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August 1st, 2024

Committee of Adjustment  
City of Ottawa  
110 Laurier Avenue West,  
Ottawa, ON  
K1P 1J1



Our file: 1614-001

**ATTN: Michel Bellemare**  
Secretary Treasurer, City of Ottawa, Committee of Adjustment

**RE: Dogtopia**  
**Planning Act Section 45(2)(b) – Permission**  
**CP REIT ONTARIO PROPERTIES LIMITED**  
**c/o Dogtopia of Orléans (14413008 Canada Inc.)**  
**111A-1224 Place D’Orléans Drive, Orléans,**  
**City of Ottawa**

Mr. Bellemare,

GSAI is assisting Dogtopia of Orléans (14413008 Canada Inc.) to process this application to the City’s Committee of Adjustment to **allow for the overnight care of dogs in the existing Dogtopia Animal Care Establishment operating in Unit 111A of the property municipally addressed as 1224 Place D’Orléans Drive, in the City of Ottawa (the “proposal”)**. This Planning Justification Letter (the “Letter”) has been prepared to assess the suitability of the proposal under the criteria established in Section 45(2)(b) of the Planning Act. The following sub-sections form the contents of this Letter:

- 1. Subject Property**
- 2. Proposal**
- 3. Dogtopia Business Summary**
- 4. Unit 111A - 1224 Place D’Orléans Drive – Dogtopia**
- 5. Adjacent and Surrounding Land Uses**
- 6. Official Plan**
- 7. Analysis – Section 45(2)(b)**
- 8. Conclusion and Administration**

**Appendix A – Noise and Odour Mitigation**

**Appendix B – Zoning By-law Table 84 – Kennels and Dog Runs**

### **Subject Property**

The subject property is located in Ward 1 – Orléans East-Cumberland and is opposite the Place d’Orléans shopping mall, south of Ottawa Road 174 and north of St. Joseph Boulevard. The subject property has a total overall area of approximately 1.72 hectares (4.25 acres). A No Frills, Fit 4 Less, Orléans Urgent Care Clinic and other retail, office and service uses occupy the two other existing commercial buildings found on the subject property. A surface parking lot that serves the overall subject property and largely occupies the remainder of the land area. Vehicular and pedestrian access to the subject property is provided via a signalized intersection from Place d’Orléans Drive. There are no existing easements on the subject property.

### **Proposal**

The proposed Permission under Section 45(2)(b) seeks to modify the existing and allowed Animal Care Establishment use to also permit overnight care of dogs restricted only to unit 111A and to allow for the business operations to extend into the evenings, outside of normal business hours.

Specifically, to amend the Animal Care Establishment definition specific to Unit 111A to mean *“an establishment for the indoor daytime and overnight care, grooming and training of household pets, but does not include a kennel or an animal hospital.”*

### **Dogtopia Business Summary**

Dogtopia is a leading provider of modern, state-of-the-art dog care services in North America and provides spa services, grooming, training, as well as overnight, daytime, evening, and weekend dog care for dog-owners. Dogtopia does not operate traditional kennels largely found in rural environments and with some component of outdoor space. There are no exterior dog runs or relief areas as all activities are performed internally to the unit. Dogtopia businesses are located within commercial and retail plazas and are designed specifically to eliminate any noise or odours associated with having a group of dogs in one building. The dog care is provided by certified canine coaches and safety experts who operate based on a set of standard operating procedures. Dogs are provided with specific room assignments by dog size and temperament and home-style specialized crates provide comfortable, clean and safe accommodation. Dogtopia accommodates pet owners needs by allowing for overnight stays in addition to the primary dog daycare function and for when owners are out-of-town or require short to medium term accommodation for their dogs.

Dogtopia has responded to an in demand and needed community service by creating the self-contained establishments that allow for dogs to be cared for through daytime and night time hours with no impact to proximate land uses or tenants in commercial and mixed-use settings in North America.

