



## City of Saint Paul

### Signature Copy

Resolution: RES 11-11

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**File Number: RES 11-11**

Memorializing City Council action taken November 3, 2010 reversing the decision of the Planning Commission and granting the appeal of Sandra Belisle for a Change in Nonconforming Use Permit to add a pet day-care and pet-boarding service for the property commonly known as 360 Clifton Street in Saint Paul.

**WHEREAS**, Sandra Belisle, in PED Zoning File No. 10-506-183, made application to the Saint Paul Planning Commission (hereinafter, the Commission) for a Change of Nonconforming Use Permit to add a pet day-care and a pet-boarding service to an already existing pet-grooming business located at property commonly known as 360 Clifton St. (PIN No. 112823130033) and legally described as: Ramseys Sub Of B21 Stinson Br Lot 34 Blk 21; and

**WHEREAS**, the Commissions Zoning Committee, on July 8, 2010, pursuant to Leg. Code § 61.303, duly conducted a public hearing where all persons present were afforded an opportunity to be heard and, at the close of the hearing, the Committee laid the matter over with instructions to staff to make additional inquiries into the application and to present its findings at the Committee meeting on September 2, 2010; and

**WHEREAS**, on September 2, 2010, the Zoning Committee took up the matter of the said nonconforming use application and at the conclusion of the testimony, based upon the record, staff report, and the testimony presented at the public hearings, as substantially reflected in the Committees minutes, moved to recommend that the Commission deny the application; and

**WHEREAS**, on September 10, 2010, the Commission took up the recommendation of the Zoning Committee and the Commission, based upon all the files, records, and testimony, moved to deny the application based upon the following findings of fact as set forth in Planning Commission Resolution 10-72, which is incorporated herein by reference:

1. The applicants current nonconforming use permit was approved by the Planning Commission on December 15, 2006, subject to the following conditions: 1. The number of employees/independent contractors shall be limited to 7. 2. The hours of operation shall be Monday through Saturday, 7:00 a.m. to 8:00 p.m. 3. Four off-street parking spaces shall be provided at the rear of the property and constructed as required by site plan review staff in the Office of License, Inspections, and Environmental Protection (LIEP). 4. Signs for the business shall comply with the sign regulations for size and placement unless a variance is approved by the Board of Zoning Appeals.

2. It appears that the property is in compliance with conditions 1, 2, and 4. However, the garage has been removed, and there are now only 1 or 2 off-street parking spaces on the lot rather than the 4 required by the Planning Commission in the 2006 permit. The area previously occupied by the garage has been fenced in along with the rest of the back yard and is now used for outdoor storage and a dog exercise area, based on photos provided by the applicant. Further, as part of this application, on-street parking for both employees and customers is proposed.

3. In response to a complaint that animal boarding was occurring on the site, staff in the Department of Safety and Inspections (DSI) notified the applicant that animal daycare and

boarding could not occur without a license for these activities, and that a rezoning of the property to an industrial classification would also be needed, based on a Zoning Administrators 2007 statement of clarification that animal day care was similar to uses in the IR, I1, and I2 districts. The applicant is instead applying for a change of nonconforming use.

The following changes are being proposed to the business operation to accommodate the new uses: 1) one additional staff member would be added, bringing the total to eight (8) plus the owner. 2) The use would expand to include an outdoor exercise area in the back yard for the day care and boarded animals, where, according to the application, they would spend much of the day. These animals would be supervised by the additional staff person. The application does not make clear the hours of work for the additional staff, including if the staff would stay at the business at all times when animals are being boarded or if the animals would at times be in the building or outdoors without an employee or the owner present. 3) Animals would be boarded for up to eight (8) days. 4) The applicant states that the number of boarders and length of stay will be strictly limited, but does not provide a specific total number of animals that would be boarded at any one time. According to the plan and photos provided by the applicant, three cat cage areas and six dog cage areas are shown. It appears that some smaller cages would be stacked, so more than nine animals could potentially be accommodated. 5) The business would have one or two staff present to supervise the boarded animals for some duration of time on Sunday, increasing activity on the site to seven days per week, although the level of activity would be less on Sunday because the pet grooming business would be closed.

