

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
Rockville, Maryland 20850
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IN THE MATTER OF:
HOME AWAY FROM HOME PET CARE

Applicant

Emily Jarvinen
Mario Chavarry
Carol Jarvinen

For the Application

Stephanie M. Smith, Esquire
Attorney for the Applicant

* * * * *

Before: Kathleen Byrne, Hearing Examiner

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OZAH Case No. CU 24-05

HEARING EXAMINER'S REPORT AND DECISION

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I. STATEMENT OF THE CASE

Filed on July 27, 2023, Home Away from Home Pet Care (hereinafter “Applicant”) applied for a conditional use for Animal Boarding and Care Facility for dogs pursuant to 59.3.5.1.B.2 of the Zoning Ordinance. The subject property is identified as 24432 Ridge Road, Tax Account number 00935098 which is located in Damascus, Maryland, 20872. Exhibit 1. The property is zoned RE-2C. *Id.* On September 28, 2023, OZAH issued a Notice of Hearing scheduling the public hearing for Friday, November 17, 2023. Exhibit 16.

Staff of the Montgomery County Planning Department (“Planning Staff” or “Staff”) issued a report recommending approval of the conditional use application dated October 16, 2023, subject to the following conditions of approval (Exhibit 17, pp. 3):

1. The use is limited to an Animal Boarding and Care.
2. No more than 15 dogs are to be onsite at any one time.
3. A Preliminary Plan of subdivision is required.
4. No dogs are to be outside.
5. No outdoor dog run or outdoor exercise area.
6. There will be no non-resident employees may be onsite.

At its meeting on October 26, 2023, the Planning Board recommended approval of the application with the conditions recommended by Staff. Exhibit 18.

The public hearing proceeded in person as scheduled on November 17, 2023. The Applicant presented three witnesses: Emily Jarvinen, Mario Chavarry, and Carol Jarvinen. T. 3.

The record was left open for 10 additional days to allow for a transcript of the proceedings to be generated. T. 20. II. FACTUAL BACKGROUND

A. The Subject Property

The subject property is zoned RE-2C and consists of 3.2 acres identified as part of Lot 1, Block A on Plat 7546, also known as 24432 Ridge Road. Exhibit 17, pg. 4. The property contains a single family detached dwelling on a “pipe stem” lot that gradually down slopes from east to west from starting at the higher side along the Ridge Road side property line. *Id.* The property contains a stream along the western edge. *Id.*