**Unit 111A - 1224 Place D'Orléans Drive – Dogtopia**

As shown on Figure 1 below, Dogtopia is located and operating in the one-storey commercial building central to and generally nearest the south side of the subject property. Dogtopia is approximately 81 metres from Place d'Orléans Drive, 12 metres from the property lines and 22 metres to the houses on Rocque Street and 95 metres from the Highway 417 off-ramp.

Dogtopia has a total internal floor area of approximately 500 square meters. The principle entrance to Dogtopia is from the east side of the building, nearest to the parking lot. Patrons enter through this entrance to the lobby area where dogs are dropped off. Animal care areas are separated and include The City, Park & Beach play areas. A dog spa is located at the rear of the unit. Laundry, offices, washrooms, storage, hallways and cleaning supply rooms occupy the remainder of the floor area within the unit. Current hours at the facility are from 0700 to 1900 hours. Appendix A appended to this letter outlines the business operations, odour, sanitary, noise and mitigation strategies constructed through the Building Permit recently approved.

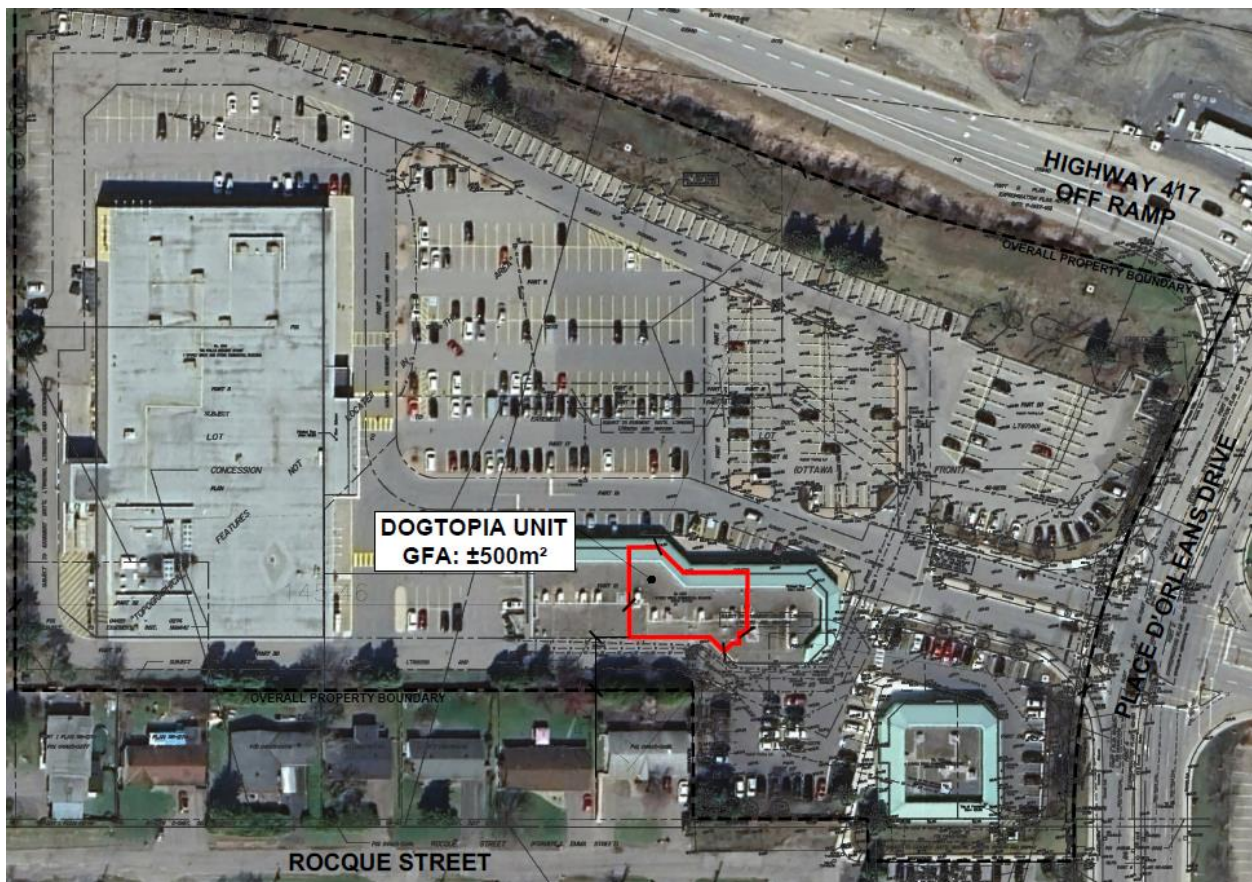


Figure 1 - Dogtopia Unit 111A

### **Adjacent and Immediate Surrounding Land Uses**

There are two existing businesses currently operating in units adjacent to Dogtopia – to the west, a massage and treatment clinic and to the east, a hair salon. Residential single-detached houses exist immediately adjacent to the subject property and along the southern lot line. The single detached properties are approximately 20 metres from the Dogtopia unit with the houses further recessed into the properties. A rear lane separates the houses from the subject property along with a retaining wall and board fence.

Internally, the boarding areas have been placed away from the rear lane to ensure that where there are existing houses opposite the lane, homeowners will not experience any overnight noise from the overnight boarding proposed. This important facet of the development application is discussed further in **Appendix A – Noise and Odour Mitigation**.

### **Official Plan**

The subject property is designated Hub with an Evolving Neighborhood overlay by the City of Ottawa Official Plan. The Hub designation permits both residential and non-residential uses and is intended to be a focal area to accommodate mixed use and transportation-supportive development around existing and planned transit stations. A mix of residential, commercial, service and community uses are generally supported. As outlined in the Official Plan, the planned function of Hubs is to “*concentrate a diversity of functions, a higher density of development, a greater degree of mixed uses and a higher level of public transit connectivity.