



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:

Case No. ZRA-125

Date Filed: 8/28/07

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To permit "Kennel" uses in the B-1 (Business Local) Zoning District by right; specifically, add "Kennels" to those uses permitted by right in Section 118.B of the Zoning Regulations.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Happy Dog Care, Inc.

Address 3264 Corporate Court, Ellicott City, MD 21042
Phone No. (W) 410-480-0302 (H)
Email Address smpgn@yahoo.com

3. Counsel for Petitioner Andrew H. Robinson and Carney, Kelehan, Bresler, Bennett & Scherr, LLP

Counsel's Address 10715 Charter Drive, Columbia, MD 21044
Counsel's Phone No. 410-740-4600
Email Address ahr@carneykelehan.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed

Kennel uses are currently permitted by right in the B-2, M-1, and M-2 zoning districts and by conditional use in RC, RR, R-20, and B-1. As per Council Bill 70-2007, "Pet Daycares" were added to the by right uses in the B-1, B-2, SC, M-1, M-2, CAC, and TNC zoning districts. As the petitioner's supplemental response indicates, the boarding of pets has become industry standard amongst pet daycare establishments throughout the area. As such, the pet daycares which are zoned B-2, M-1, and M-2, are able to board pets over night, while overnight pet boarding in similarly situated B-1 zoned establishments remains prohibited. The B-1 zoning regulations already permit the overnight boarding of pets (as use incident to an Animal Hospital) as well as daytime boarding by right (Pet Daycare).

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County _____
See Response to Section 5 attached hereto.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. _____
See Response to Section 6 attached hereto.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . _____
See Response to Section 6 attached hereto.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

See Response to Section 8 attached hereto.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition.

See Response to Section 9 attached hereto.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in **[[Double Bold Brackets]]**. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Julie Sampogna
 Petitioner's name (Printed or typed)
 President, Happy Dog Care, Inc.

J. Sampogna 8/25/09
 Petitioner's Signature Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature Date

[Signature]
 Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty (20) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:10/08
T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

PETITIONER'S PROPOSED TEXT (MARK-UP)

SECTION 118: B-1 (Business: Local) District

A. Purpose

The B-1 District is established to provide areas of local business that can directly serve the general public with retail sales and services.

B. Uses Permitted as a Matter of Right

29. KENNELS.

{All following uses in Section 118.B shall be renumbered}

E. Conditional Uses

The following are conditional uses in the B-1 District, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this Section and Section 131, Section 131 shall prevail.

5. **[[Kennels**

6.]] Utility Uses, Public

NOTE: **[[text in double bold brackets]]** indicates deletions from existing law; **TEXT IN ALL CAPITALS** indicates additions to existing law; **Strike-out** indicates material deleted by amendment; **Underlining** indicates material added by amendment

PETITIONER'S PROPOSED TEXT (CLEAN)

SECTION 118: B-1 (Business: Local) District

A. Purpose

The B-1 District is established to provide areas of local business that can directly serve the general public with retail sales and services.

B. Uses Permitted as a Matter of Right

1. Adult book or video stores, subject to the requirements of Section 128.H
2. Ambulatory health care facilities.
3. Animal hospitals, completely enclosed.
4. Antique shops, art galleries, craft shops.
5. Bakeries, provided all goods baked on the premises shall be sold at retail from the premises.
6. Banks, savings and loan associations, investment companies, credit bureaus, brokers, and similar financial institutions.
7. Bicycle repair shops.
8. Blueprinting, printing, duplicating or engraving services limited to 2,000 square feet of net floor area.
9. Carnivals and fairs sponsored by and operated on a nonprofit basis for the benefit of charitable, social, civic or educational organizations, subject to the requirements of Section 128.D.3.
10. Carpet and floor covering stores.
11. Catering establishments and banquet facilities.
12. Child day care centers and nursery schools.
13. Clothing and apparel stores with goods for sale or rent.
14. Commercial communication antennas.
15. Commercial communication towers with a height of less than 200 feet measured from ground level, subject to the requirements of Section 128.E.2. and 128.E.3.
16. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
17. Convenience stores.
18. Convents and monasteries used for residential purposes.
19. Day treatment or care facilities.
20. Drug and cosmetic stores.
21. Farmers markets and farm produce stands.
22. Farming, provided that on a lot of less than 40,000 square feet, no fowl other than for the normal use of the family residing on the lot and no livestock are permitted.
23. Food stores.
24. Funeral homes.
25. Furniture, appliance and business machine repair, furniture upholstery, and similar services.
26. Government structures, facilities and uses, including public schools and colleges.
27. Hardware stores.
28. Home improvement stores including, but not limited to, the following: electrical supplies, glass, garden supplies, hardware, plumbing supplies, wallpaper, and building materials and supplies related to home improvements, provided such building materials and supplies are enclosed in a building.
29. Kennels
30. Laundry and/or dry cleaning establishments, except that pickup and delivery services shall not be