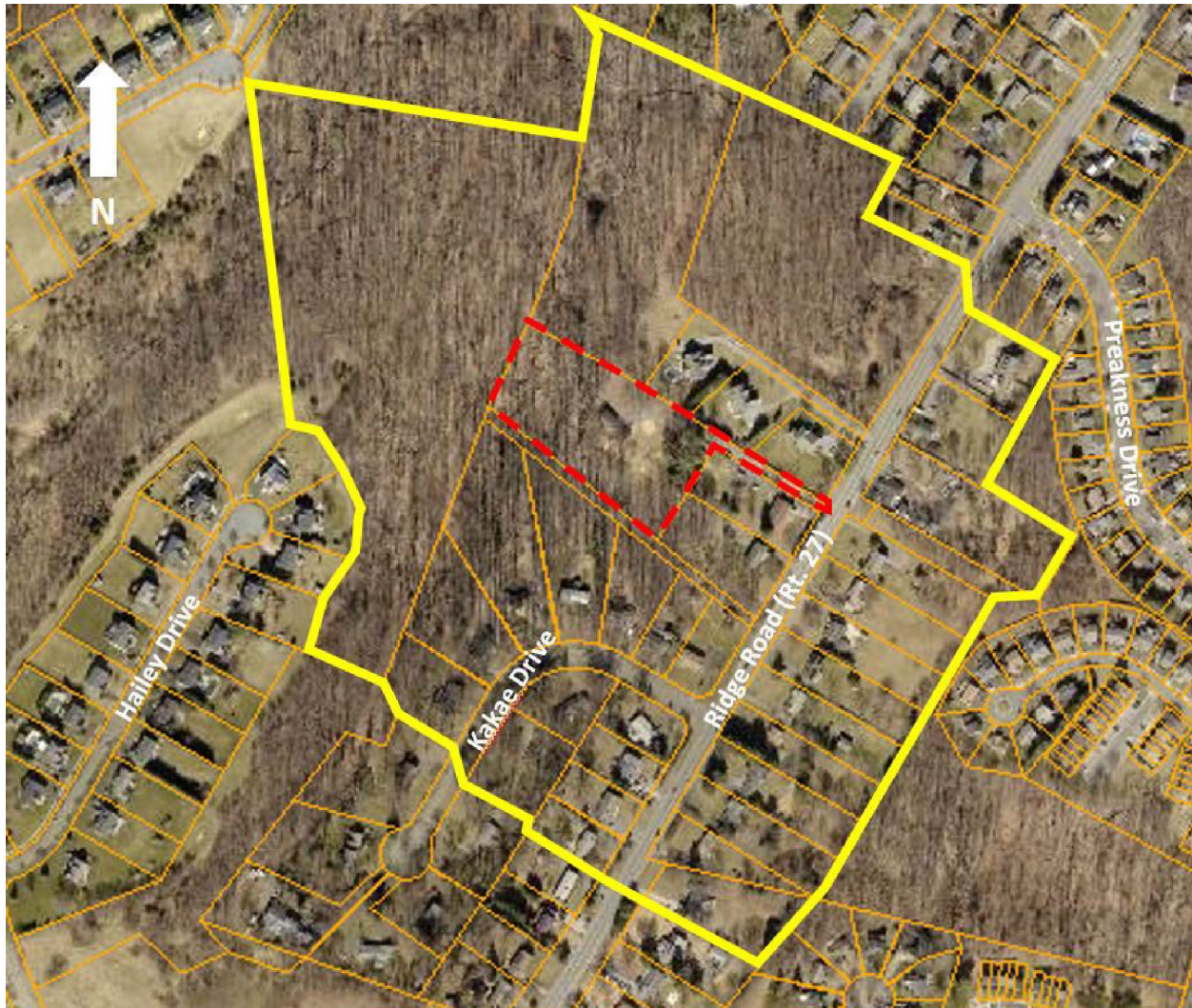


Property Outline Aerial
Staff Report - Exhibit 17, pg. 5

B. Surrounding Neighborhood

The “surrounding area” of a proposed conditional use is the area that will experience the direct impacts of the use. It is delineated and characterized in a conditional use case to determine whether the proposed use will be compatible with the properties that will be impacted. Once delineated, the Hearing Examiner must assess the character of the area to determine whether the impacts of the proposed conditional use will adversely affect that character.

The vicinity surrounding the Property is composed of low-density and moderate-density residential development conditional uses. *Id.* at pg. 3. The surrounding neighborhood as defined by Staff is all zoned RE-2C. *Id.* To the east and north immediately abutting the subject property area two large parcels owned by two different homeowner's associations. *Id.* Staff found no existing conditional uses or special exceptions located in the neighborhood. Staff defined the neighborhood/vicinity as outlined in yellow on the next page.



Vicinity Map in Yellow Outline
Staff Report – Exhibit 17, pg. 4.

C. Proposed Use

The Applicant proposes to convert the basement of the existing single-family dwelling into an Animal Boarding and Care facility while keeping the remainder of the home for use as a full-time residence. *Id.* at pg. 5. The Applicant does not propose any changes to the exterior of the dwelling or surrounding land. *Id.* Since 2016, the Applicant has been operating a dog walking service and check-in visit for cats and other small animals and wants to expand the