*” Hubs permit a range of residential and non-residential uses. Dog care is a necessary service for dog-owners and novel approaches to accommodate pet-owners requiring temporary overnight stays corresponds to areas planned for residential intensification. The subject property is further classified as a Neighbourhood and ‘Suburban’. Section 5.4.4 of the Official Plan provides direction for new development in the Suburban Transect:

*5.4.4 Provide direction for new development in the Suburban Transect*

*e) Hubs and corridors that act as the focal point of the neighbourhood, consisting of higher-density residential, office employment, commercial services catering to neighbourhood, as well as neighbourhood or regional needs, and community infrastructure such as recreational facilities or institutional uses;*

Including overnight care of dogs falls within the category of *commercial services catering to the neighbourhood* as the proposed addition of overnight care will alleviate and provide a service that is extremely helpful and beneficial to dog and owner’s alike. The proposed overnight boarding use will complement the existing Animal Care Establishment and provide a community service to the Suburban Transect neighbourhood.

Section 6.1.1 3. h) provides that the Official Plan will “*Prohibit uses causing or likely to cause nuisance due to noise, odour, dust, fumes, vibration, radiation, glare or high levels of heavy truck traffic.*” This policy implies that high-nuisance uses should continue to be separated from sensitive uses to achieve compatibility between land uses. With respect to the proposal, visual, noise, and



odour nuisances are mitigated to avoid impacts to adjacent units and the surrounding neighbourhood and as demonstrated in Appendix 1 appended to this letter and as tested in the Valcoustics Noise Study included with this submission.

Section 2.2.4 – Healthy and Inclusive Communities contains policies encouraging the development of healthy, walkable, 15-minute neighborhoods that feature a range of housing options, supporting services, and amenities. This section of the Official Plan speaks to the necessity of providing community and neighbourhood amenities and services that meet the social, health and recreational needs of the community. As demonstrated in the Petition included with this application, Dogtopia services are desired by the community and provide a service which is in need, rare and in the interest of the public and will contribute to the general welfare of the neighbourhood. The proposal will facilitate a needed community service for dog owners in a healthy and safe environment and will provide a new facility to service these community needs.

