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The Washington Humane Society



May 4, 2006

**ZONING COMMISSION
District of Columbia**

7319 Georgia Avenue, NW
Washington, DC 20012
Telephone 202-723-5730
Fax 202-723-1956
www.washhumane.org

The Hon. Carol J. Mitten,
Chair, DC Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

CASE NO. 05-21A
EXHIBIT NO. 4

Re: ZC No. 05-21A to permit Pet Grooming, Pet Shops and Veterinary Hospitals as special exception uses within the C-2, C-3, C-4, C-M and M Zone Districts; and to define the terms Pet Grooming, Pet Shop, Veterinary Hospital, Licensed Veterinarian and Animal Shelter, initiated by the Office of Planning.

Dear Chairwoman Mitten,

At the Zoning Commission November 3, 2005 hearing on dog boarding, the Commission directed the Office of Planning to prepare definitions for "pet shop" and "veterinary hospital," and any other similar related uses and to consider requiring that these uses be subject to the same criteria established for dog and/or cat boarding facilities as uses permitted by special exception only. The Office of Planning added the terms "licensed veterinarian" and "animal shelter" to the list of related terms.

Please find attached the suggestions of animal sheltering experts at the Washington Humane Society, which are written in the form of draft text amendments and discussed below.

1. Definition of Animal Shelter (§199.1)

Animal shelters are not currently addressed in the Zoning Regulations, therefore the Office of Planning added the terms "animal shelter" to the text amendment for Zoning Commission Case No. 05-21A. There are currently only two animal shelters in the City which cannot control the number of animals received, or reject animals for socialization reasons, both are operated by the Washington Humane Society, one under contract with the District of Columbia government.

The Washington Humane Society was chartered by Congress in 1870 "to protect animals in the District of Columbia from cruelty and harm." According to the contract with the District government, the Washington Humane Society is responsible for providing comprehensive animal control and disease prevention services for the residents of the District at the City facility at 1201 New York Avenue, NE. The proposal of the Office of Planning to include non-profit animal shelters in the text amendment, and propose severe restrictions on outdoor runs for the animals appears to single-out the Washington Humane Society as the only open access animal sheltering organization and that will be forced to go through the special exception process. Therefore, the attached §199.1 proposes that the definition for animal shelters include only those non-profit or government organizations that must operate as open access shelters and cannot turn away any animal. The attached also proposes that the definition for veterinary hospitals as presented by the Office of Planning be revised to include only free-standing veterinary hospitals, and not those that operate within a non-profit animal shelter.

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Also known as
District of Columbia
The Society for the Prevention
of Cruelty to Animals
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2. Special Exception in Commercial (§739) and Industrial (§802) Districts

As part of this case, the Zoning Commission will consider permitting animal shelters to locate in either commercial or industrial districts only by special exception and to restrict outdoor yards within 1,000 feet from a residential zone district. However, the District of Columbia Zoning Administrator found in 1997 that the best location for an animal shelter and veterinary clinic is in a CM-1 zone, and that shelters are also allowed to locate in a C-2-A commercial zone (see attached letter to the Washington Humane Society).

The attached §739 and §802 propose allowing animal shelters to locate by-right in industrial districts, as the use is no more intrusive than those already allowed by-right in industrial districts. For example, uses permitted as a matter of right in a C-M district include incinerators, motorcycle sales and repair facilities, laundry and dry cleaning establishments, repair garages, and any light manufacturing, processing, fabricating or repair establishments.

In three comparable jurisdictions in the DC metro area, shelters or kennels are allowed by-right in light manufacturing districts. In Annapolis, shelters are allowed with approved special exceptions in general commercial districts. In Alexandria, shelters are allowed as by-right in the industrial zone, which provides areas for light and medium industrial use. In Arlington, the use is permitted by-right in the limited industrial district, providing for light manufacturing and related uses. In the Prince George's County zoning ordinance, kennels are defined as commercial endeavors, and non-profit animal shelters are not specifically addressed. The use is allowed by-right in certain residential zones, as a special exception in a mixed-use town center zone and by-right in most industrial zones.

In commercial districts, an animal shelter is also a less-intensive land use than those allowed by-right in a C-3 (commercial) district. Uses permitted as a matter of right in a C-3 district include gasoline service stations as an accessory use to a mechanical parking garage, motorcycle sales and repair (provided the building is not located within 50 of a residence district), laundry or dry cleaning establishments...and any establishment for the administration of massages (provided that no portion of the building is located within 200 feet of a residence district).

