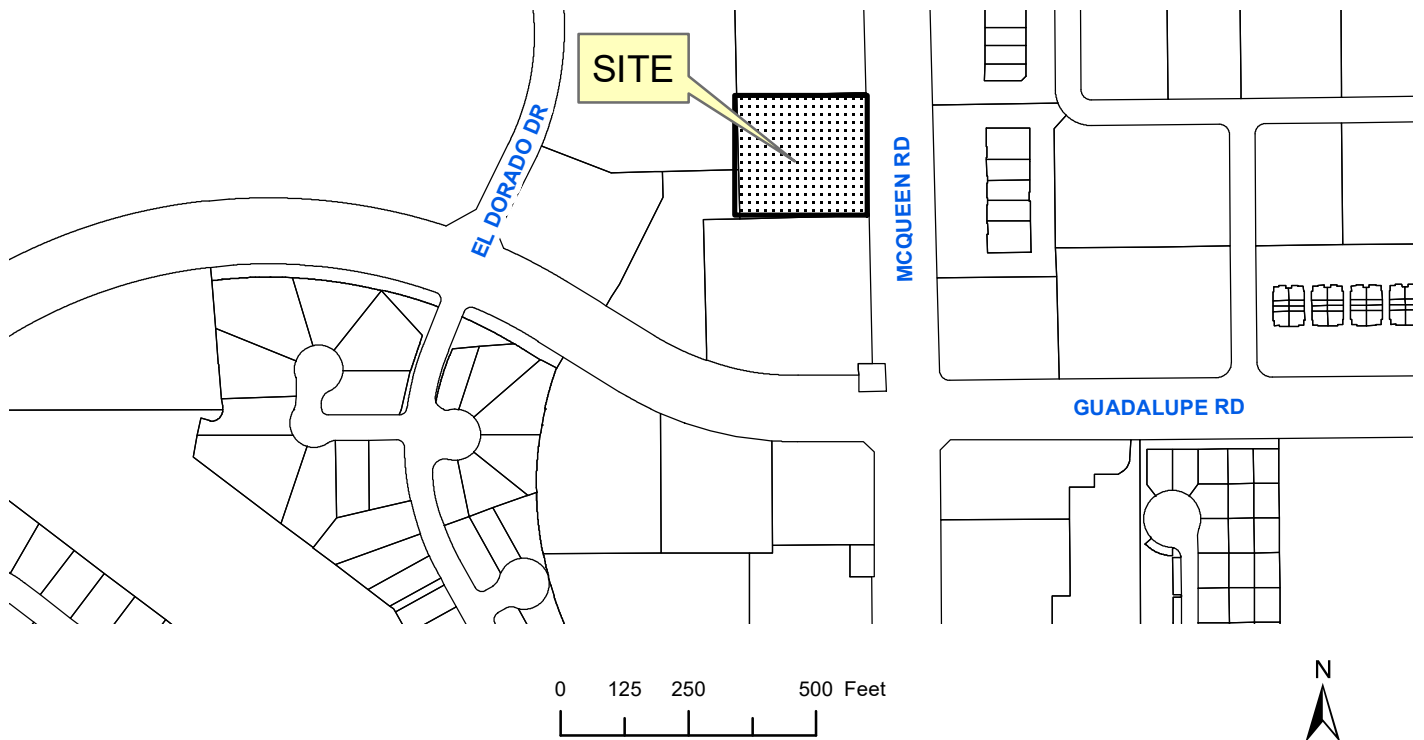
\*Call Planning Division to verify date and time: (480) 503-6602

The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM. Staff reports and the agenda are available prior to the meeting at [www.gilbertaz.gov/departments/development-services/planning/planning-commission](http://www.gilbertaz.gov/departments/development-services/planning/planning-commission)

### REQUESTED ACTION:

**UP22-48 DOGTOPIA:** Request to approve a Conditional Use Permit for approx. 1.39 acres located at 876 N McQueen Road to allow a kennel use in the Community Commercial (CC) zoning district with a Planned Area Development (PAD) overlay, subject to conditions.

