

## TOWNSHIP OF WEST ORANGE APPLICATION PACKAGE PLANNING BOARD OR ZONING BOARD OF ADJUSTMENT

1. Zoning/Planning Board Application
2. Checklists:
  - "C" and "D" Applications Interpretations and Appeals
  - Major/Minor Site Plan or Subdivision (52 Items)
  - Sustainability Checklist
3. Fee Schedules
4. W-9 Form
5. Zoning Board of Adjustment Meeting Schedule
6. Planning Board & Site Plan Review Advisory Board Meeting Schedule
7. Tree Removal Application Procedure
8. Tree Removal Application
9. Ordinance 2436-15 Amending Chapter 25, Sections 4, 51.6, 51.7, 51.8, 51.9, 51.10, & 51.15 (Revision of Various Zoning Ordinances)  
*Adopted 2/10/2015*
10. Ordinance 2448-15 Amending Chapter 25, Section 51.16  
*Adopted 5/12/2015*
11. Ordinance 2464-15 Amending Chapter 25, Sections 8.4, 9.9, 9.10, & 11.10 & Chapter 32, Section 3 (Revision of Various Zoning Ordinances)  
*Adopted October 27, 2015*

**BEFORE** preparing or submitting an Application, it is strongly suggested that you contact the Planning Board Secretary or Zoning Board Secretary. We will be happy to assist you or answer any questions pertaining to the filing of an application to the Planning Board (325-4111) or Zoning Board of Adjustment (325-4108).

**PLEASE NOTE:**

- ! The application must be typed or neatly printed.  
Due to Covid-19 – 5 Paper Copies + 1 Digital  
emailed to [PlanningBoard@westorange.org](mailto:PlanningBoard@westorange.org)  
and/or [ZoningBoard@westorange.org](mailto:ZoningBoard@westorange.org)
- ! Each application, including the original must have attached any enclosures as required.
- ! Refer to the Zoning Ordinance for all application requirements.
- ! Application fees and escrow must be submitted at the time of filing.  
(If an escrow fee is required, a completed W-9 form must accompany the fees).
- ! All experts must be licensed to practice in the State of New Jersey.
- ! Any additional documents submitted after the original filing of the Application must include twenty copies total (nineteen (19) copies with one (1) original) to the Zoning Board or Planning Board and must be submitted at least 10 days before the Applicant's public meeting date.

Pursuant to Municipal Land Use Law, N.J.S.A. 40:55D-10(f), a verbatim recording of the proceedings shall be made. The Planning Board or Zoning Board of Adjustment shall furnish duplicate recording upon request from any interested party at the requesting party's expense which shall not exceed the actual cost of preparation. All transcripts which may be prepared from any such recording, whether prepared at the request of the Board or an interested party, shall be transcribed by a licensed New Jersey Court Reporter and certified in writing to be accurate.

After the Board hears the Application and renders a decision, a Resolution will be read and voted on at the next scheduled regular meeting. Upon receipt of the signed Resolution, the Applicant must submit eight (8) full size sets of final site plans, signed and sealed, to the Board Secretary for signatures. Once the Applicant receives a copy of the signed site plan, the Applicant may then apply for building permits.

TOWNSHIP OF WEST ORANGE  
APPLICATION FORM FOR THE  
PLANNING BOARD OR ZONING BOARD OF ADJUSTMENT

**A. APPLICANT INFORMATION**

Full Legal Name: Red Barn Dog OPS NJ LLC c/o Jim Riley  
Mailing Address: 855 Main Street, Suite 1030, Bridgeport, CT 06604  
Telephone Number: (914) 646-5200 Email: jim@redbarndogops.com

Is the Applicant an: ☐ Individual, ☒ Corporation, ☐ Partnership, ☐ Other \_\_\_\_\_

If the Applicant is a corporation or partnership, a list of the names and addresses of persons having a 10% interest or more in the corporation or partnership must be attached.

Relationship of the applicant to the property: ☐ Owner, ☒ Tenant or Lessee, ☐ Purchaser under contract  
(with consent of owner, ☒ Other (please specify) West Orange Plaza

If the applicant is not the owner of the property in question, the applicant must submit an affidavit with the owner(s) authorization to proceed with this process.

**B. PROPERTY OWNER INFORMATION**

☐ Check here if same as applicant. If the owner is not the applicant, please complete the following:

Owner's Name: West Orange Plaza  
Address: 71 Valley Street, South Orange, NJ 07079  
Telephone Number: ( ) \_\_\_\_\_ Email: rogerkrivant@aol.com

**C. PROPERTY INFORMATION**

Street Address: 233-235 Prospect Avenue, Suite 14, 15 & 16 (portion of larger shopping center)

Block Number(s): 152.01 ; Lot Number(s): 1445 & 1445.05 ;

Tax Plate: \_\_\_\_\_ ; Zone of Property: P-C/Planned Commerical

The location of the property is approximately 0 feet from the intersection of \_\_\_\_\_  
Eagle Rock Avenue and Prospect Avenue (closest intersection.)