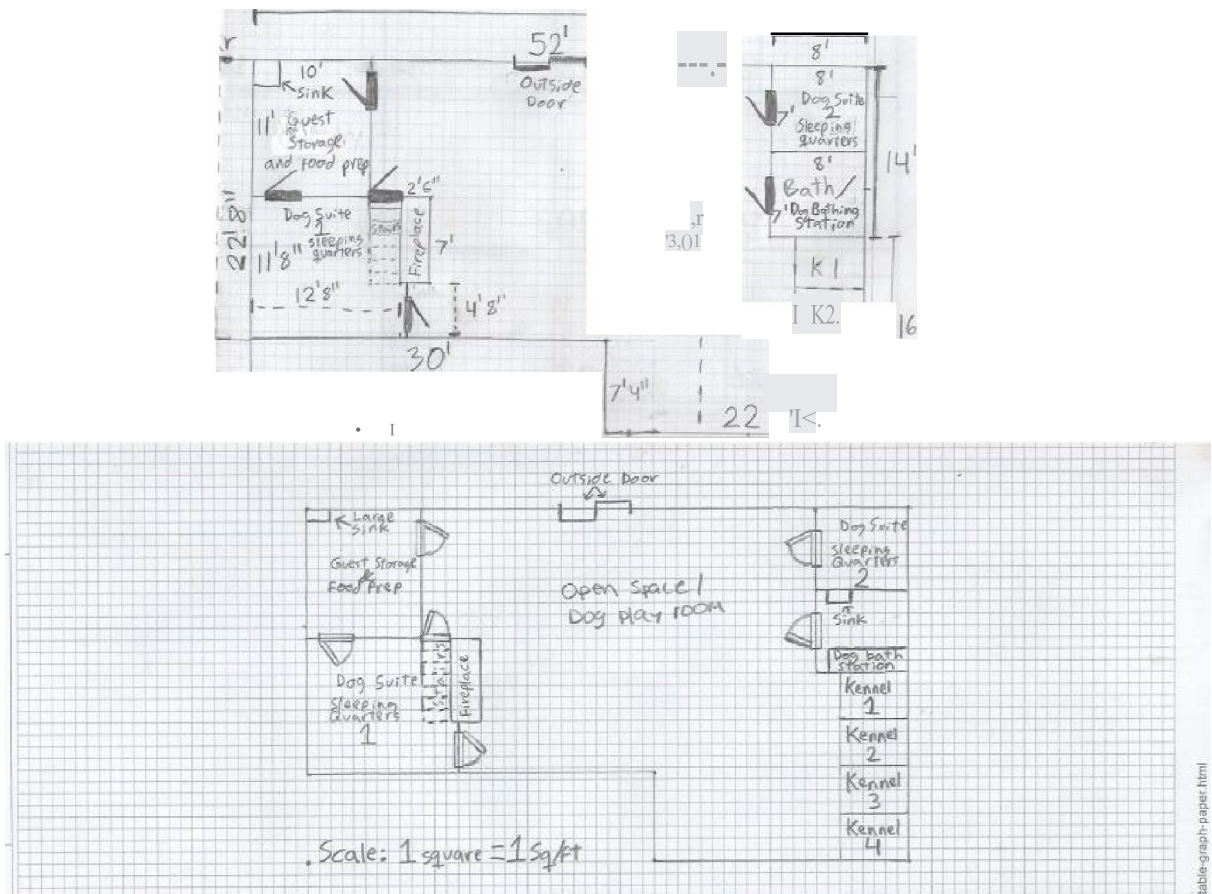
existing operation to host dogs in their home for daytime dog daycare play groups and a few dogs for overnight care. T. 10-11. Currently the Applicant uses a van to pick up dog walking customers and will utilize this same van to pickup and drop off most dogs for the offered daycare services at the property. *Id.* Owners may occasionally drive to the property to drop off and pick up the dogs. Exhibit 17, pg. 5. The dog play area will be in the basement of the property and dogs will go outside two at a time on leashes for potty breaks. *Id.* and T. 15. A maximum of 15 dogs will be onsite at any one time and no non-resident employees. *Id.*

1. Site Plan and Floor Plan

The existing site plan will remain unchanged. See below – Exhibit 17, pg. 7.



The basement of the property will serve as the location for the dog daycare and overnight boarding. This area consists of 1,338 square feet and will have an open play/exercise area, a row of 4 oversized kennels, 2 suites, 1 bathroom and dog bathing station and 1 laundry and storage room. Exhibit 19, pg. 2. The exercise/play area is 908 square feet and can be separated into multiple sections depending on the size of dogs at daycare. *Id.* The flooring will be a poured polyurea coating and all entrances and exists will utilize dual gaiting for safety purposes. *Id.*



Proposed Floor Plan
Staff Report - Exhibit 17 – pg. 8

2. *Landscape, Lighting, Parking and Signage*

The Applicant proposes no changes to existing landscape or parking and no signage will be installed. For those customers not utilizing the pickup/drop off service, they will utilize the existing driveway and parking area. Exhibit 17. Pg. 5.



