



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.howardcountymd.gov

FAX 410-313-3467

TDD 410-313-2323

December 17, 2009

TECHNICAL STAFF REPORT

*Petition Accepted on October 10, 2009
Planning Board Meeting of January 7, 2010
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA - 125 – Happy Dog Care, Inc.

Request: Zoning Regulation Amendment to Sections 118.B and 118.E to allow Kennels as a matter of right in the B-1 Zoning District.

Department of Planning and Zoning Recommendation: APPROVAL WITH MODIFICATION

I. DESCRIPTION OF PROPOSAL

- The proposal is to amend Section 118 of the Zoning Regulations to allow Kennels as a matter of right in the B-1 Zoning District. Section 131.N.30 would also need to be amended to delete the B-1 District from the list of Conditional Uses.

The proposal would remove the requirement that Kennels obtain Conditional Use approval and would instead permit Kennels as a matter of right in the B-1 District.

- According to the petition, ZRA 87 (Council Bill 70-2007) created the by-right Pet Daycare use as a supplemental use to the then existing Pet Grooming Establishment use in the B-1, B-2, SC, M-1, M-2, CAC and TNC Zoning Districts and also extended Kennel uses as a matter of right to the M-1 District. The Petitioner explains that the addition of the Pet Daycare use to the by-right uses in the B-1 District as well as the previously existing Animal Hospital use provide evidence of the appropriateness of the Kennel use in the B-1 District.

Currently, Kennels are permitted as a matter of right in the B-2, M-1 and M-2 Districts, so facilities in those districts are permitted to board pets overnight. The B-1 District already permits the daytime boarding of pets as well as overnight boarding as an accessory use to by-right Animal Hospitals.

- The Petitioner states that overnight boarding of pets has become industry standard among pet daycare establishments and based on the Petitioner's experience in the Howard County pet care community, many existing establishments desire the ability to offer overnight boarding as an option to clients. The amendment would effectively update the Zoning Regulations to reflect the growing market trend of overnight boarding in Pet Daycare establishments and represents an appropriate expansion of existing businesses in the B-1 District without substantially increasing the level of intensity in the B-1 District.

- **The complete proposed amendment text is attached to this Technical Staff Report as Attachment A (Petitioner's Proposed Text) and Attachment B (DPZ Proposed Text).**

II. EXISTING AND PROPOSED REGULATIONS

- **Currently, the Zoning Regulations permit Kennels in the B-1 District by Conditional Use only.**

Under the proposed amendment, Kennels would no longer be required to obtain Conditional Use approval and would instead be permitted as a matter of right.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **The amendment would potentially affect any B-1 zoned property, including existing pet grooming establishments and/or pet daycare establishments in the B-1 District since the amendment would add the allowance for these facilities to board pets overnight.**
- **The amendment would also have the potential to affect all NT zoned properties which include B-1 permitted uses in the Final Development Plan (FDP).**

IV. EVALUATIONS AND CONCLUSIONS

- **The amendment is generally harmonious with policies of General Plan Chapter 4, Balanced and Phased Growth. The General Plan promotes the coordination of "land use policies and economic development programs to encourage both the expansion of current businesses and attraction of new ones".**

Zoning History/Background:

In the 1948 Zoning Regulations, Kennels were permitted in all residential and commercial districts with the approval of the Zoning Commissioner with limitations determined on a case by case basis, the equivalent of the now existing Conditional Use category.

In 1954 and 1961, Kennels were permitted in any district with the approval of the Board of Zoning Appeals as Uses Limited as to Location, (the equivalent of the Conditional Use category) with provisions of a five acre lot minimum; that Kennels could not be located within 100 feet of a street or property line where adjoining property was used for permitted uses in residential districts; and that Kennels could not be located within 300 feet of a residence on another property without approval by the Health Department.

In 1977 and 1985, Kennels were permitted by right in B-2; Animal Hospitals, completely enclosed were permitted by right in B-1 and B-2; M-1 did not permit Kennels or Animal Hospitals; and Kennels were permitted by right in M-2. Kennels were permitted by Special Exception in R, R-20 and B-1 subject to the following restrictions: permit renewal every three years; a five acre lot minimum; no outside run or pen may be located within 200 feet of any lot line; and no structure shall be located within 200 feet of any side or rear lot line or within 100 ft. of any right-of-way line.