### SITE LOCATION:



**APPLICANT:** Gammage & Burnham, PLC  
**CONTACT:** Vanessa MacDonald  
**ADDRESS:** 40 N Central AVE Unit: 20th Floor  
Phoenix, AZ 85004

**TELEPHONE:** (602) 256-4420  
**E-MAIL:** vmacdonald@gblaw.com





# Aerial Site Map; Parcel 302-09-515





ARCHITECT OF RECORD  
JOSEPH J. KELLY  
584 BELLERIVE ROAD, SUITE 3D  
ANNAPOLIS, MD 21409  
PHONE: 301-364-9880



876 N. McQUEEN RD.  
GILBERT, AZ 85233

REVISION		
No.	DATE	DESCRIPTION

DWG DATE:                   

DRAWN BY:                 STAFF

PROJECT No.:             21167

DWG TITLE:                

SITE PLAN

SHEET No.

AS-1





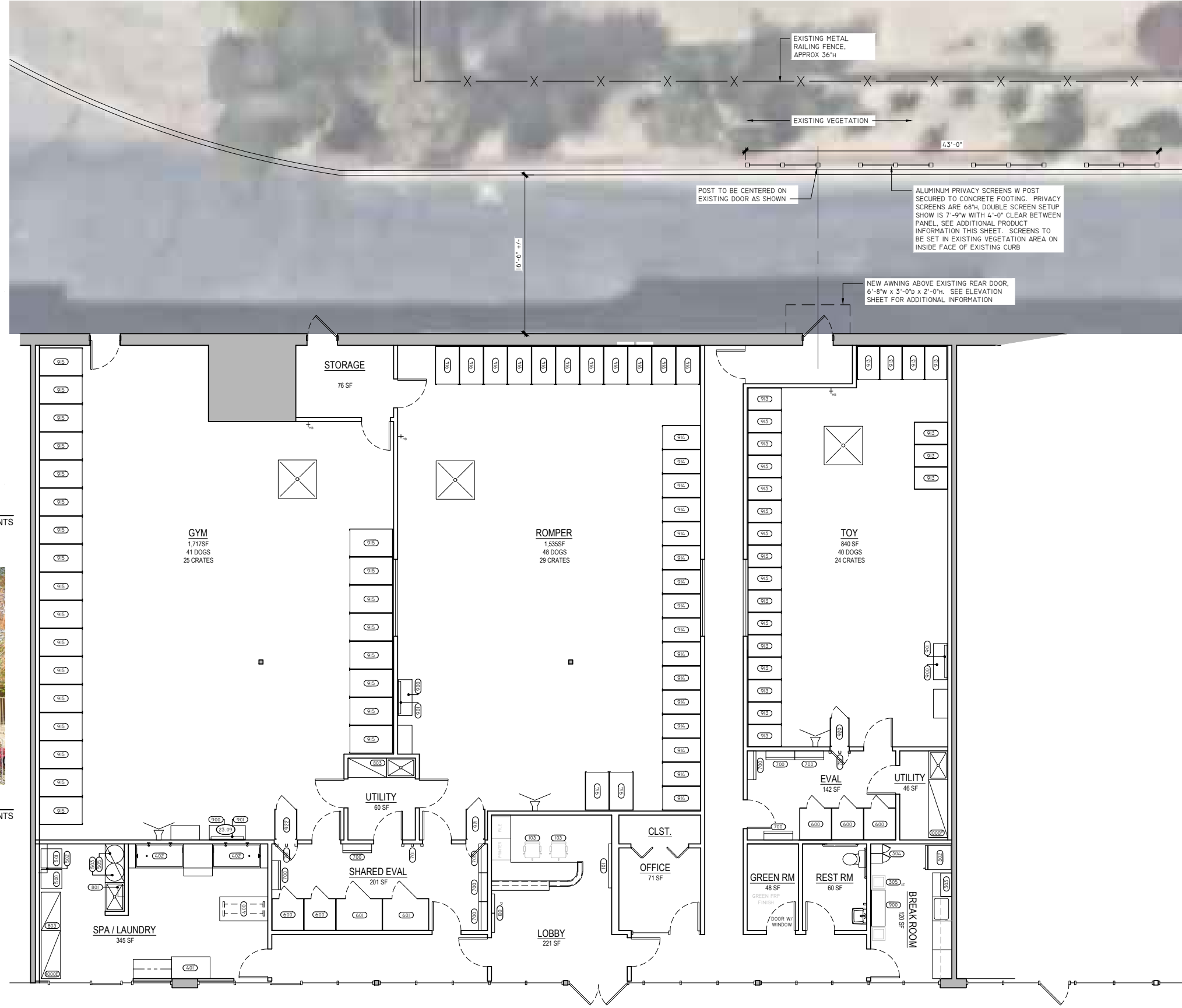
876 N. McQUEEN RD.  
 GILBERT, AZ 85233

REVISION		
No.	DATE	DESCRIPTION

SCHEMATIC PLAN

SHEET No.

SD-1



1 SCHEMATIC FLOOR PLAN

SCALE: 3/16" = 1'-0"



