

**MEMORANDUM**

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TO: District of Columbia Board of Zoning Adjustment

FROM: *W* Stephen J. Mordfin, AICP, Case Manager

W Joel Lawson, Associate Director Development Review

DATE: April 24, 2012

SUBJECT: BZA Case 18346 – 900 M Street, S.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception:

- §§ 822.16 - 822.19, Animal Boarding

and **approval** the following variances:

- § 801.7(a)(3), Animal shelters shall not abut an existing residential use, and the proposed animal shelter would abut existing residential uses; and
- § 801.7(a)(4)(D), External yards are required to be 200 feet from a residential use, the proposed external yard would be 53 feet from a residential use.

Subject to the following conditions:

1. The approval shall be for a period of five (5) years.
2. The applicant shall maintain the existing concrete masonry building to absorb sound and shall utilize industry standard flooring sealants to help eliminate bacteria and minimize odors by preventing waste from penetrating into the concrete floor.
3. All windows and doors within the building shall be kept closed.
4. The applicant shall place all solid animal waste from both indoor and outdoor areas in biodegradable bags and in closed waste disposal containers. The applicant shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least three times per week.
5. The applicant shall wash all indoor floors with a water/chemical mixture that breaks down urine odor and the liquid mixture will be captured by a drainage system.
6. The applicant shall control odor by installing HEPA filtration systems for all air conditioner units in all day care areas throughout the building. The units and vents shall be maintained and cleaned by a professional company.
7. With respect to the outdoor training area located in the parking lot adjacent to M Street, S.E:
 - a. No animals shall be permitted to enter between the hours of 5:00 p.m. and 9:00 a.m.;
 - b. It shall be enclosed with fencing having a minimum height of eight feet and constructed of solid or opaque materials with noise absorbing characteristics;
 - c. No more than three animals shall be permitted at any one time;
 - d. Access shall be from within the building only;

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the building only, and it would be screened with an eight-foot high opaque fence. No more than three animals would be permitted within the yard at a time, and only between the hours of 9:00 a.m. and 5:00 p.m.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

C-M-1 Zone	Regulation	Existing	Proposed	Relief
Height § 400	40 ft. & 3 stories max.	1 & 2 stories	1& 2 stories	None required
Lot Width § 401	None prescribed	164.25 ft.	164.25 ft.	None required
Lot Area § 401	None prescribed	13,766 SF	13,766 SF	None required
Floor Area Ratio § 401	3.0 max.	< 1.0	<1.0	None required

V. OFFICE OF PLANNING ANALYSIS

a. Animal Shelter

Animal shelters are permitted as a matter of right within the C-M-1 district, subject to a list of criteria. The subject application is not in conformance with two of those criteria, §§ 801.7(a)(3) and 801.7(a)(4)(D), and has requested variance relief from those provisions, as discussed below.

Variance Relief from § 801.7(a)(3), Animal shelters shall not abut an existing residential use or a Residence District. The proposed animal shelter would abut existing residential uses.

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is divided into three commercial spaces, all located on one lot that abuts existing residential uses to the east. Therefore, each of the three existing commercial spaces abuts an existing residential use, whether separated from the residential uses by other commercial spaces or not. Due to the configuration of the lot it is also not possible to locate the animal shelter on the west side of the lot, away from the residential uses. The absence of open space on that side of the lot results in the need to place the animal shelter on the east side of the lot so that it could have access to an external yard. Animal shelters, unlike animal boarding, need outdoor space because the animals live there and have no other access to the outdoors.

ii. No Substantial Detriment to the Public Good

A portion of the interior commercial space that would be improved as the animal shelter would abut the rear yard of an adjoining residential use, as would the parking lot that would be used by the animal shelter. No doors to the proposed use would open onto the residentially used properties. The building is of masonry construction, making it soundproof. OP recommends that the windows and doors remain closed to conceal noise and odors to the extent possible. With the exception of the parking of vehicles associated with the use, the parking lot would not be actively used for shelter purposes. Therefore, there should be no substantial detriment to the public good.

iii. No Substantial Harm to the Zoning Regulations

The granting of the variance would not result in substantial harm to the Zoning Regulations because it would allow for the location of an animal shelter on an unusually shaped lot within an industrial zone district.

No external yard or other exterior facility is proposed for the keeping of animals associated with the animal boarding use.

ii. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The proposal would be in harmony with the Zoning Regulations and the Zoning Maps, as the proposed animal boarding use would be in conformance with the criteria for the granting of a special exception, provided the windows and doors are kept closed to prevent noise from emanating from the building.

iii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposal would not tend to affect adversely the use of neighboring property, provided the applicant keeps all windows and doors closed to help prevent noise from emanating from the building.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in a memorandum dated April 24, 2012, indicated that it had no objections to the application.

VII. COMMUNITY COMMENTS

ANC6B, at its regularly scheduled meeting of April 10, 2012, voted to support the application subject to the following list of conditions:

1. The Applicant shall maintain the existing concrete masonry building, which helps to absorb sound, and shall also utilize industry standard flooring sealants to help eliminate bacteria and minimize odors by preventing waste from penetrating into the concrete floor.
2. The Applicant shall place all solid animal waste from both indoor and outdoor areas in biodegradable bags and enclosed waste disposal containers. The Applicant shall utilize a qualified waste disposal company to collect and dispose of all animal waste 3 times per week.
3. The Applicant will wash all indoor floors with a water/chemical mixture that breaks down urine odor and the liquid mixture will be captured by a drainage system.
4. The Applicant shall control odor by installing HEPA filtration systems for all air conditioner units in all daycare areas throughout the building. The units and vents shall be maintained and cleaned by a professional company.
5. With respect to the outdoor training area located in the parking lot adjacent to M Street S.E. as depicted in the plans submitted with the BZA application: (1) no animals shall be permitted in the outdoor training area between the hours of 5:00p.m. and 9:00 a.m.; (2) the outdoor training area shall be enclosed with fencing having a minimum height of 8 feet and constructed of solid or opaque materials with noise absorbing characteristics; (3) no more than 3 animals shall be permitted within the outdoor training area at a time and a staff member will be present whenever animals are in the outdoor training area; (4) the only entrance to the outdoor training area shall be from within the building; (5) the outdoor training area will measure approximately 19 feet in width by approximately 26 feet in length; (6) the outdoor training area will be washed daily with a water/chemical mixture that