The proposal will ultimately contribute to the mix of uses envisioned for the area and provide a much-needed community service in an area expected to urbanize with many existing and future pet-owners.

### **Analysis**

The following demonstrates how the proposal meets Section 45(2) of the Planning Act. Section 45(2)(b) provides that:

*(b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. R.S.O. 1990, c. P.13, s. 45 (2).*

The intent of the Committee’s powers in the Planning Act is to allow for flexibility in the Zoning By-law if a related or similar use is defined in general terms and conforms with the already permitted uses in the Zoning By-law.

Given the existing and permitted Animal Care Establishment use, the Committee of Adjustment and Section 45(2)(b) are the appropriate avenues to slightly modify the existing permissions of the Animal Care Establishment to allow for the overnight care of dogs and as explained for the reasons below.

### **Planning Act – Section 45(2)(b)**

City of Ottawa Zoning By-law No. 2008-250 zones the subject property as Mixed-Use Centre Zone (MC[2179] H(48)), which permits a variety of commercial and service-related uses including an Animal Care Establishment and Animal Hospital, among other uses. The overall property is subject to Exemption 2179, which relates to building height, not relevant to the proposal. The Holding (H) suffix establishes the maximum permitted height.

Dogtopia is currently operating the Animal Care Establishment in Unit 111A. The Animal Care Establishment allows for the “*caring, grooming, and training of household pets, but does not include a kennel or an animal hospital.*” The Zoning By-law definition of Animal Care Establishment suggests that the care of dogs during daytime hours is part of normal operations. However, the overnight boarding of dogs for medium to short periods of time is not specifically permitted under the definition of Animal Care Establishment. While not specified, it is understood and through general interpretation of the definition, that an Animal Care Establishment allows for the daytime care of dogs through an unspecified window of time.

Alternatively, Kennel allows for “*a building, structure or premises or portion of any of the foregoing, used for the overnight boarding or raising of more than three dogs over the age of 20 weeks, or more than five cats over the age of 20 weeks and which may include any of the activities permitted as part of an animal care establishment.*”

Part 3 of the City’s Zoning By-law provides for Specific Use Provisions that are intended to apply for a particular land use and in this case Kennels. Section 84 – Kennels applies directly to Kennels and includes mechanisms to test the suitability of a Kennel, in context to the surrounding area. The measures are tested based on the number of dog runs associated with the Kennel and the setbacks required to accommodate the outdoor nature of a dog run. The regulations of Table 84 are informed and tested by the number of Dog Runs proposed in an application. For reference, a Dog Run is defined a “*... an enclosed outdoor extension of one or more dogs’ individual indoor living space in association with a kennel*”

Dogtopia operates entirely self-contained establishments with no outdoor dog runs. Section 84 – Kennels, would seemingly not apply as there are no dog runs proposed. Notwithstanding the above intent to consider Kennels inclusive of dog runs, an assessment of Table 84 is provided for in **Appendix 2** to this letter. The proposal meets regulations a.) through e.). Regulations f.) and g.) relate specifically to Dog Runs and are not relevant to the proposal and Sections g.) b.) provides for an opportunity to locate kennels should appropriate noise mitigation be implemented to not nuisance surround dwellings.

Another related definition to dog care is Kennel Structure which “*... includes dog pens, dog runs and other dog enclosures, but excludes perimeter fencing of the site*”. Dogtopia does not cage or house dogs in pens – the dogs are accommodated in home-style specialized crates that provide comfortable, clean and safe indoor accommodation. The definition also seems to imply that perimeter fencing is natural to a Kennel and further suggesting that it is an outdoor use in nature.

