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DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
330 Ponce De Leon Avenue, Suite 500
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WEDNESDAY, January 11, 2017 AT 1:00 P.M.
Planning Department Staff Analysis

N-6 Case No: A-17-21190 Parcel ID(s): 18-009-29-009, 18-009-29-011

Commission District: 2 Super District: 6

Applicant: Alex Kunen
1265 Hosea L. Williams Dr. Se
Atlanta, GEORGIA 30317

Owner: Daniel Latshaw
1932 Bennetts Point Dr
Marietta, GA 30068

Project Name: 227-229 Rio Circle

Location: The property is located on the southside of Rio Circle, about 265 feet west of Laredo Drive.

REQUEST: Variance requests from the DeKalb County Zoning Code to:
(1) Reduce the setback of a building housing animals from 100 feet to a front yard of 24.5 feet; side corner yard of 52.7 feet; rear yard of 34.4 feet; and interior side yard of 14.9 feet (Section 27-4.2.11.D); and
(2) Waive the two-acre requirement for a commercial kennel (existing site is about 0.45 acres) (Section 27-4.2.11.E.2), to allow a dog day care and commercial boarding business in an existing building, relating to the M zoning district.

**STAFF RECOMMENDATIO "APPROVAL" BASED ON THE SUBMITTED SITE PLAN RECEIVED ON
DECEMBER 6, 2016.**

STAFF FINDING:

Table 1: Surrounding Zoning and Land Use

	Adjacent Zoning	Adjacent Land Use
North:	M	Manufacturing businesses
South:	M	Manufacturing businesses
East:	M	Manufacturing businesses
West:	M	Manufacturing businesses
Northeast:	M	Manufacturing businesses
Northwest:	M	Manufacturing businesses
Southeast:	M	Manufacturing businesses
Southwest:	M	Manufacturing businesses
Street Type:	Local Street	

Site Location: The subject property is located on the south side of Rio Circle, about 265 feet west of Laredo Drive. The property is zoned M (industrial) and is surrounded by other M-zoned properties. Rio Circle is classified as a local street.

Variance request: The applicant is requesting the following variance requests to: (1) Reduce the setback of a building housing animals from 100 feet to a front yard of 24.5 feet; side corner yard of 52.7 feet; rear yard of 34.4 feet; and interior side yard of 14.9 feet (Section 27-4.2.11.D); and (2) Waive the two-acre requirement for a commercial kennel (existing site is about 0.45 acres) (Section 27-4.2.11.E.2), to allow a dog day care and commercial boarding business in an existing building, relating to the M zoning district.

The applicant submitted some of the following comments: "Dog day care and boarding are permitted uses in the M zoning district. However, the setback for buildings housing animals is required to be 100 feet from property lines. I will offer three services: (1) dog day care; (2) dog overnight boarding; and (3) dog bathing services. The setbacks of this parcel cannot allow a pet day care business to operate even though it is a permitted use in this zone. There are a very limited number of properties which would meet the current zoning criteria".

Variance Analysis: The property is zoned M (Industrial) and is triangular shaped. The front property line along Rio Circle has a length of 111.26 feet; the east property line has a length of 120.5 feet; and the south property line has a length of 176.47 feet. The tract is 0.49 acres (about 21,344 square feet). Tax records indicate that the building on the subject property was constructed in 1961 as were all the surrounding buildings in the same block.

Article 4 of the DeKalb County Zoning Ordinance allows dog day care and commercial and boarding kennels to be located in the M zoning district. Dog day care is for dogs boarded between the hours of 7 am and 7 pm but are not boarded overnight, sold, bred, or let for hire. A commercial kennel is a facility for the boarding, caring and keeping of dogs. Dog bathing as a separate business falls under "Pet Grooming". Pet grooming requires a setback of at least 100 feet from any property zoned or used for residential purposes. Based on DeKalb County zoning maps, the site is located over 1,000 feet from any properties zoned residential (see attached map). Section 27-4.2.11(d) requires any building or enclosed structure for the housing of animals to be located at least 100 feet from any property lines and 200 feet from any property zoned or used for residential purposes.

Section 27-4.2.(E.2) requires that kennels be located on a site of not less than two acres. Based on the

submitted survey, the site is 0.49 acres. The requirement that kennels be located on sites of a minimum of two acres is a new requirement, adopted when the New Zoning Code became effective on September 1, 2015. It cannot be determined that any existing kennels/overnight boarding facilities in DeKalb County comply with this standard. The previous zoning code required two acres for residents to keep livestock in residential areas. This standard only applies to residentially zoned lots where residents want to keep large animals. Residentially zoned lots of 10,000 square feet or more are allowed to house a certain number of chickens and dwarf livestock. Based on the submitted materials, it appears that the requested variances meet the criteria for approval, based on the following findings:

1. By reason of exceptional narrowness, shallowness or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district:

Based on the submitted materials, by reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, it appears that the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district due to the irregular shape of the lot and the existing setbacks of the building constructed in 1961.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that the requested variances do not go beyond the minimum necessary to afford relief since they represent the existing conditions of the site. Based on the setbacks and smaller sites of other dog boarding facilities, the request does not appear to constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that granting the variances would not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located since the site is located in an active and built-out industrial park occupied with manufacturing businesses. There are no residences within 1,000 feet of the site and they are located on the opposite sides of major roads. The location is close to major roads (Laredo Road and E. Ponce de Leon Ave are minor arterials and Covington Hwy/N. Avondale Rd/E. College Ave is classified as a major arterial) and businesses. The site is conveniently located for customers to drop off their dogs on the way to and from work, shopping, or the Avondale MARTA station to take the train to the airport.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

Based on the submitted materials, it appears that the literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an undue and unnecessary hardship if this vacant site could not be occupied by a permitted use.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

Based on the submitted materials, it appears that the requested variances would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text (INSCAP4.Locate developments in areas with direct access to existing infrastructure).

FINAL STAFF ANALYSIS:

Based on the submitted materials, the requested variances reflect the existing size of the parcel and building setbacks. The variances are needed to allow a permitted use, a dog boarding business, to occupy the site. The variances appear to the minimum to provide relief since they reflect the existing conditions of the site. Granting the variances would not be materially detrimental because the surrounding businesses are in the manufacturing field and there are no residential developments within 1,000 feet of the site. The site is close to minor and major arterials and would be a convenient place for customers to drop off and pick up their dogs when they are working, shopping, or away on a vacation. Therefore, the Department of Planning and Sustainability recommends that the request be approved, based on the submitted site plan received on December 6, 2016.

**STAFF RECOMMENDATION "APPROVAL" BASED ON THE SUBMITTED SITE PLAN
RECEIVED ON DECEMBER 6, 2016.**