Existing Site Conditions
Staff Report – Exhibit 17, pg. 6

3. *Operations*

The dog daycare will operate on weekdays, Monday through Friday between the hours of 7:30 am and 4:30 pm. Exhibit 19, pg. 2. All daycare customers will have set schedules of at least

one day a week with the expectation of 10 daycare dogs per day and up to a maximum of 15 dogs on any given day. *Id.* The maximum number of 15 dogs includes daycare and overnight boarding guests. *Id.*

All areas will be constructed of easily sanitized surfaces and cleaned per daily routines with veterinary grade disinfectant. *Id.* at pg. 3. In addition to the double gates, security cameras will capture every angle of the facility. Each staff member will maintain certain certifications and all dog guests must follow the vaccination and other health and well being requirements as established by the Applicant. *Id.*

The Applicant proposed the following three different dog waste management plans: 1) flushing into the existing septic system; 2) Bagging into biodegradable bags and using a locally available trash disposal service or 3) bagging into biodegradable bags and scheduling weekly pickup with a professional pet waste management company. Exhibit 13.

D. Environmental Issues

Per the statement of justification, no changes are being proposed to the exterior of the property and dogs will be walked within an existing fenced yard. Exhibit 3. All proposed modifications are to the interior of the property and most the dog patrons will be picked up and dropped off via the existing shuttle service. *Id.* The use raises no environmental issues, and none are anticipated.

E. Community Response

Staff did not receive any correspondence from the Community regarding the conditional use application. No persons other than the Applicants appeared at the hearing in either support or opposition of the application.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A conditional use is a zoning device that authorizes certain uses provided that pre-set legislative standards are met. Pre-set standards are both specific (to a particular use) and general (applicable to all conditional uses). The specific standards applied for an Animal Boarding and Care Facility are in Section 59.3.5.1.B.2 of the Zoning Ordinance. The general standards (termed “Necessary Findings” in the Zoning Ordinance) for all conditional uses are found in Section 59.7.3.1.E. An applicant must prove that the use proposed meets all specific and general standards by a preponderance of the evidence. The Hearing Examiner concludes that Applicant has done so in this case, with the conditions of approval included in Part IV of this Report.

A. Necessary Findings (General Standards, Section 59.7.3.1.E)

The relevant standards and the Hearing Examiner's findings for each standard are discussed below.¹ For discussion purposes, the general standards may be grouped into four main areas:

1. Substantial Conformance with the Master Plan;
2. Adequate Public Services and Facilities;
3. No Undue Harm from Non-Inherent Adverse Effects; and
4. Compatibility with the Neighborhood

E. Necessary Findings

1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:

a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;

Conclusion: There is no dispute that there are no previous approvals on the subject site (Exhibit 17, p. 11). This provision is inapplicable.

¹ Although §59.7.3.1.E. contains six subsections (E.1. through E.6.), only subsections 59.7.3.1.E.1., E.2. and E.3. contain provisions that apply to this application. Section 59.7.3.1.E.1. contains seven subparts, a. through g.

b. satisfies the requirements of the zone, use standards under Article 59.3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59.6;

Conclusion: This subsection requires review of the development standards of the RE-2C Zone contained in Article 59.4; the use standards for an Animal Boarding Facility contained in Article 59.3; and the applicable development standards contained in Article 59.6. Each of these Articles is discussed below in Parts III.B, C, and D, of this Report, respectively. For the reasons explained there, the Hearing Examiner finds that the application satisfies these requirements.

1. Substantial Conformance with the Master Plan

c. substantially conforms with the recommendations of the applicable master plan;

The Property is within the boundary of the 1985 Damascus Master Plan and overall, the Application is in conformance with the Plan. Exhibit 17, pg. 13. Per Staff use as an “Animal Boarding and Care Facility” is consistent with the “Rural Residential” land use and the continued use of the property as a residence is consistent with the Plan’s goals of maintaining low density residential housing in the Rural Area. *Id.* The Applicant states the proposed use will provide additional stability to the community since dog parents will be able to maintain their employment and have an opportunity to enjoy the community, knowing their pets are safe and sound. Exhibit 3.