There is an important distinction between a Kennel, which contemplates outdoor dog runs and breeding, and the proposal. The proposed overnight care will be strictly internal to Unit 111A and there will be no outdoor dog runs, breeding or other facilities associated with a Kennel. Neither definition accurately captures the modern service offered by Dogtopia whereby animals are cared for during daytime hours but also during nighttime hours in entirely self-contained premises. Dogtopia has created an overnight care solution that is not entirely consistent with the Kennel definition and intent of the Zoning By-law Section 84 for Kenneling.

The City's Zoning By-law does not currently contemplate this unique business alternative. Modification to the existing and allowed Animal Care Establishment definition to also permit overnight care restricted only to unit 111A will allow for the business operations to extend into the evenings, outside of normal business hours and to be achieved without introducing a new permission for Kenneling or Dog Runs.

Zoning By-law General Rules of Interpretation (Sections 10-28) establishes provisions for flexibility when interpreting the Zoning By-law:

*16. This by-law is remedial in nature and shall be interpreted in a benevolent manner and read and applied in a way that will ensure the effective implementation of its provisions and intent.*

*17. Without limiting the generality of section 16, where a situation arises that is not covered by a specific regulation, the provisions of this by-law apply by analogy to that situation, so that the application that is made of section 16 is the one that ensures the effective implementation of this by-law.*

An analogy establishes a common set of goals, values or objectives. The proposal is a new business concept that shares elements of Kenneling but may be more-related to an Animal Care Establishment in nature. Models for the overnight care of dogs have been improved upon to respond to urbanizing conditions that will demand more dog services. Dogtopia provides dog-owner's freedom and solutions for animal care in urgent, short and medium term situations and enjoyment for pets. The proposed overnight boarding is similar to the existing permitted uses (Animal Care Establishment) and will not impact the function of existing permitted or planned uses as the Dogtopia is entirely self contained and will not generate any noise or odour issues. The overnight component is operated at off-hours (overnight) and when nearby businesses are closed.

Recognizing the proposals self-contained nature, it represents a minor deviation from existing permitted uses and will not impact or restrict future tenants from occupying any of the other buildings within the subject property's commercial plaza. As demonstrated above and in Appendix 1, there is no measurable impact on adjacent tenants or homes. The presence of Dogtopia will facilitate a needed community service for dog owners in an enclosed, self-contained, healthy and safe environment.

#### Other Regulations, By-laws and Permitting Requirements

The consolidation of the City of Ottawa Licensing By-law (2002-189) governs the licensing and regulating of certain businesses in the City. Following a successful Decision at the Committee, a business license would be obtained from the Licensing department. The Licensing By-law provides a definition for Boarding Kennel:

*a Boarding kennel refers to any premise or part thereof where more than three (3) dogs over the age of twenty (20) weeks, or more than five (5) cats over the age of twenty (20) weeks, are boarded, raised or trained, for any period of time that includes an overnight stay, for remuneration*

The Licensing By-law definition provides for overnight stays but excludes breeding, buying and selling of dogs that is understood to be associated with Kenneling in the City's Zoning By-law. The new Boarding Kennel definition is more consistent with the Dogtopia business operations. It should also be noted that outdoor dog runs are excluded from the Boarding Kennel definition. While Boarding Kennel is not a defined term in the City's Zoning By-law or expanded on in Section 84, it is more similar in nature to the proposal as dogs would be provided with the opportunity, in addition to daytime stays, for an overnight stay with remuneration provided by dog-owners.

Further, the Kennel By-law and Section 50 of the City's Animal Care and Control By-law 2003-77 allow for the as-of-right boarding of up to three (3) dogs with no limitation. An Animal Hospital is also a permitted use in the Zoning By-law and allows for the shelter of animals during the period of recovery.

The property owner's lease with Dogtopia stipulates requirements related to business operations and requires that no noise will be generated by dogs, no tenant will be disturbed and that noise walls be installed on shared walls with adjacent tenants. The City's Noise By-law would also regulate any undue noise coming from the premises.