Has there been any previous Zoning Board of Adjustment or Planning Board hearings involving this property?

☒ Yes, Date(s): numerous change of tenancies & overall Site Plan approval ; ☐ No

If yes, please attach copies of the written decisions adopted by the Board to each application.

Please attach a list of all contiguous or adjacent property owned by the applicant or owner. ☒ None

Is this property listed in "The Historic Sites Survey" prepared by Robert Guter 7/9/1992 ☐ Yes ☒ No

#### D. TYPE OF APPLICATION

Indicate the type of application being submitted, check all boxes that apply. Note that more than one variance may be necessary, please indicate the number of each type needed:

- 1) ☐ Interpretation of ordinance or map.
- 2) ☐ Appeal of action of Zoning Officer.
- 3) ☐ Variance "C1" Reason: ☐ shape of property; ☐ physical features; ☐ exceptional situation.
- 4) ☐ Variance "C2".
- 5) ☒ Variance "D". To operate Dog Daycare facility
- 6) ☐ Subdivision without variances: ☐ major; ☐ minor; ☐ preliminary; ☐ final; ☐ preliminary and final.
- 7) ☐ Subdivision with variances: ☐ major; ☐ minor; ☐ preliminary; ☐ final; ☐ preliminary and final.
- 8) ☐ Site Plan: ☐ preliminary; ☐ final; ☐ preliminary and final; ☐ with variances; ☐ without variances.
- 9) ☐ Amended Site Plan.
- 10) ☐ Conditional Use.
- 11) ☐ Conceptual.
- 12) ☐ Home Professional Office.
- 13) ☐ Home Occupation.
- 14) ☐ Soil Removal Permit.

Please list the specific Sections of the Ordinance for which a variance is sought. If additional space is required, please attach a list.

Section: 25-7.1 ; Proposed: Dogtopia ; Description: dog daycare facility  
Section: \_\_\_\_\_ ; Proposed: \_\_\_\_\_ ; Description: \_\_\_\_\_  
Section: \_\_\_\_\_ ; Proposed: \_\_\_\_\_ ; Description: \_\_\_\_\_  
Section: \_\_\_\_\_ ; Proposed: \_\_\_\_\_ ; Description: \_\_\_\_\_

#### E. DESCRIPTION OF PROPERTY

##### Existing Use of the Property

Briefly describe the major elements of your proposal: (a more detailed description is required in Section G.)

See attached description of use.

The property is approx. 5083 interior sq.ft. (square feet); \_\_\_\_\_ (acres)

Impervious Surface Coverage: Present: n/a ; Proposed: n/a

Building Coverage: Present: n/a ; Proposed: n/a

Is the property located: portion of existing West Orange Plaza

Within 200 feet of another municipality? ☐ Yes ☒ No

Adjacent to an existing or proposed county road? ☒ Yes ☐ No

Adjacent to other county land? ☐ Yes ☒ No

Adjacent to a state highway? ☐ Yes ☒ No

## F. EXPERTS

The following information is respectfully requested to enable the Board to facilitate the processing of this application:

**APPLICANT'S ATTORNEY:** Stephen F. Hehl, Esq./Rosemary Stone-Dougherty, Esq.

Telephone Number: ( 908 ) 687-7000 ext 1114 Email: rdougherty@lawjw.com

Address: 370 Chestnut Street, Union, NJ 07083

**APPLICANT'S ENGINEER:** n/a

Telephone Number: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

**APPLICANT'S ARCHITECT:** QSR and R Design Group, LLC

Telephone Number: ( 833 ) 428-0556 Email: \_\_\_\_\_

Address: 584 Bellerive Road, Suite 3D, Annapolis, MD 21409

**APPLICANT'S PLANNER:** Alexander Dougherty, P.P., MCRP, AICP

Telephone Number: ( 973 ) 803-3285 Email: alex@doughertyplanningdevelopment.com

Address: 54 Main Street, Chatham, NJ 07928

**OTHER EXPERT(S):** Representative of client - Jim Riley

Telephone Number: ( 914 ) 646-5200 Email: jim@redbarndogsops.com

Address: 855 Main Street, Suite 1030, Bridgeport, CT 06604

If necessary, please list any additional experts below, including address, telephone number and email address.

