

BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

Application of Stjepan Sostaric (Owner and Contract Seller) on behalf of Greater Washington  
Animal Services, Inc. d/b/a City Dogs (Contract Purchaser)  
1310 Pennsylvania Avenue, SE  
C-2-A Zone District; ANC 6B-06

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PRELIMINARY STATEMENT OF COMPLIANCE WITH THE BURDEN OF PROOF  
AND STATEMENT OF EXISTING AND INTENDED USE

I. **Background**

This application (the “**Application**”) requests special exception approval pursuant to Section 735 of the Zoning Regulations for an animal boarding use in the C-2-A Zone District at 1310 Pennsylvania Avenue SE (Square 1043, Lot 865) (the “**Property**”). The Application also requests variance relief from the strict requirements of Subsection 735.2 because the Property abuts a Residence Zone for a very small portion of the Property. The Property is owned by Stjepan Sostaric (“**Owner**”), and is under contract to be sold to Greater Washington Animal Services, Inc., operator of City Dogs dog day care (“**City Dogs**”). City Dogs proposes to operate an animal boarding use with the accessory use of pet grooming in the two-story building located on the Property (the “**Building**”).

The Property is located within the C-2-A zone district, which is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core (11 DCMR § 720.2). The Property is located mid-block between 13<sup>th</sup> Street and the intersection of G Street and Pennsylvania Avenue. It is a very narrow and long shaped property, and it extends well beyond the adjacent properties toward the C-M-1 and R-4 zones; it is 17.5 feet wide by 139 feet long at its longest point, with a total land area of 2,357 square feet. While the Property is squarely within the C-2-A zone, to the rear is the C-M-1 zone district, and the northern edge of the Property (the rear) abuts the R-4 zone only in the area of a thirty-five foot wide public alley, and for a small section (a foot or two) of a residential property (which fronts on 13<sup>th</sup> Street). The Building takes up about 90% of the Property, leaving a small space in the rear too small to utilize for parking or any other use.

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EXHIBIT NO. 4

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All of the adjacent properties along Pennsylvania Avenue are located within the C-2-A zone district, although some of these buildings are used for residential purposes. Among the uses permitted as a matter-of-right in the C-2-A zone are pool hall, bowling alley, catering establishment, indoor storage, laundry, plumbing shop, fast food establishment, youth residential care home (15 children), and veterinary hospital (including the incidental boarding of animals as necessary for convalescence). The Building is currently being used as offices for a construction company and as a warehouse/workshop/storage space. The properties on either side appear to be approved for residential use, although City Dogs does not yet know the actual use in these buildings.

## **II. Proposed Use.**

City Dogs is proposing to operate an animal boarding use, also known as doggy day care. The use will consist of the daily care of dogs dropped off by residents during normal work hours. There will be a limited amount of overnight boarding as well as accessory pet grooming use. City Dogs expects to serve about 45 dogs per day on average. Dogs are walked outside once per day – but only if a client pays for that extra service. From a group of forty-five dogs, City Dogs expects to walk anywhere from 3 to 15 dogs in any given day. The dogs are walked in groups of four, much like any other dog-walking service in the District.

City Dogs has operated successfully at its Dupont Circle location, at 1832 18<sup>th</sup> Street, NW, since 1999. This second proposed location on Pennsylvania Avenue, SE, is similar to the Dupont Circle location. The Dupont Circle location is also in the C-2-A zone, is separated from the Residence Zone by an alley, and is essentially in the heart of the residential neighborhood which it serves. At that location, City Dogs has built an excellent track record as a boutique provider of dog day care services to local residents and their dogs. It has also built a strong reputation as a responsible neighbor.

## **III. Relief Requested and Burden of Proof**

Pursuant to Section 735 of the Zoning Regulations, animal boarding use is permitted as a special exception in the C-2-A zone. One of the requirements for special exception approval is that the subject property not abut a Residence Zone. City Dogs is asking for variance relief from that requirement.

The requirements of the special exception are described below. For the variance relief, the applicant must satisfy a three-part test which requires: (1) a demonstration that the property is affected by some exceptional situation or condition; (2) without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) the requested relief can be granted without substantial detriment to the public good or substantial impairment of the zone plan.