Conclusion: Based on this record, the Hearing Examiner agrees that the animal boarding and care facility will substantially conform to the recommendations of the Master Plan. The project maintains the residential use and character in the area. The project is consistent with the “rural residential” land use as designed in the plan. The Hearing Examiner agrees with Staff that the use is consistent with the Plan.

e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;

Staff identified no other approved Special Exceptions within the Neighborhood. *Id.* Staff concluded if approved the facility create the first conditional uses in the neighborhood but that it will not affect the area or alter the residential character because the owners intend to continue to live at the property and maintain the residential use and that the proposed addition of the animal care facility “will not adversely impact the area or alter the predominately residential nature of the Neighborhood” and that the animal care and use facility substantially conforms with the recommendations of the Plan. *Id.*

Conclusion: The Hearing Examiner agrees the proposed conditional use will not increase the number, intensity or scope of conditional uses sufficiently to affect the area adversely. She has already found that the project conforms to the Plan. The proposed changes to the building are all internal and will not impact the adjacent single family residential uses. For reasons stated in Part III.A.4 of this Report below, she agrees with Staff that the project will be compatible with the surrounding area.

2. Adequate Public Services and Facilities

f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:

i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or

ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and

Conclusion: The Hearing Examiner is not required to make a finding regarding the adequacy of public services and facilities in this case and Staff has determined that there are adequate public services and facilities to serve the proposed use. Exhibit 17, pg. 14. The property contains an existing residential use and the proposed use will not cause any increase in services or impact existing public services and facilities.

3. No Undue Harm from Non-Inherent Adverse Effects

g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;

ii. traffic, noise, odors, dust, illumination, or a lack of parking; or

iii. the health, safety, or welfare of neighboring residents, visitors, or employees.

Conclusion: This standard requires consideration of the inherent and non-inherent adverse effects of the proposed use on the surrounding area. Inherent adverse effects are “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a

particular use, regardless of its physical size or scale of operations.” *Zoning Ordinance*, §1.4.2. Inherent adverse effects, alone, do not justify the denial of a conditional use. Non-inherent adverse effects are “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” *Id.* Non-inherent adverse effects may be a basis to deny a conditional use, alone or in combination with inherent effects, if they cause “undue” harm to properties in the surrounding area.

Staff concluded that the following physical and operational characteristics are inherent to an independent living facility (Exhibit 17, p. 16):

- Vehicle trips;
- Dogs barking; and
- Onsite lighting

The Hearing Examiner agrees with Staff's list of inherent adverse characteristic of this use.

The Applicant testified that the primary mode of pickup and drop off for dogs will be in the existing van operated by the owners. T. 17. Thus reducing the number of car trips to and from the property and creating much less impact than a traditional child daycare. T. 18. The Applicant submitted a sound study conducted by CERAMI. See Exhibit 14. The study measured noise projections in 4 directions from the property line based on the plans for the indoor exercise, indoor kennel area and outdoor elimination breaks. *Id.* The study concluded that in the worst-case scenario of all the dogs barking at the same time indoors and two dogs barking outdoors will be below the 65 dBA daytime minimum. *Id.* The Applicant is not proposing any new lighting and will maintain the existing residential lighting around the property. Exhibit 17, pg. 13.

Staff did not identify any non-inherent adverse effects and found that the use would not be detrimental to the surrounding properties and present no adverse impacts on the health safety or

welfare of the neighboring visitors, residents or employees. *Id.* at 16. The Hearing Officer agrees with Staff that there are no non-inherent adverse effects from the proposed development and concludes that use and proposed development will not cause undue harm to the neighborhood from either non-inherent adverse effects or a combination of inherent or non-inherent adverse effects.

4. Compatibility with the Neighborhood

Several sections of the Zoning Ordinance require a proposed conditional use be compatible with the character of the surrounding neighborhood.

Section 59.7.3.1.E.1 includes the standards of approval below:

d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the [master] plan.

Section 59.7.3.2.E.2 contains an additional requirement for conditional uses in single-family detached zones:

2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.

The only alterations to the structure will occur within the existing residence and will not impact the character of the surrounding neighborhood. Exhibit 7.

Staff found that the project was compatible with the neighborhood (Section 59.7.3.1.E.1.2) because (Exhibit 17 at 13) because:

By utilizing the existing house and driveway, this application will not alter the character of the surrounding neighborhood. There are no proposed exterior or site changes proposed with this application.

