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July 14, 2015

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CASE NO. ZA 2013-2141(ZV)
ZONE VARIANCE
18603 West Topham Street
Reseda-West Van Nuys Planning Area
Zone : M1-1-RIO, P-1-RIO
D. M. : 177B121
C. D. : 3
CEQA : ENV 2008-537-MND-REC2
Legal Description : Lot B, PM 2620

Pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27-B, I hereby APPROVE:

a variance from Section 12.21-A,4 of the Municipal Code to allow 21 on-site parking spaces comprised of 16 vehicle spaces and 20 bicycle spaces (equivalent to five vehicle spaces) in lieu of the 25 spaces otherwise required, in conjunction with the continued operation of an existing dog care and wellness facility (kennel),

upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be



printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.

6. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action or proceedings against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
7. All conditions of extant Case No. ZA 2008-536(CU)(ZV) shall be complied with unless herein modified.
8. The applicant shall install and maintain in good condition a rubber liner around the metal section and/or lid of the trash can to ensure that noise will be reduced.
9. The applicant shall install a tuber mat in the trash area to mitigate noise when the trash is emptied.
10. No trash pick-up shall be scheduled prior to 7 a.m. Monday through Sunday.
11. The Conditions of this grant shall be retained at all times on site and be immediately produced upon request of the City of Los Angeles' Department of Planning, Department of Animal Services, Fire Department, Building and Safety Department , and Police Department. The manager and all employees shall be knowledgeable of the Conditions of the grant stated herein.
12. The authorization granted herein shall be valid until September 3, 2019 so as to coincide with the expiration of the term grant for the accompanying case ZA 2008-0536 (CU)(ZV). Thereafter, the applicant shall file for all the required entitlements under one entitlement request.
13. Within 30 days of the effective date of this action, a covenant acknowledging and agreeing to comply with all the terms and Conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

OBSERVANCE OF CONDITIONS - TIME LIMIT - LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not

utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

“A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its conditions. The violation of any valid condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code.”

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD – EFFECTIVE DATE

The applicant's attention is called to the fact that this variance is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any condition of this grant is violated or not complied with, then this variance shall be subject to revocation as provided in Section 12.27 of the Municipal Code. The Zoning Administrator's determination in this matter will become effective after JULY 29, 2015, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be

filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the statements made at the public hearing on May 22, 2015, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find that the five requirements and prerequisites for granting a variance as enumerated in Section 562 of the City Charter and Section 12.27-B,1 of the Municipal Code have been established by the following facts:

BACKGROUND

The subject property is a level, rectangular-shaped, approximately 23,106 square-foot interior lot with a width and depth of 128 feet and 180 feet, respectively. The property is split zoned, with the front 130 feet in depth zoned M1-1-RIO and the rear 50 feet in depth zoned P-1-RIO. The site is located within the River Improvement Overlay Supplemental Use District; the instant request is not affected.

The property is developed with a one-story, 12,651 square-foot industrial type building built in 1976. The building is currently used as a dog care and wellness facility (kennel), doing business as "K9s Only", with an outdoor exercise and training area to the rear of the building in the P zoned portion of the site. All kennels and primary dog training areas are located within the interior of the building, with some one-on-one training located in the exterior training area. There are no outdoor kennels for housing of animals at any time in association with the facility.

Adjoining properties to the north are zoned R1-1-K-RIO and developed with single-family dwellings. The adjacent property to the south, across Topham Street, is zoned PF-1XL-RIO and developed with the Metro Orange Line station with park-and-ride lot, bike path, and busway. The adjoining properties to the east and west are zoned M1-1-RIO and P-1-RIO and developed with industrial buildings with auto repair and warehousing uses.

Topham Street, adjoining the property to the south, is a Local Street dedicated a width of 55 feet, and fully improved.