- provided.
31. Lawn and garden sheds and equipment sales, maintenance and repair.
 32. Liquor stores.
 33. Mobile home and modular home sales and rentals, but not including occupancy, provided that any such use is located on a lot which adjoins a lot zoned R-MH pursuant to Section 113.1 of these Regulations.
 34. Motor vehicle parts or tire stores, without installation facilities.
 35. Museums and libraries.
 36. Nonprofit clubs, lodges, community halls.
 37. Offices, professional and business.
 38. One dwelling unit per business establishment within the same structure, provided the dwelling unit does not exceed 50 percent of the floor area of the structure.
 39. Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
 40. Pet grooming establishments and daycare, completely enclosed. [Council Bill 70-2007 (ZRA-87) Effective 1/10/08]
 41. Religious activities, structures used primarily for.
 42. Repair of electronic equipment, radios, televisions, computers, clocks, watches, jewelry, and similar items.
 43. Restaurants, carryout, including incidental delivery service.
 44. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor.
 45. Retail greenhouses, garden centers and nurseries, including incidental sale of firewood.
 46. Seasonal sale of Christmas trees or other decorative plant materials, subject to the requirements of Section 128.D.4.
 47. Schools, private academic, including colleges and universities.
 48. Service agencies, such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, mailing services.
 49. Specialty stores.
 50. Swimming pools, commercial or community.
 51. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a conditional use.
 52. Volunteer fire departments.

E. **Conditional Uses**

The following are conditional uses in the B-1 District, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this Section and Section 131, Section 131 shall prevail.

1. Cemeteries and Mausoleums
2. Communication Towers (Commercial)
3. Fast Food Restaurants
4. Historic Building Uses: Apartments
5. Utility Uses, Public

PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY
Happy Dog Care, Inc., Petitioner

Response to Section 5: The Petitioner's proposed amendment seeks to re-classify the Kennel use in the B-1 Zoning District from a conditional use to a use permitted by-right. The Petitioner states that this proposed amendment would not result in a substantive change in the land use policies of Howard County and would be in harmony with Howard County General Plan Policy 4.4, to wit: "[m]ake efficient use of land resources for long term economic growth," specifically, "to encourage both the expansion of current businesses and attraction of new ones."

As per Council Bill 70-2007 (ZRA-87), the Howard County Council created the by-right "Pet Daycare" use as a supplemental use to the pre-existing "Pet Grooming Establishment" use in the B-1, B-2, SC, M-1, M-2, CAC, and TNC zoning districts (ZRA-87 also extended Kennel uses to the M-1 Zoning District). While no definition of "Pet Daycare" has been proposed thus far, the use has been interpreted by the Howard County Department of Planning and Zoning to restrict the boarding of pets to daytime hours. The boarding of pets has become industry standard amongst pet daycare establishments throughout the area, and based on the Petitioner's experience in the Howard County pet care community, many existing establishments are desirous of offering an overnight option to their clientele. The only existing use under the current Zoning Regulations which permits the overnight boarding of pets as a primary use is the above-mentioned "Kennel" use.

Under the existing Zoning Regulations, "Kennel" uses are currently permitted by-right in the B-2, M-1, and M-2 zoning districts and by conditional use in RC, RR, R-20, and B-1 zoning districts (which is the subject of the Petitioner's proposed amendment). As such, those Pet Daycares which are zoned B-2, M-1, and M-2, are currently able to board pets on an overnight basis through the inclusion of the by-right Kennel use in the respective Zoning Regulations of their districts. In addition, the existing B-1 Zoning Regulations already permit the overnight (as a use incident to an Animal Hospital (103.A.12.1)) as well as the daytime boarding of pets (Pet Daycare (118.B.39)), all as a matter of right. The addition of the Pet Daycare use to the by-right uses in the B-1 zoning district as well as the previously existing Animal Hospital use provide evidence of the appropriateness of the Kennel pet boarding use in the B-1 District. As such, the Petitioner's proposed amendment would effectively update the existing B-1 Zoning Regulations to reflect the growing market trend of overnight boarding among Pet Daycare establishments and would promote an appropriate expansion of existing businesses in the B-1, all without generating a material change to the existing intensity level of the B-1 zoning district.

