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April 13, 2022

## **VIA IZIS**

Board of Zoning Adjustment  
of the District of Columbia  
441 4th Street, NW, Suite 210S  
Washington, DC 20001

**Re: BZA Case No. 20705  
Atlas Doghouse  
1350 E Street, SE (Lot 7006 in Square 1042)**


Dear Chairman Hill and Members of the Board:

On behalf of Atlas Doghouse (the “Applicant”), the authorized representative of FP Capitol Holdings LLC, the owner of Lot 7006 in Square 1042 (the “Property”), enclosed please find the Applicant’s Prehearing Submission filed pursuant to Subtitle Y § 300.15 of the Zoning Regulations and no later than twenty-one (21) days prior to the date of the public hearing. In this case, the Applicant is seeking special exceptional approval pursuant to Subtitle X § 901.2 and Subtitle U § 513.1(b) to permit an animal boarding use at the Property, which is zoned MU-4.

We look forward to the Board’s consideration of this application at the public hearing scheduled for Wednesday, May 4, 2022. Should you have any questions, please do not hesitate to have staff contact us.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:   
\_\_\_\_\_  
Leila Jackson Batties  
Christopher S. Cohen

Enclosures

cc: Certificate of Service

Board of Zoning Adjustment  
District of Columbia  
CASE NO.20705  
EXHIBIT NO.25

**CERTIFICATE OF SERVICE**

I hereby certify that on April 13, 2022, a copy of the foregoing Prehearing Statement in support of BZA Application No. 20705 was served by electronic mail on the following at the addresses stated below.

**District of Columbia Office of Planning**

VIA EMAIL

Ms. Jennifer Steingasser  
Mr. Joel Lawson  
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**Advisory Neighborhood Commission 6B**

VIA EMAIL

c/o Barbara Flemming, Executive Director  
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**Commissioner Corey Holman, ANC 6B Chair**

VIA EMAIL

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**District Department of Transportation**

VIA EMAIL

Mr. Jonathan D. Rogers  
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Christopher S. Cohen  
Holland & Knight LLP

**BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF ATLAS DOGHOUSE  
1350 E STREET, SE (SQ. 1042, LOT 7006)**

**BZA CASE No. 20705  
HEARING DATE: MAY 4, 2022**

**PREHEARING STATEMENT OF THE APPLICANT**

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**I. NATURE OF RELIEF SOUGHT**

This Prehearing Statement of the Applicant is submitted on behalf of Atlas Doghouse (the “Applicant”), the designated representative of FP Capitol Holdings LLC, the owner of Lot 7006 in Square 1042 (the “Property”). The Applicant requests special exception approval pursuant to Subtitle X § 901.2 and Subtitle U § 513.1(b) of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) to permit an animal boarding establishment at the Property.

This Prehearing Statement primarily serves to supplement the information provided in the Applicant’s *Preliminary Statement of Compliance with Burden of Proof* (the “Preliminary Statement”) that is marked in the case record at Exhibit 9.

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “BZA” or “Board”) has jurisdiction to grant the requested special exception relief pursuant to 11-X DCMR § 901.2.

**III. THE PROPERTY AND SURROUNDING AREA**

The Property is a retail space consisting of approximately 4,444 square feet located at 1350 E Street, SE. It is part of the Beckert’s Park mixed-use development located on the west side of 14th Street, SE, between D and E Streets, which includes a Safeway grocery store, up to 8,000 square feet of neighborhood retail space, and a 325-unit apartment building. Immediately to the west of the Property are several row houses. Across E Street, to the south, is the Lockwood apartment building, as well as several row houses. There is also an existing pet grooming establishment just to the east of the Property.

**IV. ZONING AND APPLICABLE USE PERMISSIONS**

The Property is zoned Mixed Use (MU)-4. *See* Ex. 9 at pg. 1-2; *see also* Ex. 12. One of the general purposes of the MU zones is to preserve and enhance existing commercial nodes and surroundings by providing a range of shopping and service opportunities. 11-G DCMR § 100.3(f). The MU-4 zone is specifically intended to: (a) permit moderate-density mixed-use development; (b) provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and (c) be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office

employment centers, shopping centers, and moderate bulk mixed-use centers. 11-G DCMR § 400.3.

Pursuant to 11-U DCMR § 500.2, properties in the MU-4 zone are subject to the use permissions of MU-Use Group E. For MU-Use Group E, an animal boarding use that does not meet the conditions of 11-U DCMR § 512.1(b) is permitted as a special exception, subject to certain conditions. 11-U DCMR § 513.1(b).

## **V. BACKGROUND ON APPLICANT AND PROPOSED USE**

Atlas Doghouse is a local business first established on December 17, 2017. It currently operates an animal boarding establishment at 1375 H Street, NE, providing walking, daycare, boarding, pet sitting, and training services for neighborhood dog owners. Atlas Doghouse has a unique, open-concept design that promotes a healthy and organic social environment with an emphasis on safety and purposeful stimulation. Through its governing philosophy of behavioral therapy, Atlas Doghouse fosters a natural environment for dogs to feel engaged, comfortable, and happy for the duration of their stay.