Conclusion: Section 59.7.3.1.E.2.d examines whether the Plans goals are achieved in a manner compatible with the area. Section 59.7.3.1.E.2. requires an examination of the compatibility of the use with the character of the residential neighborhood in which it is located, regardless of the goals of the Plan.

The Hearing Examiner has adopted Staff's characterization of the existing neighborhood as being low-density residential and moderate-density residential development uses located adjacent to 2 HOA parcels. She already found that the use fulfills the goals of the Plan; she further finds that it does so in a manner that is compatible with the surrounding area. Key to this finding are the following factors: 1) the residential use will continue; 2) the dog play area and kennel will be inside the existing structure; 3) a maximum of two dogs will be outside at any given time for elimination breaks; 4) the Applicant has a proven track record in animal care through the existing walking and pet wellness check service; and 5) the exterior of the property will remain the same.

For these reasons, the Hearing Examiner finds that the use is compatible with the surrounding neighborhood in a manner consistent with the Plan and will not adversely affect the character of the surrounding area.

Section 59.7.3.1.E.3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.

Conclusion: The application satisfies all specific requirements for the conditional use, and with the conditions imposed, meets the standards required for approval.

B. Development Standards of the Zone (Article 59-4)

In order to approve a conditional use, the Hearing Examiner must find that the application meets the development standards of the RE-2C Zone, contained in Article 59.4 of the Zoning

Ordinance. Staff included a table (Exhibit 17, p. 12, shown below) in its report comparing the minimum development standards of the RE-2C Zone to what is proposed in this application.

Conclusion: Nothing contradicts Staff's assessment of compliance with the development standards of the Zone. The Hearing Examiner finds that the proposed facility complies with the standards of the RE-2C Zone.

Table 1: Standard Development and Parking Standards (RE-2C)

Development Standard Section 59.4.4.5.B	Permitted/ Required (59.4.4.5.B)	Animal Boarding & Care (59.3.5.1.B)	Existing/Proposed
Minimum Lot Area	2 Acres	2 Acres	3.20 Acres
Minimum Lot Width at Front Building Line	150 ft.		286 ft.
Minimum Lot Width at Front Lot Line (CU)	25 ft. (50 ft)		25 ft.
Maximum Lot Coverage	25%		1.11%
Minimum Front Setback	50 ft.	75 ft.	180 ft.
Minimum Side Setback	17 ft.	75 ft.	167 ft. & 139 ft.
Minimum Sum of Side Setbacks	35 ft.		306 ft.
Minimum Rear Setback	35 ft.	75 ft.	356 ft.
Maximum Height	50 ft.	50 ft.	Under 50 ft.
Accessory Structure Front Setback	50 ft.	75 ft.	N/A
Accessory Structure Side Setback	15 ft.	75 ft.	N/A
Accessory Structure Rear Setback	10 ft.	75 ft.	N/A
Vehicle Parking Requirement (Section 59.6.2.4.B)	2 Space for the dwelling unit= 2 space	1.00/employee plus 3 spaces= 3 spaces**	5 spaces

*This primary structure is existing. No sitework is being proposed.

**This is for non-resident employees and there will be no non-resident employees.

C. Use Standards for Animal Boarding and Care (§59-3.5.1.B.2)

The specific use standards for approval of an Animal Boarding and Care Facility are set out in Section 59.3.5.1.B.2, of the Zoning Ordinance.

Zoning Ordinance §59.3.5.1.B.2. Animal Boarding and Care Facility

1. Defined

Animal Boarding and Care means the structures or land used for the boarding, breeding, or care of dogs, cats, pets, fowl, or other domestic animals at a location other than a Veterinary Office/Hospital, not including animals raised for agricultural purposes.

Conclusion: The Applicant's Statement of Justification states that it meets this definition as does the Staff Report. Exhibits 3, 17. Ms. Jarvinen testified that the facility will be used for dog daycare and overnight kennel services. T. 10.

2. Use Standards

b. Where an Animal Boarding and Care is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

i. In the AR, R, RC, RNC, RE-2, RE-2C, RE-1 and R-200 Zones

(a) the minimum area is 2 acres, or the minimum lot area required for a detached house building type in the zone, whichever is greater.

