



July 21, 2016

## TECHNICAL STAFF REPORT

*Planning Board Meeting of August 4, 2016*

**Case No.**        **ZRA-167**

**Petitioner:**    **Elisa Kamens**

**Request:**        Amend Section 131.0.N.39.b. of the Conditional Use category for Pet Day Care Facilities to clarify language regarding noise perceptible at lot lines.

### I.        BACKGROUND

The Pet Day Care Facilities Conditional Use category was added to the Zoning Regulations during the 2013 Comprehensive Zoning. It is allowed in the RC, RR, and R-20 Zoning Districts.

Pet Day Care Facilities are permitted as a matter of right in some non-residential zoning districts provided they are completely enclosed, but these would not be affected by the amendment.

### II.       DESCRIPTION AND EVALUATION OF PROPOSAL

The following section contains DPZ's technical evaluation of ZRA-167. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A (Petitioner's Proposed Text).

The petitioner proposes to add "indoor" before "noise" to Section 131.0.N.39.b of the Zoning Regulations to clarify that this criterion only applies to indoor activities and indoor noise associated with pet day care business functions. DPZ agrees that the noise reference in subsection 39.b only applies to indoor noise and that the text amendment proposed by the Petitioner constitutes a clarification, rather than a change in the Zoning Regulations.

Subsection 39.b. is an independent evaluation criterion that states, "All day care business functions must be completely enclosed within a building. Noise must not be perceptible at lot lines." Both sentences in Subsection 39.b. together read as one criterion applicable **only to indoor activities**.

Subsection 39.g. addresses outdoor activities, independent of Subsection 39.b, which addresses just indoor activities and any associated indoor noise impacts. Since outdoor activities are addressed independently, any noise associated with them should be as well. Further, the General Standards for approval of a Conditional Use (Section 131.0.B.3.b.) evaluate the impacts of adverse effects, including noise, of a Conditional Use.

DPZ considers the proposed text amendment to be superfluous since the noise restriction in Section 39.b clearly applies to day care functions enclosed within a building. While the interpretation of this section may be clear, the intent is not as apparent. Section 131.0.N.31 of the Zoning Regulations contains

conditional use criteria associated with Kennels and Pet Grooming Establishments. The criteria includes a 5 acre minimum lot size, minimum setback requirements for outdoor training, and exercise areas and restrictions based on the number of animals at any one time. The location, size and noise criteria for Kennels attempt to address the issue raised by this ZRA- whether indoor or outdoor noise can be perceived at lot lines. Given the similarity in kenneling and pet day care activities, it is unclear why the uses are separated and the criteria are different. Therefore, to better understand the intent of Section 39.b, DPZ recommends that both Sections 131.0.N.31 (Kennels and Pet Grooming Establishments) and Section 131.0.N.39 (Pet Day Care Facilities) be reviewed comprehensively before any further changes are adopted.

### III. AGENCY COMMENTS

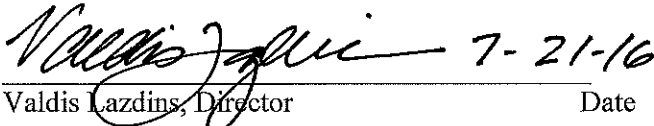
The following agencies had no comments on the proposal:

1. Department of Inspections, Licenses and Permits
2. Department of Recreation and Parks
3. Department of Fire and Rescue Services
4. Howard County Animal Control

### IV. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-167 be **DENIED**.

Approved by:

 7-21-16  
Valdis Lazdins, Director Date

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

## ATTACHMENT A - PETITIONER'S PROPOSED TEXT

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

### **39. Pet Day Care Facilities**

A Conditional Use may be granted in the RC, RR or R-20 Districts for pet day care facilities, provided that:

- a. The minimum lot size shall be one acre.
- b. All day care business functions must be completely enclosed within a building. INDOOR [[N]]noise must not be perceptible at lot lines.
- c. The Hearing Authority may set hours of operation and limitations on the number and type of pets cared for.
- d. The facility shall not be located on a shared driveway.
- e. Parking areas shall be located and landscaped to minimize visibility from roads and adjacent residential properties.
- f. There shall be no overnight boarding of pets.
- g. Outdoor areas for walking or exercising pets may be permitted provided that pets shall not be left unattended in such an area. The Hearing Authority may set a limit on the number of pets permitted simultaneously in the outdoor area. The perimeter of this outdoor area shall be fenced and landscaped to ensure that animals are confined to the property and to minimize the visibility of the enclosure. All fencing shall comply with all requirements for fences as noted elsewhere in Section 128.0. The petitioner must clearly delineate the outdoor area on the Conditional Use plan.
- h. Disposal of wastes must be such that odors or other emissions are not perceptible at lot lines.
- i. On an ALPP purchased or dedicated easement property, the following additional criteria are required:
  - (1) The use shall not interfere with farming operations or limit future farming production.
  - (2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.

