

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of District Dogs
907 Barry Place, NW

STATEMENT OF COMPLIANCE WITH REVIEW STANDARDS

This statement is submitted by District Dogs, as lessee of a retail space located at 907 Barry Place, NW (Square 2882, Lot 1041) (the "Property"), in support of its application pursuant to 11 DCMR Subtitle X §901 for a special exception pursuant to Subtitle U §513.1 (m) of the Zoning Regulations to permit animal boarding in the MU-5 District at the Property.

I. Background

District Dogs has signed a lease with the property owner, 907 Barry Place NW (DC) Owner, LLC for approximately 3,000 square feet of retail space fronting Sherman Ave in the northwest corner of the building on the P2 level. The floor of the space is approximately 5 feet below grade, with the entrance at grade along Sherman Ave. District Dog's space is surrounded by currently vacant retail space to the south, and parking garage to the east. The north side of the space is the building's exterior wall, and the west side is Sherman Ave.

II. Burden of Proof for Special Exception

Per Subtitle X §901.2, the Board of Zoning Adjustment is authorized under §8 of the Zoning Act, D.C. Official Code §6-641.07 (g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning district, provided the specific regulatory requirements for the relief requested are met.

In evaluating requests for special exceptions, the Board is limited to a determination of whether the exception sought meets the requirements of the particular regulation on which the application is based....The applicant has the burden of showing that the proposal complies with the regulations; but once that showing has been made, the Board ordinarily must grant the application.

National Cathedral Neighborhood Ass'n v. District of Columbia Bd. of Zoning Adjustment, 753 A.2d984, 986 n.1 (DC 2000) (quoting *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1032-33 (D.C. 1995)); see also *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973) (noting that “[s]pecial exceptions, unlike variances, are expressly provided for in the Zoning Regulations”). If the specific requirements of the regulation are met, the Board is generally precluded from denying an application for special exception relief.

III. Compliance with Burden of Proof/Regulations

Subtitle X §901.2 (a)

Per Subtitle G §100, the purpose and intent of the MU zones is to provide for mixed use developments that permit a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities. Per Subtitle G §100.3 (b), the zone is to provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities. Per Subtitle G §400.4, the MU-5 zones are intended to permit medium density, compact mixed use development with an emphasis on residential use, and provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core.

District Dogs currently operates two first class dog service facilities in the District of Columbia, one located in the Park View neighborhood and one in the Capitol Riverfront neighborhood. The business serves many DC residents by providing daily dog care, dog grooming, overnight boarding, and dog walking. The location in Capitol Riverfront is on the ground floor of a ten story residential building. These locations within areas that contain dense residential uses are most beneficial for residents and the city, in that they can serve the many residents in the immediate area and limit the need for clients to drive their dogs to drop off.

Subtitle X §901.2 (b)

District Dogs' space in the Property is located in the northwest corner of the P2 level fronting Sherman Ave. The use is fully contained within the building; there are no outdoor aspects/yards. The neighboring property to the west, Garfield Terrace, is separated by Sherman Ave, which is 100 feet wide. The neighboring property to the east is Maury Wills Field, located approximately 250 feet away from the space. The neighboring properties to the south and north are owned by Howard University. To the south, approximately 250 feet away from the space, are dorms, and to the north, which is immediately adjacent to the Property and District Dogs' space, is a parking lot.

Subtitle X §901.2 (c)

U §513.1(m)(1): The animal boarding use shall take place entirely within an enclosed building.

District Dogs meets: their space is entirely within an enclosed building, there are no outdoor components/yards.

U §513.1(m)(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.

District Dogs meets: District Dogs has hired an acoustical consultant to design sound mitigation measures for their spaces. The business will construct the same assemblies that it constructed in its Capitol Riverfront space where residential units were above it. These assemblies include a drywall ceiling hung by sound isolators above all dog areas, sound sealing all penetrations, and high STC partitions separating its space from adjacencies.

U §513.1(m)(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.

District Dogs meets: There are only windows in front of the space along Sherman Ave, and these are inoperable. The door to Sherman Ave. will be kept closed, and the door leading to the parking garage will be kept closed as well. Both doors will have automatic closers on them. There are no doors facing a residential use.

U §513.1(m)(4): No animals will be permitted in an external yard on the premises.

District Dogs meets: there is no external yard.

U §513.1(m)(5): Animal waste shall be placed in closed waste containers and shall be collected by a waste disposal company at least weekly.

District Dogs meets: It places animal waste in closed containers and gets it picked up daily.

U §513.1(m)(6): Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system.

District Dogs meets: The HVAC system serving the dog areas in the space is isolated, with its own outside air and return air/exhausting. The system provides 10-15 air changes per hour.

U §513.1(m)(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.

District Dogs meets: It installs Protect-All welded flooring and base in its dog areas, and FRP panels on the walls that extend 48" above the finished floor. The dog areas also have floor drains.

U §513.1(m)(8): External yards or other exterior facilities for the keeping of the animals shall not be permitted.

District Dogs meets: there are no external yards or other external facilities.