On August 24, 2023, a Building Permit (#A23-004162) was issued by the City of Ottawa's Building Department to permit occupancy of the Dogtopia the Animal Care Establishment. The building layout and internal fitting are designed and built to accommodate overnight stays and mitigate all noise as evidenced by the extensive efforts (see Appendix 1) to sound-proof and self contain all walls and apertures. Since issuance in August 2023, Dogtopia has been operating the Animal Care Establishment with the daytime care of dogs.

### **Conclusion and Administration**

Generally speaking, the Committee of Adjustment's purpose and powers are to allow for the flexibility to slightly alter the Zoning By-law in certain circumstances. The generality of the Animal Care Establishment definition and the historical Kennel definition that contemplates outdoor dog runs and breeding do not accurately capture Dogtopia' modern, contained establishments for daytime and overnight dog care. In relation to dog care, the permitted uses are defined in general terms and make no consideration for the specialized use contemplated in this instance.

In conclusion, this proposal under Section 45(2) of the Planning Act is appropriate for the reasons outlined above. Applications submitted under Section 45(2)(b) allow for the use of a property for a similar use already generally contemplated in the Zoning By-law but not entirely prescribed in and captured by definition. It is our opinion that Section 45(2)(b) is the appropriate and most effective mechanism to implement a minor change of adding overnight care to the existing, operating and similar Animal Care Establishment use. The proposed revised definition of Animal Care Establishment would meet the intent of the By-law and is similar to uses already permitted in the Mixed-Use Centre Zone.



**To amend the Animal Care Establishment definition specific to Unit 111A to mean “an establishment for the indoor daytime and overnight care, grooming and training of household pets, but does not include a kennel or an animal hospital.”**

We would request that consideration be given to any of the following methods to secure the overnight care permission to Unit 111A:

- An amended Animal Care Establishment definition inclusive of daytime and overnight care.
- Application of a binding Condition to the Decision and/or an appended sketch illustrating the size and GFA to the internalized condition within Unit 111A only.
- Including a Condition in the Decision requiring an Agreement to be registered on title between the City and the owners which would secure the overnight care use to Unit 111A and to restrict uses normally associated with kenneling, including breeding and outdoor dog runs. Planning Act Committee Sections 45 (9) and (9.1) suggest and allow for Agreements to be arranged and registered on title to implement a decision of the Committee.
- Condition for staff to provide the Building Department the Decision specific to Unit 111A for review prior to any new Occupancy or Building Permit approvals.
- Requirement to obtain the necessary animal care licenses and address any Condition imposed by the Chief License Inspector.
- A Condition stipulating and operating time period limitation to test for any unknown impacts. Upon expiry, the owners would be required to return to the Committee
- Any other terms or conditions suggested by the Committee

Dogtopia has been operating overnight care successfully in commercial plazas such as this throughout Ontario. A Major or Minor Zoning By-law Amendment application is not a viable option in terms of time, cost and procedure for the small business owner. We would ask that staff reconsider this suggested list of avenues to secure the use to Unit 111A and to exclude allowance for outdoor dog runs and breeding.

### **Supporting Documentation**

In support of this application for Permission, please find enclosed the following supporting documentation:

1. Executed Minor Variance Application (2024) form;
2. Consultation with Development Information Officer;
3. Survey/Topographic Plan;
4. Location Site Plan drawing;
5. Architectural Plans (Site Plan, Floor Plan, Elevation Drawings);
6. ASHRAE Minimum Exhaust Rates chart (for odor mitigation);
7. Sound Dampening Walls;
8. Dogtopia Cleaning Protocols chart;

9. Petition (222 signatures);
10. Noise Study prepared by Valcoustics Canada; and
11. Examples (8205 Financial Drive and 85 Ellesmere Avenue) of similar Dogtopia approval Decisions on other municipalities.

We trust this completes this application for Permission under 45(2)(b) and we look forward to the Committee's consideration at forthcoming Hearing.