Approval of the subject application will enable Atlas Doghouse to open a second location at the Property. The proposed tenant space, located at the northeast corner of the intersection of Carry's Way and E Street, was chosen because it would allow the Applicant to provide a neighborhood-serving use with minimal adverse impacts to the surrounding properties. The location also complements the multi-tenant component of the Beckert's Park development and the existing pet grooming establishment to the east on E Street. The proposed animal boarding use is therefore likely to be a welcome addition to the surrounding neighborhood.

The subject tenant space is well-suited to accommodate the proposed animal boarding use. While the Applicant anticipates that most of its clientele will come from the surrounding neighborhood and walk to the location, there is an existing drop-off / pick-up area along E Street, directly in front of the proposed entrance. Thus, dog owner drop-offs and pick-ups are unlikely to create unwanted congestion at the Property. The tenant space is also appropriately designed to mitigate unfavorable externalities to adjacent residents. For example, the tenant space is already equipped with concrete walls and a concrete ceiling slab that will absorb sound internally; and the façade windows provided by the landlord will meet soundproofing requirements. Additional measures to minimize sound displacement, such as acoustic tiles, will be installed on an as needed basis.

In regards to waste management, Atlas Doghouse will implement the same practices used at its H Street location. The Applicant's waste management protocols involve the use of veterinarian-grade cleaning products specifically designed for breaking down dog waste. Dog waste is immediately cleaned and disposed of in one of several garbage bins. The bins are then emptied and removed two to four times per week by a privately contracted trash service. Waste is never disposed of in public trash receptacles or removed by public trash collection. Furthermore, each dog pen has dedicated drains and "pee pads" that are cleaned at regular intervals throughout the day. Green walls and a dedicated ventilation system also function to remove/mitigate unpleasant odors.

The design and operations of the animal boarding establishment also ensure that the use is compatible with the surrounding context. The dog pens and the lobby are separated by a minimum of three sets of doors to prevent runaway dogs. The lobby area will be outfitted with high-quality materials to convey a hospitable environment for pets, owners and passersby; and, for all intents and purposes, the lobby entrance and entrance exterior will look and function similar to a retail store. *See Tab A.* Large, unobstructed windows also will maximize natural lighting and establish visual connections from public space to the interior of the establishment. All of these design elements are intended to accentuate the neighborhood-serving character of the proposed use.

Operationally, Atlas Doghouse implements a very proactive approach to its daycare services, using cyclical therapy to incentivize good behavior. This sort of care and attention, coupled with the deliberate non-use of kennels, is intended to limit the stress and anxiety dogs might experience by being separated from their owners. The normal hours of operation will be 7:00 a.m. to 8:00 p.m. on Monday through Friday; 8 a.m. to 5 p.m. on Saturday, and 10 a.m. to 5 p.m. on Sunday. Overnight stays will be available to dogs that have established a level of familiarity with the dog daycare facility and have demonstrated appropriate behavioral tendencies that would not adversely impact adjacent uses, such as excessive barking. Dogs are supervised by Atlas Doghouse staff at all times, including overnight stays.

Accordingly, as discussed above and shown by the Applicant's updated plans submitted at Tab A, the proposed animal boarding establishment will be properly designed and operated to promote a natural environment for dogs to socialize, interact, and cared for, and in a manner that will not detract from the use or enjoyment of neighboring properties.

## **VI. SPECIAL EXCEPTION RELIEF**

### **a. Relief Requested**

Pursuant to 11-U DCMR § 513.1(b), the Applicant seeks special exception approval to permit the proposed animal boarding use at the MU-4 zoned Property. The Board is authorized to grant the special exception request pursuant to the criteria set forth in 11-X DCMR § 901.2 and satisfaction of the conditions set forth in 11-U DCMR § 513.1(b)(1)-(9).

### **b. Burden of Proof**

Pursuant to D.C. Code § 6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant a special exception where it finds 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 in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning*

*Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

**c. Justification**

The subject application satisfies the criteria of 11-X DCMR § 901.2 and the applicable conditions of 11-U DCMR § 513.1(b)(1)-(9). The Applicant offers a summary of its justifications in support of the requested special exception below:

- The proposed animal boarding use is in harmony with the purpose and intent of the MU-4 zone, which is intended to permit a broad range of shopping and service opportunities. *See* 11-G DCMR § 100.1 and 100.3(f). The proposed use will support District residents located “outside of the central core” and compliment the mixed-use character of the Beckert’s Park development. 11-G DCMR § 400.3(b).
- The proposed animal boarding use will not tend to adversely affect neighboring properties. As detailed above, the configuration and design of the dog daycare center, coupled with Atlas Doghouse’s proactive approach to dog care, will minimize negative externalities (e.g., odor and noise) and hold clientele accountable to a standard that fosters a positive experience for all dogs served by the establishment. Moreover, the lease agreement with the landlord/property owner provides for the mitigation of negative impacts to adjacent residents are limited to the fullest extent.
- The proposed animal boarding use will comply with all of the applicable conditions enumerated under 11-U DCMR § 513.1(b)(1-9) as discussed below:

*(1) The animal boarding use shall take place entirely within an enclosed building;*

All proposed dog daycare activities will occur entirely within the enclosed retail space at 1350 E Street, SE.