Previous zoning related actions on the site include:

Case No. ZA 2008-0536(CU)(ZV) – On August 19, 2009, the Zoning Administrator approved for a term of 10 years a Conditional Use to permit the continued use and

maintenance of a dog care and wellness facility within 500 feet of a residential use and a Variance to permit the use of a portion of the P Zone for an exterior, enclosed one-on-one dog training area and separate enclosed dog exercise area, all on a 23,010 square-foot property in the M1 and P Zones.

Building and Safety Order to Comply No. A-1455856 – On May 8, 2007, the Department of Building and Safety issued an Order to Comply for the operation of a dog kennel/boarding in the M1 Zone without a conditional use permit. Documentation indicates the applicant originally submitted for a conditional use permit in February 2008 but was subsequently advised by the Department of Building and Safety that he would need to resubmit the application as a zone variance as a prerequisite for continued operation of the facility.

Certificate of Occupancy – Issued January 27, 1977, for a 1-story 110' x 115' manufacturing building with 25 required parking spaces provided.

Case No. CPC 22440 – On March 5, 1972, Ordinance No. 143,015 became effective changing the zone on the property from RA-1 to M1-1 and P-1.

MANDATED FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 and Municipal Code Section 12.27 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

- 1. The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The variance entails a request to provide a reduced number of the parking spaces otherwise required by the Municipal Code in order to maintain the continued use of a dog care and wellness facility (kennel). The facility has an outdoor exercise and training area at the rear P-zoned portion of the site. The subject use was authorized under a prior action through a Conditional Use, which is required in the M-1 Zone, whenever a kennel is located within 500 feet of a residential zone, and a Zone Variance to have an outdoor exercise and training area in the P Zone, as otherwise not allowed by the Code.

In the prior grant, the applicant did not seek relief from the Municipal Code parking requirements in conjunction with the use because the applicant had an agreement to provide off-site parking on a separate lot subject to the recording of a covenant. A copy of a covenant and agreement was submitted to the file indicating that eight off-site parking spaces would be provided at 18625 Topham Street, two lots to the west of the site. With this assurance, the Zoning Administrator approved the Conditional Use and variance requests under the condition that all off-site parking comply with the provisions of Section 12.26-E of the Code, which requires the owner of the off-site lot to record an agreement as a covenant running with the land, providing that the owner continue to maintain said parking spaces so long as the use they are intended to serve is maintained. Subsequent to the approval, however, the applicant was unable to have the owner of the off-site parking location record

the agreement and thus the parking requirements have not been met. The subject establishment has been in operation without providing the required parking, hence the instant request for a variance.

Specifically, the variance request is for a reduction of four parking spaces from the 25 spaces required both by the Municipal Code and the Certificate of Occupancy that was issued for the structure in 1977. Section 12.21-A,4(c) of the Code requires animal kennels to provide one automobile space per 500 square feet of building. The subject building is 12,651 square feet; therefore 25 spaces are required. The applicant seeks to utilize the provisions of the Bicycle Parking Ordinance to provide the equivalent of five automobile parking spaces. As proposed, the existing 16 automobile parking spaces will be maintained, while 20 new short-term bicycle parking spaces will be added (equivalent to five automobile spaces, as one automobile parking space can be substituted with four bicycle parking spaces). Thus, the variance is to allow 21 automobile parking spaces in lieu of the 25 required.

The applicant has noted that there are 16 employees divided amongst three shifts and that some of them use a bicycle as their preferred mode of transportation to get to work. The nature of the business is for clients to drop off and pick up their dogs within a short turnaround time. Thus the on-site parking appears to be ample to accommodate the facility's parking needs. An outdoor area for the bicycles is being provided which will not take up any existing parking spaces. To provide the additional four required vehicle parking spaces would necessitate the removal of the building to reduce the floor area, or the reduction of the outdoor exercise/dog training area which was approved previously on the P1 Zone. Such options would reduce the viability of the facility's operation and the services it can provide unnecessarily given that the parking demand can be adequately met.