Response to Section 6: As stated above, the existing B-1 Zoning Regulations already permit the overnight (as a use incident to an Animal Hospital (103.A.12.1)) as well as the daytime boarding of pets (Pet Daycare (118.B.39)), all as a matter of right. As such, the impact of the Petitioner's proposed amendment on the community and developments surrounding B-1 zoning districts will be minimal. The Petitioner's proposed amendment adequately preserves and promotes the health, safety and welfare of the community and does not alter the conditional use protections currently established for the residential and rural zoning districts (RC, RR, and R-20). The addition of a much needed use in the valued B-1 zoning district will act to protect the

character, the social and economic stability of all parts of the County and provide a guide for investment and other economic activity relating to uses of land and structures throughout the County. The Petitioner's proposed amendment will not materially affect the intensity of the uses in the B-1 zoning district and will, thus, not affect the existing road system serving such uses and/or the traffic capacity of said road systems.

Response to Section 7: See Petitioner's previous responses.

Response to Section 8: As the Petitioner's proposed amendment adds a proposed use to the existing uses currently found in the B-1 zoning district, the proposed amendment could potentially affect all those properties within the County which are zoned B-1 and/or NT (New Town) (with Final Development Plans incorporating B-1 uses). As such, the Petitioner is not able to ascertain the total number of properties potentially affected by this particular amendment but is under the assumption that the number would exceed 12 such properties. It is anticipated that those pre-existing Pet Grooming Establishments and/or Pet Daycare establishments in the B-1 zoning district would be most affected by the proposed amendment as they would then be permitted to board pets through the night. Beyond the ability to board pets on an overnight basis, the Petitioner's proposed amendment would do little to alter the existing uses of such establishments (or any other such uses) in the B-1 zoning districts. Upon the Petitioner's review of those properties listed/ marketed as "pet grooming" and/or "kennel" establishments throughout Howard County, the following properties (if still in operation) have the potential to be most affected by the proposed amendment:

Happy Dog Care (the "Petitioner")
3264 Corporate Court
Ellicott City, MD 21042
Zoned B-1
(Route 40 Corridor (Adjacent properties B-1, B-2, and R-A-15))

The Dog Wash
Bethany Square Shopping Center
10132 Baltimore National Pike
Suite J
Ellicott City, MD 21043
Zoned B-1
(Route 40 Corridor (Adjacent properties B-1 and B-2))

Highland Groomery
13401 Clarksville Pike
Highland, MD 20777
Zoned B-1
(Highland Crossroads – Commercial (Adjacent properties B-1 and B-2))

Happy Tails
10176 Baltimore National Pike
Ellicott City, MD 21042

Zoned B-1
(Route 40 Corridor (Adjacent properties B-1 and B-2))

Dogs & Company
8895 Centre Park Drive
Columbia, MD 21045
Zoned B-1
(South of Rt. 100 (Adjacent properties SC and B-1))

Countryside Veterinary Clinic
4866 Montgomery Road
Ellicott City, MD
Zoned B-1
(Adjacent properties B-1, B-2, RC)

Response to Section 9: The over-night boarding of pets within Pet Daycare establishments has become so popular with pet owners that it is now an integral part of almost all pet daycare facilities across the County as well as the nation. As per Council Bill 70-2007 (ZRA-87), the Howard County Council created the by-right "Pet Daycare" use as a supplemental use to the pre-existing "Pet Grooming Establishment" use in the B-1, B-2, SC, M-1, M-2, CAC, and TNC zoning districts. Under the existing Zoning Regulations, "Kennel" uses are currently permitted by-right in the B-2, M-1, and M-2 zoning districts, but an anachronistic conditional use approval remains in place for the B-1 zoning district. As stated above, the existing B-1 Zoning Regulations already permit the overnight (as a use incident to an Animal Hospital (103.A.12.1)) as well as the daytime boarding of pets (Pet Daycare (118.B.39)), all as a matter of right. The Petitioner's proposed amendment would not affect the additional restrictions placed upon Kennel uses in the residential and rural zoning districts of the County (RC, RR, and R-20). As such, the impact of the Petitioner's proposed amendment on the community and developments located within and adjacent to the B-1 zoning district will be minimal.