**A. Special Exception.**

Pursuant to Section 3104.1 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Section 735 of the Zoning Regulations.

Uses that are permitted by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000). This application provides satisfactory evidence that the applicant has satisfied the relevant zoning requirements of Sections 3104.1 and 735, as described below.

The Special Exception Requirements.

The proposal in this application satisfies the requirements of Sections 735 and 3104.1 of the Zoning Regulations.

**Section 735.2** *The animal boarding use shall not abut a Residence Zone.* As described herein, the Property abuts, slightly, the Residence Zone, and the applicant is requesting variance relief from this requirement.

**Section 735.3** *The animal boarding use shall take place entirely within an enclosed and soundproof building in such a way so as to produce no noise or odor objectionable to nearby*

properties. The windows and doors of the premises shall be kept closed and no animals shall be permitted in an external yard on the premises.

The use will take place entirely within the Building, and the Building will be completely soundproofed and otherwise configured so as to produce no noise or odor. The Building takes up almost all of the lot and the small rear yard will not be used for dog day care operations.

**Section 735.4** The animal boarding use shall place all animal waste in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system.

Animal waste is placed in heavily lined cans and kept inside the facility until the night before pick-up. Pick-up by a qualified waste disposal company will take place twice a week. City Dogs will use state-of-art HEPA air filter equipment.

**Section 735.6** External yards or other exterior facilities for the keeping of animals shall not be permitted.

As stated above, the small external yard will not be used for the keeping of animals.

**Section 3104.1** The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (formerly codified at D.C. Code § 5-424(g)(2) (1994 Repl.)), to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified in this title.

For the reasons described above, granting of the special exception in this case will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

**B. Variance Relief from Section 735.2.**

**(1) The Property Is Affected by An Exceptional Situation or Condition.**

The Subject Property is a very long and narrow lot, and is very unique among adjacent properties in that it extends all the way (twice as long as adjacent properties) to the dead end public alley to its north, and the edge of the R-4 zone to the north. Where the Property abuts the Residence Zone is almost entirely on the R-4 - zoned half of the 35-foot wide public alley (see the Surveyor's Plat included with the Application). The other half of the alley is in the C-M-1 zone. The Property does abut a property in that R-4 zone, but only for perhaps two feet, and at a point which is about 100 feet from the structure on that property, with a fence and an asphalt parking lot between them. Also, City Dogs does not expect to use the rear of the Property in any significant way relating to the care of the dogs. The dogs will not be outside, and clients and dogs will not enter or leave the Property from the rear of the Building.

**C. Strict Application of the Zoning Regulations Would Result in Practical Difficulty upon the Property Owner**

Due to the extraordinary length of the Property, complying with the strict requirements of Section 735.2 – prohibiting the Property from abutting the Residence Zone – is not possible. The Board may also consider the *de minimis* nature of the variance request in considering practical difficulty. The Property effectively abuts a public alley, and is buffered from any residences in the R-4 zone. Furthermore, the proposed use will not be evident from the rear of the Building.

**D. Relief Can Be Granted Without Substantial Detriment to the Public Good or Substantial Impairment of the Zone Plan**

City Dogs has an excellent reputation as a good citizen of the Dupont Circle residential neighborhood. The service that City Dogs provides is very much in demand, and is a neighborhood-serving use valued by local residents. There are limited such services in this part of Capitol Hill, even though the demand for this service is growing fast. As a result of the special exception requirements, and the fact that such relief is not available in the C-1 district, City Dogs has searched for several years for a second location.

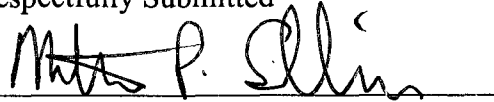
Because of the unique nature of the lot, and the *de minimis* nature of the variance request, there will not be any impairment of the Zone Plan.

STATEMENT OF EXISTING AND INTENDED USE.

The Property is currently improved with a two-story structure used for office and storage use

The intended use is for animal boarding use with an accessory pet grooming use.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Martin P. Sullivan", written over a horizontal line.

Martin P. Sullivan, Esq.  
Sullivan & Barros, LLP