

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor AICP, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: January 28, 2014

SUBJECT: BZA Case 18702, 2303 14th Street NW, request for special exception and variance relief to permit animal boarding, pet grooming, and animal shelter uses for a property in the C-2-B district and located at 2303 14th Street NW.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the special exception under § 735 to allow an Animal Boarding use, subject to the following conditions:

- 1) Animals shall only enter and exit the business through the front door facing 14th Street NW;
- 2) There shall be staff on site at all times that animals are on site, including overnight.

OP **cannot recommend approval** of the variances under §§ 736.4 and 739.5, and therefore the special exceptions under §§ 736 and 739, to allow Animal Grooming and an Animal Shelter.

II. LOCATION AND SITE DESCRIPTION

Address	2303 14 th Street NW (View 14, the “Property”)
Legal Description	Square 2868, Lot 155
Ward	1
Lot Characteristics	The Property is located on the east side of 14th Street NW. Florida Avenue is located to the north and Belmont Street to the south. A 15 ft. public alley is located to the rear of the property to the east.
Zoning	C-2-B - Permits matter-of-right medium density development, including office, retail, housing, and mixed uses.

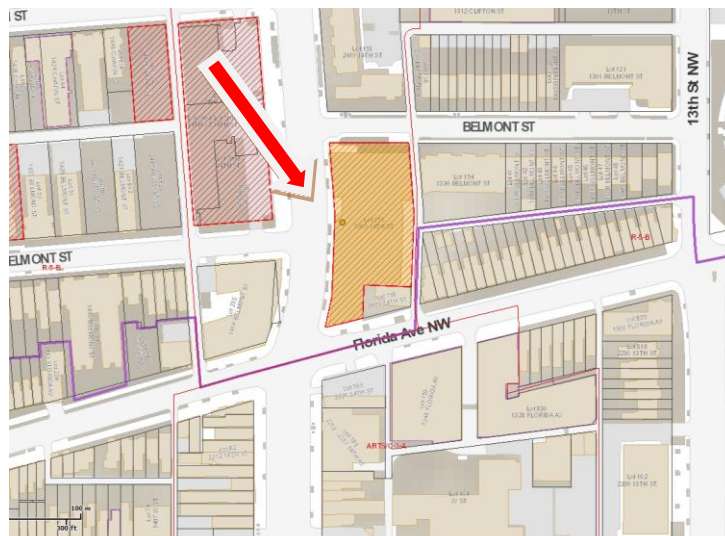


Existing Development	The Property consists of approximately 32,000 square feet of retail and service uses at or below grade, along with 185 apartment units on the upper nine floors. The Property includes four retail units, two of which are currently occupied. The unit with the address 1353 Florida Avenue is occupied by the Beta Martial Arts Academy, and the unit with the address 2303 14 th Street, Suite 100, is occupied by the YWCA National Capital Area. The commercial space with the address 2301 ½ 14 th Street is currently vacant. The Subject Property was constructed as a result of a Planned Unit Development (PUD) and is subject to Zoning Commission Order No. 05-22.
Historic District	NA
Adjacent Properties	Two and three story rowhouses are located across the 15 ft. public alley. A Comcast equipment facility is located at the southeast corner of Square 2868.
Surrounding Neighborhood Character	The surrounding neighborhood is characterized by multi-story mixed-use structures, two and three story rowhouses, multi-family residential structures, and two and three story commercial uses.

III. APPLICATION IN BRIEF

Citydog! Club (the “Applicant”) seeks special exception relief to utilize approximately 4,300 square feet of the ground floor retail space of a mixed-use residential/commercial structure (View 14) for animal boarding, pet grooming, and animal shelter uses. The proposed establishment also requires variances for the provision of pet grooming and animal shelter establishments abutting residential uses. The dog day care center would offer cage-free dog daycare in five “play parks,” pet grooming, and overnight boarding

On the second floor of the Subject Property, above the retail space are 24 apartment units, five of which are situated directly above the space proposed for the dog day care center. No external yards are proposed. The building is located in a Commercial zone and does not abut a Residence zone.





Subject Property

IV. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief pursuant to § 735 (Animal Boarding)

735.2 *The animal boarding use shall not abut a Residence Zone.*

The Property does not abut a residence zone. The Property is located in the C-2-B zone and abuts streets on the south, west and north sides. A 15 ft. public alley is located to the east. The R-5-B district is located to the east across the alley.

735.3 *The animal boarding use shall take place entirely within an enclosed and soundproof building in such a way so as to produce no noise or odor objectionable to nearby properties. The windows and doors of the premises shall be kept closed and no animals shall be permitted in an external yard on the premises.*

The animal boarding would take place within an enclosed and soundproof structure and should not produce noise or odor objectionable to nearby properties. The Applicant proposes to include noise attenuation measures, including installation of an acoustical gypsum board ceiling, acoustical ceiling panels rated for noise reduction, and MBI ColorSonix wall panels mounted to the walls. The Application states that the windows and doors of the premises would be kept closed. Further, floors would be cleaned with scrubbers and cleaning products that would break down noxious odors. There are no external yards on the Property. The dog day care would not share common access ways or hallways with the residential uses on the Subject Property.