We understand that commercial districts in the District are actually mixed-use districts and can even be entirely residential in some cases. Therefore, we are not opposed to the requirement for special exceptions in a commercial district, but the attached suggests reducing the restriction of three football fields for outdoor yards to a more practical, equitable 200 feet.

In the existing District of Columbia Animal Shelter, each individual dog cage (i.e. run) has a fully-fenced outdoor section and an indoor section. Dogs can go from outdoor area to indoor area through an opening similar to a doggie-door in a home. At the District of Columbia Animal Shelter, dogs are allowed access to the outside portion of their runs only between the hours of 8 a.m. and 8 p.m. Dogs are not kept outside for any extended amount of time and dog runs are completely enclosed by 10-foot high fencing.

According to the Office of Planning, outdoor yards were proposed because shelters cannot turn away animals. However, by imposing a requirement of 1,000 feet (or three football fields), shelters are effectively prohibited from having outdoor yards, as there are virtually no parcels of land in the District, other than Federal land, that would comply with being 1,000 feet from a residential district. We would like the Commissioners to note that the 1,000 foot restriction on outdoor yards at an animal shelter from a residence zone is more restrictive than the limitations imposed on a massage parlor and motorcycle repair establishment.

Since the time of the original report, the Office of Planning has learned that the outdoor areas are for exercise and air only, and that the dogs eat and sleep inside the runs. The attached §739 and §802 propose outdoor runs (not yards) adjacent to the cages, which are not used for "keeping" the animals outside, as

stated in the original Office of Planning report. Dogs will be kenneled, inside, all night and will be allowed outside only between the hours of 8 a.m. and 8 p.m. The runs will be designed to be at the furthest point in the building from the nearest residence zone. Additionally, the attached §739 and §802 propose that the runs be completely enclosed by masonry walls or solid fencing.

Outdoor runs will give dogs intermittent access to the outdoors for sunlight and fresh air, thereby decreasing the stress of the shelter experience and allowing them to maintain adoptable behaviors. After several weeks of shelter life, behavior often becomes negative due to stress, which would only be exacerbated by the requirement to remain indoors at all times. In other words, if the dogs are not viewed by the public as adoptable, more will have to be euthanized.

Restrictions, if any, placed on the outdoor exercise yards at animal shelters should be minimal particularly in industrial zone districts, as any animal shelter must comply with the existing DC Noise Control Act of 1977 (DC Law 2-53 and 20 DCMR Chapters 27-29). Sections 739.2 and 802.25 attached propose restrictions to reduce any impact of noise from the shelter, by recommending that “animal shelters shall be constructed using double-paned windows and exterior doors shall be kept closed at all times...dogs are allowed in the outside portion of their runs only between the hours of 8 a.m. and 8 p.m. Outside runs are for exercise and air only; dogs shall eat and sleep inside.”

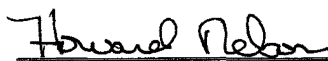
Sections 739.2 and 802.25 attached also propose restrictions to mitigate any impact of odor or waste from the shelter, whereby “...animal shelters shall place all animal waste in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system.”

In several comparable urban areas in the US, animal shelters with outdoor runs are permitted by-right in commercial and/or industrial areas. For example, in Atlanta, shelters are allowed by-right in commercial, industrial and mixed-use commercial/residential districts. In commercial and mixed-use commercial/residential districts, all kennels and accessory areas must be enclosed within sound proof buildings when located within 300 feet of any residential use from the closest point of one building to the other, but outdoor dog runs are permitted in industrial districts.

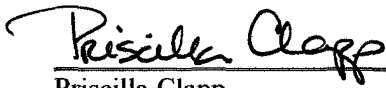
In Los Angeles, shelters are allowed by-right in restricted industrial and restricted light-industrial zones and cannot be constructed within 500 feet of a residential zone. Outdoor dog runs are permitted in restricted light industrial zones.

The City of New York allows shelters by-right in commercial and industrial districts. The code does not specifically address outdoor runs, and approval is on a case-by-case basis at the discretion of the Building Department.

We thank the Zoning Commission for the opportunity to comment on these issues.



