

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen J. Mordfin, AICP, Case Manager  
*JL*  
Joel Lawson, Associate Director Development Review  
**DATE:** October 21, 2016

**SUBJECT:** BZA Case 18474A (1232 9<sup>th</sup> Street, N.W.) for a special exception to permit animal boarding and an animal shelter in a commercial building

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### **I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following special exceptions:

- U § 513.1(m), Animal Boarding with accessory Pet Grooming; and
- U § 513.1(a), Animal Care (Animal Shelter)

Subject to the following conditions carried forward from the previous approval:

1. No animal shall be permitted on the outdoor deck between the hours of 6:00 p.m. and 9:00 a.m.
2. No more than five animals shall be permitted on the outdoor deck at any one time, and no dog shall be allowed on the deck for a period greater than 30 minutes per day.
3. An employee of the applicant shall remain on the outdoor deck at all times when an animal is present.

### **II. BACKGROUND**

The applicant operates a pet shop, pet grooming establishment, animal boarding and an animal shelter on the subject property. The pet shop was established as a matter-of-right use in 2005, when special exception approval was not required. The animal boarding, pet grooming and animal shelter uses were permitted pursuant to BZA Order 18474, decided April 25, 2013. That order was granted subject to five conditions. In addition to the three conditions listed above, the following two conditions were included due to opposition to the application.

- The application is approved for a term of three years beginning on the date upon which this order becomes final; and
- Within 60 days of the effective date of this Order, the Applicant shall put in place a process and procedure to show that the Applicant is working cooperatively with the ANC, the neighbors, and surrounding businesses in order to stay abreast of any negative impacts resulting from the Applicant's use of the subject property.

The applicant is now requesting to renew the special exception approval of the animal boarding and animal shelter uses with no term limit. No changes to the use are proposed and the file contains no opposition.

**III. LOCATION AND SITE DESCRIPTION**

|                                    |  |
|------------------------------------|--|
| Address                            | 1232 9 <sup>th</sup> Street, N.W.  |
| Applicants                         | Lesron LLC   |
| Legal Description                  | Square 368, Lot 911  |
| Ward/ANC                           | Ward 2/ ANC 2F   |
| Zone                               | MU-4   |
| Lot Characteristics                | Odd shaped lot with rear alley access  |
| Existing Development               | Three-story building with no off-street parking  |
| Historic District                  | Blagden Alley-Naylor Court   |
| Adjacent Properties                | North: One story commercial building<br>South: Two story commercial building<br>East: Across 9 <sup>th</sup> Street, Convention Center<br>West: Across public alley, commercial uses |
| Surrounding Neighborhood Character | Mixture of residential, commercial and government uses   |
| Proposed Development               | Continued use of a commercial building as an animal boarding with accessory dog grooming and an animal shelter   |

**IV. ZONING REQUIREMENTS and RELIEF REQUESTED**

| <b>Zone: MU-4</b>             | <b>Regulation</b> | <b>Existing</b> | <b>Proposed</b> | <b>Relief</b> |
|-------------------------------|-------------------|-----------------|-----------------|---------------|
| Lot Area                      | None              | 2,475 sq. ft.   | 2,475 sq. ft.   | None          |
| Lot Width                     | None              | 20 feet         | 20 feet         | None          |
| Non-Residential FAR G § 402.1 | 1.5 max           | 1.49            | 1.49            | None          |
| Rear Yard G § 405.1           | 15 foot min.      | None            | None            | None          |

**V. OFFICE OF PLANNING ANALYSIS**

**a. Special Exception Relief from U § 513.1(m), Animal Boarding Uses**

- i. Animal boarding uses not meeting the conditions of Subtitle U § 512.1(k), subject to the following:

- (1) *The animal boarding use shall take place entirely within an enclosed building;*

The use would take place entirely within an enclosed building.

- (2) *Buildings shall be designed and constructed to mitigate noise to limit negative impacts on adjacent properties, including residential units located in the same building as the use. Additional noise mitigation shall be required for existing buildings not originally built for the boarding of animals, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;*

Although the existing building was not designed and constructed to mitigate noise on adjacent properties, it is a masonry building. The applicant has installed acoustical tiles and sealed all penetrations for pipes to mitigate any noise from emanating from the building.

- (3) *The windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;*

All windows and doors would continue to be kept closed. The door at the rear to the alley is solid core.

- (4) *Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;*

The applicant would continue to place all animal waste in closed waste disposal containers, collected at least weekly by a qualified waste disposal company.

- (5) *Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system;*

To control odor the applicant would continue to use a HEPA filtration system that was installed in the building. All interior floors would be cleaned daily with a water/chemical mixture designed to break down urine odor.

- (6) *Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;*

The applicant informed OP that floor and wall finish materials measuring at least 48 inches from the floor that is impervious and washable was been installed.

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

OP makes no recommendations for additional requirements for the animal boarding or pet grooming uses.

- (8) *External yards or other exterior facilities for the keeping of animals shall not be permitted.*

No external facilities are proposed for the animal boarding or pet grooming uses.

**b. Special Exception Relief from U § 513.1(a), Animal Shelter**

- (1) *When located in a nonresidential building or on a property not zoned residential, the use shall not abut nor be closer than twenty five feet (25 ft.) to any property line of an existing residential use or a residential zone;*

The use neither abuts nor is closer than twenty five feet to any property line of an existing residential use or residential zone.

- (2) *When located in a mixed-use building, the use shall not be on the same floor as a residential use and shall be horizontally separated from any residential use by at least one (1) floor of nonresidential use;*

Not applicable.

- (3) *The use shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste; and shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;*

The applicant has installed sound absorbing materials, including acoustical tiles, and the sealed all penetrations from the building.

- (4) *External yards or other external facilities for the keeping of animals shall not be permitted, except that an Animal Shelter may have external yards or other external facilities for the keeping of animals which shall be entirely located a minimum of two hundred feet (200 ft.) from an existing residential use or residential zone; and*

The applicant proposes to continue to utilize an outdoor area above the second floor of the building, facing the alley. Although this area is less than 200 feet from residential uses and zones, the animals will utilize the area for a limited time periods only and would therefore not result in the “keeping” of animals within an external facility, as found by the Board under the previous order issued for this use (see BZA Order 18474, page 7, decided April 23, 2013). OP does recommend that the use of the outdoor deck be limited to a maximum of five dogs at a time, that no animals be permitted on the deck between 6:00 pm and 9:00 am, and that dogs be permitted on the deck only in the presence of a supervising employee.

*(5) 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. 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;*

As stated above, all animal waste would be placed in closed waste disposal containers, collected at least weekly by a qualified waste disposal company

**ii. Will be in Harmony with the General Purpose and Intent of the Zoning Regulations and the Zoning Maps**

The proposed uses are in conformance with the specific criteria for animal boarding and animal shelter uses within a Mixed Use zone, as permitted by the Zoning Regulations and the Zoning Maps.

**iii. Will not Adversely Affect the Use of Neighboring Properties**

Customer access to the building would continue to be from 9<sup>th</sup> Street only. There are no residential uses within the subject or adjoining buildings, and the rear deck would be used for limited hours each day, and only under supervision.

The Historic Preservation Office had no comments on the application.

**VI. COMMENTS OF OTHER DISTRICT AGENCIES**

DDOT, in a memorandum dated October 6, 2016, indicated that it had no objection to the application.

No other comments were received from District agencies.

**VII. COMMUNITY COMMENTS**

ANC 2F, at its regularly scheduled meeting of October 5, 2016, voted to support the application.

No other community comments were received.

Attachment: Location Map