735.4 *The animal boarding use 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. Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system.*

The Applicant would dispose of all bagged animal waste in closed waste disposal containers. According to the Applicant, waste would be removed from the establishment and placed in a separately designated trash enclosure space on the Property. A qualified waste disposal company would collect and dispose of all

animal waste at least once per week. The Applicant would control odor by installing HEPA filtration systems throughout the building.

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

OP recommends that the Board require the following conditions to protect adjacent and nearby properties:

1. Animals shall only enter and exit the business through the front door facing 14th Street; and
2. There shall be staff on site at all times that animals are on site, including overnight.

b. Special Exception Relief pursuant to § 736 (Pet Grooming)

735.6 *External yards or other exterior facilities for the keeping of animals shall not be permitted.*

The Applicant does not propose to keep animals in an external yard or other exterior facilities.

736.2 *The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.*

The pet grooming establishment would be located and designed internal to the building and should not create objectionable conditions to adjacent properties resulting from animal noise, odor, or waste.

736.3 *All animal waste shall be placed 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.*

The Applicant would dispose of all bagged animal waste in closed waste disposal containers. Waste would be removed from the establishment and placed in a separately designated trash enclosure space on the Property, and a qualified waste disposal company would collect and dispose of all animal waste at least once per week. The Applicant would control odor by installing HEPA filtration systems throughout the building. Floors would be cleaned with scrubbers and cleaning products that break down noxious odors.

736.4 *The pet grooming establishment shall not abut an existing residential use or Residence District.*

The pet grooming establishment would not abut an existing residential district but would abut residential use on the upper floors of the building. The Property is bordered on three sides by public streets and nearby properties are also zoned C-2-B. The neighboring R-5-B District is located across the 15 ft. alley from the Subject Property. The Property would abut the existing residential use located immediately above the proposed location of the pet grooming establishment, and the Applicant is requesting a variance from this provision.

736.5 *External yards or other external facilities for the keeping of animals shall not be permitted.*

No external yards or other external facilities are proposed.

c. Special Exception Relief pursuant to § 739 (Animal Shelter)

739.2 *The animal shelter shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.*

The proposed use would be located within a concrete building and therefore capable of soundproofing the use. According to the Applicant, windows and doors would be kept closed. Floors would be cleaned with scrubbers and cleaning products that break down noxious odor. A HEPA filtration system would be installed in the building to absorb odor from within the building. Animal waste would be placed in bags and stored in closed waste disposal containers until pick-up by a qualified waste disposal company at least once per week.

739.3 *The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping.*

The existing building is constructed of concrete, soundproofing the building. The Applicant proposes to include noise attenuation measures, including installation of an acoustical gypsum board ceiling, acoustical ceiling panels rated for noise reduction, and MBI ColorSonix wall panels mounted to the walls.

739.4 *All animal waste shall be placed 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.*

A qualified waste disposal company would collect and dispose of all animal waste at least once per week. Floors would be cleaned with scrubbers and cleaning products that break down noxious odor.

739.5 *The animal shelter shall not abut an existing residential use or a Residence District.*

The animal shelter establishment would not abut an existing residential district. The Property is bordered on three sides by public streets and nearby properties are also zoned C-2-B. The neighboring R-5-B District is located across the 15 ft. alley from the Subject Property. The Property would abut the existing residential use located immediately above the proposed location of the pet grooming establishment, and the Applicant is requesting a variance from this provision.

739.6 *External yards or other external facilities for the keeping of animals shall not be permitted unless the entire yard is located a minimum of two hundred (200) feet from an existing residential use or Residence District.*

There are no external yards on the property.

b. Variance Relief from § 736.4 (Pet Grooming) and § 739.5 (Animal Shelter)

Section 3103.2 sets out the circumstances for a variance:

With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The Office of Planning cannot conclude that the applicant has met the burden of proof for the requested variances. The Office of Planning cannot conclude that a mixed use building in a zone that incentivizes mixed use buildings (C-2-B) is an "*extraordinary or exceptional situation or condition of a specific piece of property.*" The requirement that the use not abut residential uses is a purposeful condition established to cause the separation for of the use from residential uses, therefor OP cannot conclude that the "*the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property*". To the contrary, the strict application of the regulation would result in the separation of uses as expected by the regulations. The Zoning Commission saw fit to allow animal boarding within the C zones knowing that the buildings commonly contain residential use. But as the Commission considered other animal care use, such as grooming and shelters, they added the condition of separation from residential *uses* as well as residential zones. Therefore the Office of Planning cannot recommend approval of the variances or the special exceptions to allow Animal Grooming or an Animal Shelter.

V. COMMUNITY COMMENTS

As of this writing, OP has not received comments from the neighbors or ANC 1B.

There is an application for a party in opposition to the uses.