The RE-2C zone requires a minimum of a 2-acre lot for a detached house. The Property is 3.20 acres and therefore is meeting the minimum lot area requirement for this use. Exhibit 17, pg. 9.

Conclusion: The certified zoning map confirms the zoning, and the Application identified the acreage. Exhibits 4 and 1. From the evidence in this record, the Hearing Examiner finds that this criterion for approval has been met.

(b) Exterior areas used to exercise, walk, or keep animals must be set back a minimum of 200 feet from any lot line and screened under Division 6.5.

Conclusion: The Applicant does not propose outdoor exercise area or dog runs. The play area will be indoor only. The Hearing Examiner finds that this standard has been met.

(c) All exterior exercise areas and runs must be fenced.

Conclusion: Dogs will only be outside for elimination purposes. The dogs will relieve themselves in a fenced area. The Hearing Examiner finds that this standard has been met.

(d) Animals are prohibited from being outdoors between the hours of 9 pm and 7 am.

Conclusion: The Applicant only proposes the dogs being outside for elimination purposes. No outdoor play area is proposed. The Hearing Examiner finds that this standard is met.

(e) Animals must be walked or exercised in on-site outdoor areas.

Conclusion: Dogs will only be walked outdoors for elimination purposes and dogs will be leashed when outdoors. The Hearing Examiner finds that this standard has been met.

(f) The sound level at the nearest property line must satisfy Chapter 31B.

Conclusion: The Applicant submitted an acoustical study estimating the noise from the dogs will not exceed 65dBA at the nearest property line during the day and not more than 55 dBA to the nearest property line in the evening. Exhibit 14. The study found no projected noise level to be above 50 dBA in any direction. *Id.* The Hearing Examiner finds from the record that the use satisfies the requirements of Chapter 31B.

(g) All buildings and accessory structures must be set back a minimum of 75 feet from any lot line.

Conclusion: No additional structures are being proposed and the use will be contained to the existing basement area of the main house. The house is well over the 75-foot minimum as

described in the above referenced table. Exhibit 17, pg. 10. The Hearing Examiner finds that application meets this standard.

(h) All litter and animal waste must be contained and controlled on the site.

Conclusion: The Applicant's statement of justification and waste plan described the daily cleaning routine for the use. Exhibit 3 and Exhibit 19. Specifically in the Applicant's waste management plan they identified 3 options for waste removal as discussed above. Exhibit 19. The Applicant further described the various options and at this time will choose to go with a 3rd party service that will pick up the animal waste. T. 18-19. Based on the record, the Hearing Examiner finds that any of the 3 options as presented by the Applicant for waste disposal meet the criteria and will contain and control the animal waste.

(i) Any accessory operation, such as the sale of pet food and supplies, must be in the statement of operations and must be limited as an accessory activity to a maximum of 20% of sales.

Conclusion: The Applicant will not have onsite sales for food or supplies. The Hearing Examiner finds this section to be in applicable to the application.

(j) The Hearing Examiner may regulate hours of operation. The Hearing Examiner may also regulate the number of animals that may be boarded, exercised, walked, or kept in runs or similar areas, and how the animals are boarded, exercised, walked or kept.

Conclusion: The facility may operate 24 hours a day for 7 days a week. Doggie daycare daytime stays will be from 7:30 am to 4:30 pm each day. The facility may include overnight boarding for up to 5 dogs. Two dogs on leashes will be outside at any time for elimination breaks. A maximum of 15 dogs may be onsite on any given day.

(k) If the proposed use is located in an area that uses well water and septic facilities, the applicant must prove that the use will not have any negative effect on groundwater or septic systems.

Conclusion: The Hearing Examiner finds that any of the three proposed waste management plans meet this standard. Pet waste will be removed immediately and will be disposed of in any one of the three proposed manners and will not affect the groundwater or septic systems.

(l) The applicant must submit the following:

(1) Acoustical engineering studies that demonstrate that the proposed use will meet required noise levels. The studies must show the worst-case scenario sound level (for example, full occupancy). The statement of operations must be sufficiently detailed to allow determination of how often the worst-case scenario sound level occurs.

(2) Detailed floor plans that show all the interior areas, including runs and kennels.

(3) Site plans that show the layout of all exterior areas used to exercise, walk, or keep animals.