3 PRIVACY SCREEN PANEL DETAIL

SCALE: NTS



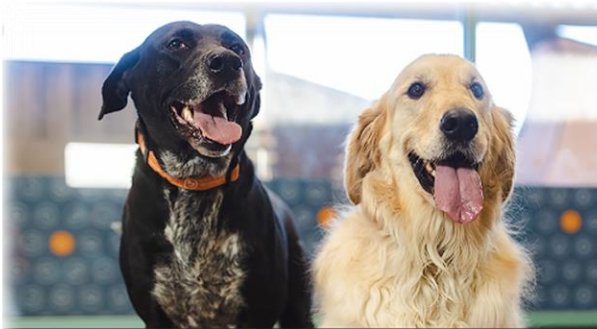
2 EXISTING REAR ALLEY

SCALE: NTS



**876 North McQueen Road, Suite 108  
Gilbert, AZ 85233**

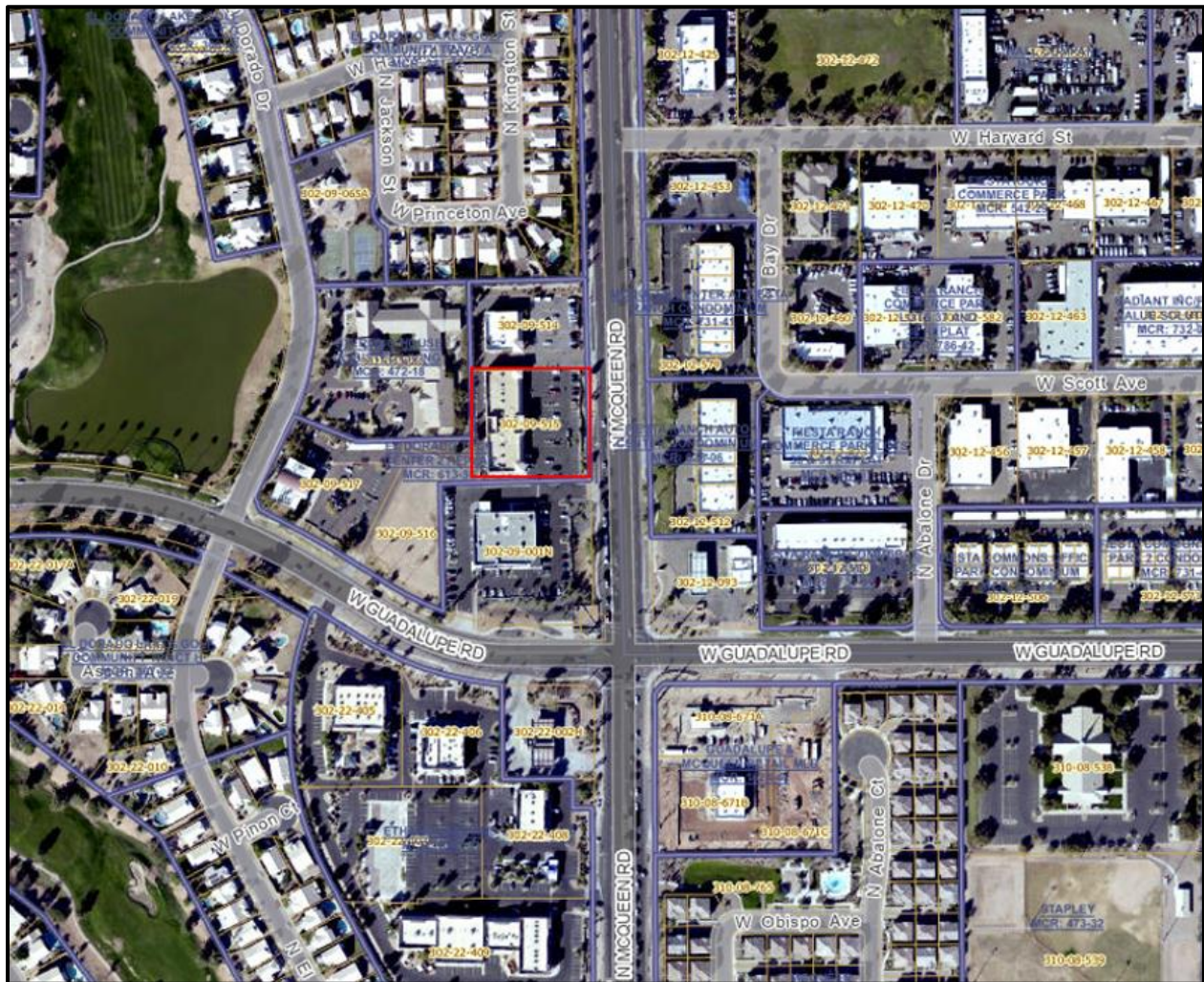
**Use Permit and Minor Administrative Design  
Review Project Narrative**



**July 25, 2022 (REV8-30-22)**

## INTRODUCTION

Gammage & Burnham is pleased to submit this Use Permit project narrative on behalf of Dogtopia of North Gilbert. Dogtopia is proposed to be located in Suite 108 of the McQueen & Guadalupe Shopping Plaza at the northwest corner of McQueen and Guadalupe Roads. The portion of the shopping center where Dogtopia is located is known as Maricopa County Parcel number 302-09-515, the approximate boundaries of which are shown below, outlined in red.



## SITE DESCRIPTION

The property is located north of the northwest corner of Guadalupe and McQueen Roads and is surrounded by commercial uses. Suite 108 of the McQueen & Guadalupe Shopping

Center is approximately 5,000 square feet and is proposed to contain an indoor dog daycare and boarding facility.

## EXISTING LAND USE DESIGNATIONS, ZONING AND USES

	<b>General Plan Designation</b>	<b>Zoning District</b>	<b>Existing Use</b>
North	General Commercial	Community Commercial	Retail
South	General Commercial	Community Commercial	Retail/Office
East	General Commercial	General Commercial	Retail
West	General Commercial	Community Commercial	Assisted Living
<b>Project Site</b>	<b>General Commercial</b>	<b>Community Commercial</b>	<b>Shopping Center</b>

The Site is zoned Community Commercial (CC), and per the Table of Uses found in Section 3.1.2 of the Town of Gilbert Land Development Code, an animal day care facility is allowed within the C-2 zoning district. However, the Town has interpreted overnight boarding of animals to fall under the definition of a "Kennel", a use that requires approval of a Use Permit.

## REQUEST

Our request to the Town of Gilbert is:

1. Approval of a Conditional Use Permit to allow a kennel in the Community Commercial zoning district.
2. Administrative Design Review of the doggie drop-off area in the rear of the existing shopping center.