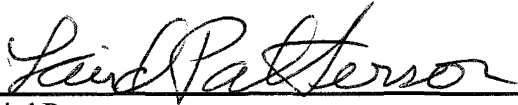
Howard Nelson
Executive Director, Washington Humane Society
7319 Georgia Avenue, NW
Washington, DC 20012
(202) 723-5730
Howard.nelson@washhumane.org



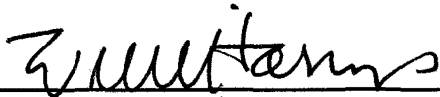
Priscilla Clapp
President, Washington Humane Society Board of Directors
2200 Wyoming Avenue, NW
Washington, DC 20008
202-518-5626 home
priscilla.clapp@verizon.net



Marie Drissel
Vice President, Washington Humane Society Board of Directors
2135 Bancroft Place, NW
Washington, DC 20008
202-797-0832 home
202-462-9578 work
202-234-1076 facsimile
marie1030@mcihispeed.net



Laird Patterson
Treasurer, Washington Humane Society Board of Directors
4853 Sangamore Road
Bethesda, MD 20816
301-320-9308 home
lairdpat@aol.com



Ambassador William (Bill) Harrop
VP Development, Washington Humane Society Board of Directors
3615 49th St., NW
Washington, DC 20016
202-966-1071 home
202-966-6271 facsimile
harropbill@mac.com

Attachment

cc: Zoning Commissioners
Ms. Ellen McCarthy, Director, Office of Planning
Ms. Jennifer Steingasser, Deputy Director, Office of Planning
Mr. Stephen Mordfin, Case Manager, Office of Planning
Mr. Alan Bergstein, Chief Counsel, Land Use Division,
Office of the Attorney General

Proposed Text Amendments for Animal Shelters

199.1 Animal Shelter- Any premises that is required to accept and protect stray and abandoned animals without a fee as a non-profit organization or governmental agency. Only animals sheltered without a fee may be kept on the premises. Animal shelters do not include boarding or grooming of animals that are not sheltered without a fee.

199.1 Veterinary Hospital- An establishment used by a licensed veterinarian for the practice of veterinary medicine, and not as dog and/or cat boarding establishment and not as part of an animal shelter as previously defined in this section. A veterinary hospital may include incidental boarding of animals as necessary for convalescence, pet grooming and the sale of pet supplies.

Chapter 7, COMMERCIAL DISTRICTS

739 ANIMAL SHELTER

739.1 An Animal Shelter Use may be permitted as a special exception if approved by the Board of Zoning Adjustment under §3104, subject to the requirements of this section.

739.2 The Animal Shelter Use may not abut a residence zone.

739.3 The Animal Shelter Use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise.

739.4 Animal shelters 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. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system.

739.5 Outdoor runs adjacent to indoor dog kennels shall not be permitted unless located a minimum of 200 feet from all residential zone districts in its entirety. Dogs are allowed in the outside portion of their runs only between the hours of 8 a.m. and 8 p.m. Outside runs are for exercise and air only; dogs shall eat and sleep inside. The building shall be constructed using double-paned windows and exterior doors shall be kept closed at all times. Outdoor runs must be completely enclosed by a masonry wall or solid fence at least 8 feet in height.

Chapter 8, INDUSTRIAL DISTRICTS

802 Animal Shelter

802.25 An Animal Shelter Use is permitted as a matter of right, provided

- a. The animal shelter use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise. Outdoor runs adjacent to indoor dog kennels shall not be permitted unless located a minimum of 200 feet from all residential zone districts in its entirety.
- b. The animal shelter use may not abut a residence zone.
- c. Dogs are allowed in the outside portion of their runs only between the hours of 8 a.m. and 8 p.m.
- d. Outside runs are for exercise and air only; dogs shall eat and sleep inside.
- e. The building shall be constructed using double-paned windows and exterior doors shall be kept closed at all times.
- f. Outdoor runs must be completely enclosed by a masonry wall or solid fence at least 8 feet in height.
- g. Animal shelters 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. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION



September 5, 1997

Ann McCutcheon Lewis, Vice President
The Washington Humane Society
7319 Georgia Avenue, NW
Washington, DC 20012

Re: Proposed Animal Shelter and Clinic Location

Dear Ms. Lewis:

The proposed animal shelter and veterinary clinic is permitted to locate in the C-2-A commercial zone. In addition, the C-M-1 commercial-light manufacturing zoned district would also permit an animal shelter and a veterinary clinic. The C-M-1 commercial-light manufacturing zoned is the best zone to locate the proposed multi-use building.

You must comply with all other provisions of the DC Zoning Regulations (parking, height, etc.) and the DC Building Code in order to obtain a building permit for the proposed construction.

If additional information is required, please contact me at 727-7350.

Sincerely,

A handwritten signature in cursive script that reads "Gladys Hicks".

Gladys Hicks
Acting Zoning Administrator