Conclusion: The Applicant's acoustical engineering study concluded that the use, as proposed, at its maximum capacity of 15 dogs for a day care inside the basement and walking 2 dogs outside on leashes, would be within the residential noise limits of the Montgomery County Code. The Conditional Use site plan shows the existing house and existing driveway and parking area. There is a fenced area used for leashed elimination as part of this application. The Applicant submitted floor plans of the basement of the house to be used for the kennel. The application as submitted satisfies the requirements of subsection (l).

D. General Development Standards (Article 59-6)

Article 59.6 sets the general requirements for site access, parking, screening, landscaping, lighting, and signs. These requirements need be satisfied only “to the extent the Hearing Examiner finds necessary to ensure compatibility.” *Zoning Ordinance*, §59.7.3.1.E.1.b. The applicable requirements, and whether the use meets these requirements, are discussed below. The proposed use and Zone do not require the review of Division 6.3 for Open Space and Recreation, or Division 6.6 for Outdoor Storage. The Property is in a RE-2C zone which allows for Animal Boarding and Care as a conditional use and the Hearing Examiner finds project complies with all the standard method developments of the zone.

I. Access & Parking Related Requirements

The current ingress/egress to the Property is via an existing driveway entrance from Ridge Road. Exhibit 17, pg. 12-13. The development standard requires 3 or more parking spaces in a residential detached zone pursuant to Section 6.2.5.K. *Id.* The minimum rear setback for parking is equal to the rear setback required for a house. *Id.* Since the parking is not in the rear of the house, this section does not apply. Per the Standard the minimum side setback must equal two times the setback required for a detached house. In a RE-2C zone with a 17 ft. side setback, parking must be at least 34 ft. from the side lot line. *Id.* The Applicant proposes parking 167 ft. from the left-side lot line and 139 ft. from the parking to the right-side lot line. *Id.* The side setback for parking more than meets the minimum requirements. All existing parking will remain. Because the applicant does not propose customers come to the property, but instead will daily pick up/drop off the dogs to and from the facility, no additional parking is needed beyond what is required for the residence itself. *Id.*

Conclusion: The Hearing Examiner finds the access for the proposed use is adequate per the development standards. In addition, the Hearing Examiner finds the existing parking satisfies the development standard for the proposed use in the RE-2C zone.

2.. Site Landscaping, Screening, Lighting and Signage

The Applicant intends to continue to live in the single-family home that will house the use. T. 13-14. The Property is currently surrounded by trees and landscaping that does screen the existing single-family detached house from neighboring properties. *Id.* In addition, the Applicant is not proposing any new lighting, but will utilizing the existing exterior residential lighting. Nor is the applicant proposing any signage. *Id.* Should the Applicant wish to install any signage at a later date, the Applicant must seek to amend the Conditional Use before any signage can be approved.

Conclusion: Per the development standard the Applicant is not required to provide landscaping or screening. In addition, the lighting will not change, and no signage is being proposed. The Hearing Examiner finds that the Application meets the development standards for site landscaping, screening, lighting and signage.

IV. CONCLUSION AND DECISION

As set forth above, the application meets all the standards for approval in Articles 59.3, 59.4, 59.6 and 59.7 of the Zoning Ordinance.

Based on the foregoing findings and conclusions and a thorough review of the entire record, the application of Home Away from Home Pet Care (CU2024-05) for a conditional use under Section 59.3.5.1.B.2 of the Zoning Ordinance to operate an Animal Boarding and Care

Facility at 24432 Ridge Road, Tax Account number 00935098 which is located in Damascus, Maryland, 20872 is hereby **GRANTED**, subject to the following conditions:

1. The use is limited to an Animal Boarding and Care Facility.
2. No more than 15 dogs are to be onsite at any one time.
3. No more than 5 dogs will be onsite for overnight stays.
4. No more than 2 dogs are permitted to be outside at any given time for elimination breaks. When dogs are outside for elimination breaks, dogs must be leashed.
5. No outdoor dog run or exercise area.
6. No non-resident employees may be onsite.
7. The facility must operate in accordance with all applicable County noise regulations.
8. The Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the Department of Permitting Services

Issued this 27th day of December 2023.



Kathleen E. Byrne
Hearing Examiner