## PROJECT SUMMARY

Shown on the next page is the front of the suite that Dogtopia intends to occupy at the McQueen & Guadalupe Shopping Plaza. The development of the Property is finished and

was completed in accordance with the applicable development standards and building codes. There is ample parking in the front of the facility and the architecture will remain unchanged with the exception of an identification sign for Dogtopia.



From this location, Dogtopia will employ approximately 20 staff members, and there will be capacity for approximately 120 dogs for daytime boarding, and 60 dogs for overnight boarding. All activities will take place indoors. The hours of operation are currently intended to be Monday through Friday, from 7:00 am to 7:00 pm, Saturday and Sundays from 10:00 am to 5:00 pm.

## EVALUATION OF USE PERMIT CRITERIA

Section 6.4.4.A of the Land Development Code outlines the following findings that must be met prior to approval of the Use Permit by the Planning Commission. Each finding is shown below in *italics*, with the required response in **bold text**.

- 1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to abutting property, to the neighborhood, or to the public in general.*

**RESPONSE:** The dogs will be cared for indoors and, unlike some other boarding facilities, there will not be an outdoor activity area so there will be no emission of noise beyond that of ambient conditions. There is a proposed doggie drop-off area at the rear of the Dogtopia suite, that will be a

convenient pick-up and drop off location for Dogtopia customers. This area will be marked by an awning over the door, and there will be four privacy screens erected at the rear of the property to provide screening from the adjacent property. Customers will be required to stay in their car during the drop off and pick up procedures. With the indoor nature of the facility, and the privacy screening, the proposed use will not be detrimental to individuals living or working in the vicinity, the abutting property, the neighborhood or the public in general.

- 2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.*

**RESPONSE:** The General Commercial (GC) land use designation for this property identifies areas in the City that are suitable for the commercial and service needs of the surrounding community. GC uses are typically located along arterial streets and may be individual projects, or developments in which there are multiple businesses that share common elements like parking, and themed architecture. The McQueen & Guadalupe Shopping Center has been developed in conformance with the GC land use designation, and provides service and retail uses for the surrounding community, Dogtopia will also be consistent with the GC policies of the General Plan.

Additionally, this property is located within the Northwest Growth Area, a major employment hub with the largest concentration of jobs in all the other growth areas in the City. With this large concentration of employees comes the need for retail and other services to accommodate the needs of the employees while they are at work, or even traveling for work. An animal daycare and boarding facility is the types of service necessary to provide an improvement in the quality of life for an individual working or living in this important part of Gilbert.

- 3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.*

**RESPONSE:** The existing building has been developed in accordance with the Land Development Code and Building Safety requirements. There are no other State or Federal requirements specific to animal daycare facilities.



4. *The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.*

**RESPONSE:** As previously noted, the proposed use will take place entirely indoors and the hours-of-operation are consistent with standard retail operations. The overnight boarding of animals at this location will not interfere with the use and enjoyment of nearby properties.

## Administrative Design Review Request

One of the things that separates Dogtopia from other animal care facilities, is their attention to detail and attention to aesthetics. For this reason, Dogtopia includes a well-planned and designated drop-off and pick up area for their customers. As previously noted, the applicant is requesting approval of a drop-off area at the rear of the shopping center. As shown below, there will be a small awning placed on the west elevation to signify the Dogtopia suite for easy customer identification.



Additionally, Dogtopia would like to erect four privacy screens at the rear of the center to provide a measure of buffering between the drop off area and the adjacent property. The location and detail for the screens have been provided with the application materials.

Finally, there will be two directional signs placed on the site, the location of which are shown in the application materials. These signs will direct Dogtopia customers to the rear of the center where they may pick-up and drop off their dogs.

## CONCLUSION

The Owner/Operators of the Proposed McQueen & Guadalupe Dogtopia are the proud owners of Dogtopia of South Chandler, which has proven to be a unique and successful business in the City of Chandler. It has operated in an orderly fashion and is an award-winning, popular pet daycare and boarding destination that is appropriate for a retail commercial center. The Owner/Operators will bring this same commitment to the Town of Gilbert and conduct the proposed facility in a manner that is compatible with surrounding structures and uses.