Please feel free to contact the undersigned if you have any questions or require more information prior to the Hearing.

Yours very truly,

GLEN SCHNARR & ASSOCIATES INC.



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Appendix A – Summary of Operations

Appendix B – Zoning By-law Table 84 – Kennels and Dog Runs

## **Appendix A – Summary of Operations**

### Noise Mitigation and Sound-proofing

Sound control measures include sound dampening walls, ceilings and rubberized flooring to ensure the business is self-contained and that no noise is experienced in adjacent retail units or outside. Sound dampening walls are built in front and within existing demising walls. Acoustical ceiling tiles with a high noise reduction coefficient ratio are used for ceiling treatments. The rubber floor utilized is also a sound absorber and utilized in all playrooms. When combined with the existing concrete demising walls on both levels, the sound proofed walls and rubber flooring mitigates any anticipated sound transmission impacts on neighbouring tenants or to the surrounding community. Furthermore, the certified canine coaches are required to pass training courses that include proactive measures to reduce barking through engagement, activities and timeouts. The Dogtopia unit shares two concrete demising walls with its adjacent tenants, both of which are installed with these special wall types.

Immediately south of the subject property residential houses exist. A rear lane and fence on a retaining wall separate the residential houses from the commercial plaza and Dogtopia. The distance between Dogtopia and the closest house is approximately 22 metres and to the property line approximately 12 metres. Recognizing the noise that a kennels could generate, especially during nighttime hours, Dogtopia has implemented the above measures to reduce and mitigate noises coming from the kennels. The location of the kennels is strategically placed further away from the southside of the unit and the fences. Also, sound dampening measures on rear walls mitigates sound transmission impacts to the surrounding area.

A noise study was completed by Valcoustics Canada and is included with this submission. The noise study affirms that dog barking is inaudible when standing at the property line with the houses. The assessment concludes that the proposal is in compliance with all noise guidelines and limits and to the nearest noise sensitive receivers.

As demonstrated above, the proposed overnight boarding use will be enclosed entirely within the existing sound proofed and odour-controlled unit already providing dog services including grooming and daycare. the enhanced ventilation, sound mitigation and cleaning protocols will ensure that this Dogtopia establishment is entirely self-contained and will not disrupt neighbouring tenants or residential uses to the south.

There is development proposed and there are no changes to the building footprint or exterior façade. A Building Permit has already been issued and the internal building components installed and working effectively. The design specifications outlined about are specifically contemplated in the Building Permit issued and reviewed at the time of occupancy.

### Cleaning and Odour Control

Cleaning and odour control are constant activities at this Dogtopia location with cleaning taking place a minimum of three-times daily and deep-cleans occurring weekly. Environmentally and dog-friendly cleaning products are used throughout the day and night on a regimented basis while dogs occupy separate areas of the facility. The cleaning products used contain odour elimination products that eliminate odours by breaking down organic matter with live bacteria and enzymes. Dogs are not walked in the immediate area and all bathroom breaks are accommodated indoors. The areas nearest the entrance are routinely monitored for any signs of dog waste. The above is outlined in Dogtopia Cleaning Protocol chart included with this letter and provides a summary of the cleaning protocols that will be implemented at this location.

Above-code air circulation and climate-controlled HVAC systems assist with the odour mitigation. The facility was designed using ASHRAE exhaust rates specifically for Pet Shops that will replace air at a very high rate. The returns are completely ducted ensuring complete evacuation of odours, should any remain after the strict cleaning protocols. Air is not recycled between rooms and separate ventilation units are provided in the lobby, kitchen, washrooms, office and corridors. The playrooms, spa and suites are balanced to a slightly negative pressure with an additional exhaust to further mitigate odours and reduce humidity. All rooms are temperature and humidity controlled. Furthermore, specialized UV Germicidal lighting kits were installed on the face of the fan coils which reduces the spread of bacteria and viruses. Odours are managed and carefully mitigated by Dogtopia establishments.