Since 1993, the Conditional Use requirements for Kennels housing or training eleven or more dogs at any one time in the RC, RR, R-ED, BR and B-1 Districts include a five acre minimum lot size; a 100 foot minimum structure setback from a public street right-of-way; a 200 foot setback from any lot line for outside pens and runs unless the Hearing Authority reduces it to 100 feet if it finds that the setback reduction will not adversely affect neighboring properties due to visual impact, noise, dust, odors or other causes, and that the pen, run or structure will be located at least 200 feet from existing dwellings on different lots provided outside pens and runs for which the reduced setback is approved shall be enclosed by solid fences or walls.

The requirements for Kennels housing or training no more than ten dogs at any one time include a three acre minimum lot size; a 50 foot setback for outdoor pens and runs from a lot line; and a minimum 75 foot structure setback from a public street right-of-way, and 30 feet from any other lot line.

ZRA 87 effective January 10, 2008 extended Kennel uses as a matter of right to the M-1 District.

Summary:

- Historically, Kennels have not been permitted by-right in the B-1 District and have been limited by conditions in other, primarily residential districts.

Although there is no specific distinction on this issue in the B-1 and B-2 purpose statements, local business areas are normally considered to be relatively small commercial sites within or within very close proximity to residential neighborhoods and residential uses. General business areas are typically much larger in comparison, and are usually more removed from residential neighborhoods, and located along major roads.

Permitting Kennels in B-1 as a Conditional Use allows consideration of site specific issues such as the proximity of B-1 zoned properties to residentially zoned properties and provides the opportunity to consider appropriate buffering; factors which are not likely necessary for B-2, M-1 or M-2 zoned properties.

The amendment as proposed would remove all conditions of approval from Kennels in the B-1 District. Although the requirement for Conditional Use approval that once applied in B-2, M-1 and M-2 no longer exists, safeguards that have historically been considered as part of the Conditional Use process with regard to surrounding residential properties are still appropriate for consideration in the B-1 District.

- The Department of Planning and Zoning generally concurs with the Petitioner's justification that the proposal is analogous to the permissibility of overnight boarding in conjunction with Animal Hospitals in the B-1 District and that the recent addition of the Pet Daycare use as a matter of right in the B-1 District provides justification for the appropriateness of allowing Kennels in the B-1 District. These existing uses are of similar intensity to Kennels but are permitted only with the provision that they are completely enclosed. In order to allow Kennels as a use comparable to Animal Hospitals and Pet Daycare, it is recommended that Kennels have the comparable provision of being completely enclosed.

ZRA 125

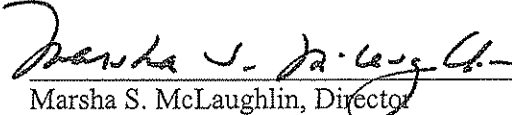
Happy Dog Care, Inc., Petitioner


- The Conditional Use requirement for a minimum three or five acre lot size in the B-1 District seems an excessively large lot size, as many B-1 zoned properties are smaller than three acres, but still provide appropriate area for such a use.
- The Department of Planning and Zoning recommended text modification is to add the provision that Kennels in the B-1 District be completely enclosed and to add the necessary amendment to Section 131.N.30 to delete Kennels as a Conditional Use category in B-1.

V. RECOMMENDATION

APPROVAL WITH MODIFICATION

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-125 be **APPROVED WITH MODIFICATION**.


Marsha S. McLaughlin, Director


Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MM:ZLK/zlk

ATTACHMENT A

Petitioner's Proposed Text

(CAPITALS indicates text to be added; [[brackets indicate text to be deleted]].)

SECTION 118 (Business: Local) District

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

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

ZRA 125

Happy Dog Care, Inc., Petitioner

E. Conditional Uses

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

ATTACHMENT B

DPZ Proposed Text

(CAPITALS indicates text to be added; [[brackets indicate text to be deleted]]; ~~strikethrough~~ indicates text deleted from original proposal; **BOLD CAPITALS** indicates text proposed in this revision.)

SECTION 118 (Business: Local) District

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, COMPLETELY ENCLOSED.**

ZRA 125

Happy Dog Care, Inc., Petitioner

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

E. Conditional Uses

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

SECTION 131.N (Conditional Uses)

30. Kennels and Pet Grooming Establishments

A conditional use may be granted in the RC, RR, or R-20 Districts for kennels or pet grooming establishments, and in the BR [[or B-1]] District[[s]] for kennels provided that:

{The remainder of the Section shall remain the same.}