4. Leg. Code § 62.109(c) states: *The planning commission may allow a nonconforming use to change to a use permitted in the district in which the nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the nonconforming use is first allowed, if the commission makes the following findings:*

a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use.* This finding is not met. The existing pet grooming business is classified as a service business, similar to the previous beauty shop use. These businesses are first permitted in the TN1 Traditional Neighborhood and OS Office Service districts. The Zoning Administrator has issued a statement of clarification that finds commercial animal daycare (having more than three animals total) is similar to uses first permitted in the IR Light Industrial Restricted zoning district. The statement of clarification also found that animal day care for no more than three total animals (including the homeowners animals) is a permitted home occupation. While the applicant has not provided a specific number of animals for the day care and boarding, the basement appears to be set up for more than three animals. Therefore, the proposed use is first permitted in a less restrictive district than the existing use, and it is not equally or more appropriate to the neighborhood than the existing nonconforming pet grooming use.

b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding may be met. The applicant states that day care and boarded animals will arrive by appointment, similar to the existing pet grooming business. Depending on the number of animals in the day care or being boarded, the traffic generated may be similar to the existing pet grooming business.

c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is not met. The daycare and boarding proposal states that the animals will spend most of each day in an outdoor exercise area, which creates an outdoor use where one is not present now. The application states that an employee will supervise the animals and will clean up after them. However, the zoning administrators statement of clarification states that animal day care must be within a completely

enclosed building in the IR and I1 districts, and that outdoor exercise areas are permitted in I2 districts only if the property does not adjoin a property occupied by a residential use. In this instance, besides the fact that the property is zoned R4 One-family Residential, it also adjoins a residential use to the south and abuts a residential use to the east. Having an unspecified number of animals outdoors during the day creates a situation that could be detrimental to the existing character of development in the immediate neighborhood and is inconsistent with the zoning administrators statement of clarification. Depending on the operation of the business and the level of supervision provided for the animals, the use may be one that does not endanger the public health, safety, or general welfare.

*d. The use is consistent with the comprehensive plan.* This finding is met. The Randolph and Victoria intersection is within an area identified as mixed use corridor, on the future land use map of the Land Use chapter of the Comprehensive Plan. The plan finds that mixed use corridors are suitable for a mix of residential, commercial, retail, office, small scale industry, institutional, and open space uses.

5. Although not required by the zoning code for a change of nonconforming use, the applicant has also submitted a consent petition for the proposed use signed by owners of seven of the ten parcels within 100 ft. of 360 Clifton.

**WHEREAS**, on September 20, 2010 and pursuant to Leg. Code § 61.702(a), Sandra Belisle, in PED Zoning File No. 10-900-721, duly filed an appeal from the determination made by the Commission and requested a hearing before the City Council for the purpose of considering the actions taken by the Commission in this matter; and

**WHEREAS**, the City Council, pursuant to Leg. Code § 61.702(b) and upon notice to affected parties, on November 3, 2010, duly conducted a public hearing on the said appeal where all interested parties were given an opportunity to be heard; and

**WHEREAS**, the City Council, having heard the statements made, and having considered the application, the report of staff, the record, minutes, and recommendation of the Commissions Zoning Committee and the Commissions resolution in this matter; **DOES HEREBY**

**RESOLVE**, that the Council of the City of Saint Paul, pursuant to Leg. Code § 61.704, hereby reverses the decision of the Planning Commission in this matter based upon the Councils determination that the applicant has demonstrated that the Commission erred with respect to its findings No. 4(a) and 4(c) as demonstrated by the following findings of the Council:

The Council finds that the applicants proposed pet-related uses are equally appropriate in this particular neighborhood as the applicants existing pet-related use. Provided the applicant abides by the following conditions, the applicants uses will not be detrimental to the existing character of development in the neighborhood or endanger the public health, safety, or general welfare. Accordingly, the Council, imposes the following additional conditions upon the pet-related uses a 360 Clifton St:

- The conditions imposed in the Commissions 2006 decision remain in full force and effect.
- Up to two (2) additional employees or independent contractors as the case may be, may be added for the purpose of conducting pet-boarding or pet-daycare.
- No more than a six (6) dogs may be boarded upon the premises. A different number of dogs may be boarded provided that animal control determines that the number of dogs boarded will be safe.
- All pet-related uses comply with all applicable laws and licensing requirements.
- No dog(s) may be left outdoors unattended when the grooming business is closed.

AND, BE IT FURTHER RESOLVED, that the appeal of Sandra Belisle be and is hereby granted, subject to the said conditions;

AND, BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Sandra Belisle, the Zoning Administrator, the Planning Commission and Animal Control.

At a meeting of the City Council on 1/5/2011, a motion was made by Dave Thune, that this Resolution be Adopted. The motion passed.

Yea: 7 Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, City Council President Lantry, Councilmember Thune, and Councilmember Stark

Nay: 0

Vote Attested by  Date \_\_\_\_\_  
Council Secretary Trudy Moloney

Approved by the Mayor  Date \_\_\_\_\_  
Chris Coleman