At the public hearing on this matter, a former member of the Tarzana Neighborhood Council, testified and submitted a letter dated February 26, 2014 memorializing the Council's action on the request. The neighborhood council voted to support the request with conditions that the variance have a term limit tied to the prior 2009 entitlement permitting the use, until 2019. The neighborhood council also recommended additional conditions related to trash collection and trash noise that were proposed in order to mitigate noise impacts to a residential neighbor to the rear. At the hearing, the applicant's representative added that the suggested operational conditions by the neighborhood council had already been implemented. A representative of the Office of the Third Council District noted that the office had no position but that there had been no issues and also recommended that the grant be tied to the term limit of the 2009 entitlement.

Given the nature of the operation and the staggered hours of drop-off and pick-up of dogs, the provision of an additional four parking spaces is not likely to correct any existing parking deficiencies. No additional on-site parking can be accommodated without the demolition of the existing building, which is an unnecessary hardship and would result in practical hardship, or without the removal of the play area from the P Zone which was approved for such use by the prior variance. In this instance, the strict application of the zoning regulations would impair the applicant from continuing the operation of an existing use and making reasonable use of the property due to the physical inability to provide parking on-site.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

These special circumstances include the nature of the use, which is not one that has a constantly high parking demand. This is also a fully improved property which has maximized the available land for the building and its existing parking. The property is also directly adjacent to the Orange Line station park-and-ride lot which provides a public transit option.

3. **Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

This establishment has already had a prior approval which was based on the provisions of required parking at an off-site location. Due to circumstances, the other landowner was reluctant to provide parking through a covenant which could have impaired the ability to develop said landowner's property in the future. Thus, a variance to provide parking off-site by lease would be the likely scenario for the additional four spaces but the applicant has not acquired any potential lease options. The facility has operated under the current scenario for years without any discernible parking impact on the surrounding area. The grant allows for the ability to continue the use and supplement it with additional bicycle parking in a manner which allows the ongoing use of the property and facility.

4. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

As conditioned, the grant should result in the retention of parking that meets the needs of the facility and supplements the existing parking inventory though the provision of 20 new and secured bicycle racks. As noted, the conditions suggested by the neighborhood council have been included in the grant. This grant is tied to the 2009 entitlement which establishes operational conditions which remain in effect. A term grant has been established which ends on September 3, 2019 which is the date when the related 2009 conditional use and variance case will also term out. This will allow the applicant to tie both cases together so they may be considered simultaneously and not fragmented. Thus, as proposed, the request is not anticipated to be materially detrimental to public welfare or injurious to surrounding properties.

5. **The granting of the variance will not adversely affect any element of the General Plan.**

The Reseda-West Van Nuys Community Plan designates the property for Limited Manufacturing land uses, with the corresponding zones of CM, MR1, M1, and P and Height District No. 1.

The Community Plan's goals and objectives seek to encourage appropriate uses within the existing environs. The applicant has demonstrated that the facility will continue to operate with consideration of the adjacent residents and businesses, fulfills a desired service, and is compatible with the neighborhood in both appearance and use.

ADDITIONAL MANDATORY FINDINGS

6. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
7. On February 24, 2015, a Reconsideration of the previously issued Mitigated Negative Declaration (ENV 2008-537-MND-REC2) was issued for the proposed project. On the basis of the whole of the record before the lead agency including any comments received, the lead agency found on the original environmental document that with imposition of the mitigation measures described in the MND and adopted as part of the conditional use approval for the proposed facility, there is no substantial evidence that the proposed project will have a significant effect on the environment. The reconsideration and the original Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street.

Inquiries regarding this matter shall be directed to Michael Sin, Planning Staff for the Office of Zoning Administration at (213) 978-1345.



LOURDES GREEN
Associate Zoning Administrator

LG:MS:lmc

cc: Councilmember Bob Blumenfield
Third District
Adjoining Property Owners