*(2) Buildings shall be designed and constructed to mitigate noise to limit negative impacts on adjacent properties, including residential units located in the same building as the use. Additional noise mitigation shall be required for existing buildings not originally built for the boarding of animals, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;*

As detailed above in Section V, the proposed dog daycare center will be designed and constructed to mitigate noise to limit negative impacts on the residential units located above. As discussed above, the subject tenant space is already equipped with concrete walls. There will be a concrete ceiling slab to buffer noise for the adjacent residents above and Atlas Doghouse will install acoustic tiling and other sound-absorbing mechanisms, as needed. The façade windows will be provided by the landlord and will meet soundproof requirements.

- (3) *The windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;*

The windows and doors of the proposed animal boarding space will be kept closed. The Applicant notes that the windows, albeit closed, will be kept unobstructed to maximize natural lighting and to allow for visual connections from public space to the interior of the establishment. The animal boarding use will not face any residential uses or units within the building.

- (4) *No animals shall be permitted in an external yard on the premises;*

The dogs served by the dog daycare center will not be permitted in any outdoor areas or courtyards at Beckert's Park. They will be kept within the premises except for when they are on accompanied walks.

- (5) *Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;*

As detailed above in Section V, the Applicant will implement extensive waste management protocols and utilizes special cleaning products specifically designed for breaking down dog waste. The waste is immediately cleaned, sealed in a waste disposal container, and disposed of in one of several garbage bins. The bins are emptied and removed from the premises two to four times per week by a privately contracted trash service. The subject tenant space includes an adjacent service corridor to conduct waste management activities.

- (6) *Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system;*

As mentioned above, each dog pen has dedicated drains and "pee pads". The pens will be cleaned at regular intervals throughout the day with veterinarian-grade products and will be equipped with dedicated cleaning closets. Green walls and a dedicated ventilation system will function to remove/mitigate unpleasant odors from the establishment.

- (7) *Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;*

The floor finish material, and wall finish materials measured a minimum of 48 inches from the floor, will be impervious and washable.

- (8) *External yards or other exterior facilities for the keeping of animals shall not be permitted; and*

The proposed animal boarding use will not rely upon external yards or other exterior facilities for the keeping of animals.

*(9) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures, entrances and exits, buffers, banners, and fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number of animals, or other requirements, as the Board deems necessary to protect adjacent or nearby property[.]*

As demonstrated herein and shown on the enclosed updated plans, the proposed use will not result in any objectionable conditions to residents or other tenants of the mixed use building or to neighboring properties. A variety of measures will be implemented to mitigate any unfavorable externalities due to noise, odor, and waste. Moreover, the Applicant's proactive, incentive-based approach to dog care will serve to create a stress-free environment for dogs to interact and play. Accordingly, the Applicant does not believe that additional requirements are necessary to protect adjacent or nearby property.

## **VII. UPDATE ON ANC OUTREACH AND COMMUNITY SUPPORT**

The Property is located within Advisory Neighborhood Commissioner ("ANC") 6B, and is within ANC Single-Member District 6B06 (the "SMD"). Shortly after filing this application, the Applicant and the SMD met to discuss the requested special exception to permit the proposed animal boarding use. On April 5, 2022, the Applicant presented the application to the ANC 6B Planning and Zoning Committee, which recommended support of the request to the full ANC. On April 12, 2022, at its duly-scheduled, regularly noticed April public meeting, the full ANC voted to support the application as part of the consent agenda. The Applicant anticipates that the ANC will submit its letter of support to the case record prior to the public hearing on this application.

## **VIII. WITNESSES**

An outline of testimony for the Applicant's witness, Danny Kampf, the owner/representative of Atlas Doghouse, is included in the case record at Exhibit 13. There are no updates regarding the Applicant's witnesses at this time.

## **IX. CONCLUSION**

In light of the foregoing, the application meets the burden of proof for special exception approval to permit an animal boarding establishment at the Property that is zoned MU-4. The proposed animal boarding establishment meets the general criteria of 11-X DCMR § 901.2 and all of the conditions set forth in 11-U DCMR § 513.1(b). Accordingly, the Applicant respectfully requests the Board's approval of the application.