N/A

## G. REQUIREMENTS FOR VARIANCES

- 4A) Please attach a written statement labeled "PROPOSAL", describe the major elements of your proposal, and describe in detail the physical and use changes proposed. See Applicant's statement
- 4B) Please attach a written statement labeled "REASONS FOR RELIEF", which fully answers 4C-1, 4C-2 or 4D (Special Reasons) AND part 4E (Negative Criteria). See Planner's Memo dated 2/19/23
- 4C-1) (For C1 variances only) The strict application of the provisions of the Zoning Ordinance would result in the peculiar and exceptional practical difficulties or exceptional undue hardship under N.J.S.A. 40:55D-70c(1). List in detail wherein this case conforms to this requirement, including, if applicable, reference to the exceptional narrowness, shallowness, or shape of the property, or the exceptional topographical conditions affecting the property which applicant contends warrants the granting of the variance. N/A
- 4C-2) (For C2 variances only) State how the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment according to N.J.S.A 40:55D-70c(2). Please list all benefits of the deviation to the Township and any adverse effects. State how the benefits of the deviation would substantially outweigh any detriment to the Township. N/A
- 4D) (For D variances only) State the special reasons under N.J.S.A 40:55D-70d affecting this property.  
SEE PLANNER'S MEMO DATED 2/19/23
- 4E) The granting of this variance will not be substantially detrimental to the public good and will not substantially impair the intent of the zone plan and zoning ordinance. List in detail the reasons, among others, why the variance can be granted without being materially detrimental to the welfare of the community or injurious to the property or improvements of others in the neighborhood and zone.

## H. PLAT SUBMISSION

- 4F) Please list all maps and other exhibits accompanying this application. Attach an additional sheet if necessary.

| ITEM | SIGNED BY | DATE/REVISION |
|------|-----------|---------------|
| N/A  |           |               |
|      |           |               |
|      |           |               |

## I. NOTICE

Applicant is responsible to publish and serve notice of this application in accordance with Zoning Board of Adjustment/Planning Board requirements; however, notice may not be served until this application is certified as complete and the administrative officer has assigned the applicant a public hearing date.

**J. VERIFICATION AND AUTHORIZATION**

**SIGNATURE IS REQUIRED FOR ALL OF THE FOLLOWING:**

**APPLICANT'S VERIFICATION**

I hereby certify that the above statements made by me and the information contained in the papers submitted in connection with this application are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Applicant's Signature: (X) J. Riley Date: 3/28/23

**CONTINUANCE**

Should the Planning Board/Zoning Board of Adjustment have a full and heavy agenda, or discussion and meeting regarding this application requiring carrying the matter past the statute time limit, the applicant grants permission for such an extension.

Applicant's Signature: (X) J. Riley Date: 3/28/23

**OWNER'S AUTHORIZATION - MUST BE SIGNED**

I hereby certify that I reside at \_\_\_\_\_  
in the County of \_\_\_\_\_ and the State of \_\_\_\_\_;  
and that I am the owner of all that certain lot, piece or parcel of land known as Block(s) 152.01;  
Lot(s) 1445 & 1445.05 on the Tax Map of West Orange which property is the subject of the above  
application, and that said application is hereby authorized by me. Furthermore, I authorize inspection of the site  
which is the subject of this application.

Owner's Signature: (X) [Signature] Date: 3/28/23  
on behalf of West Orange Plaza

**THIS APPLICATION DOES NOT RELIEVE THE APPLICANT FROM COMPLYING WITH OTHER TOWNSHIP ORDINANCES SUCH AS THE TREE REMOVAL ORDINANCE AND OBTAINING THE NECESSARY APPROVALS AND PERMITS UNDER SUCH ORDINANCES.**

### **Applicant's Proposal**

Please find Applicant's Statement with a few key points:

**Franchise:** Red Barn Dog Ops, LLC is the largest operating franchisee of the Dogtopia brand, with 23 open locations and four under development. We currently own three existing Dogtopia locations in New Jersey. In addition to the highest quality of care provided by the local daycare team and the backing of the Dogtopia brand, our local headquarters provides best-in-class tools, training, and resources through dedicated field support staff.

**Business Model:** Our model is primarily focused (90%) on dog daycare services, much different from a traditional boarding facility/kennel that those unfamiliar with our model sometimes reference. Pet Parents bring their dogs on average two days per week, providing a stable and familiar environment. As such, our enrollment model is similar to that of a child daycare facility, allowing parents to pre-register for a set number of days per week. Our daycares are open 7am-7pm, 7 days per week.

**Support & Expertise:** Dogtopia has 190 locations nationwide, all operating by the same high-quality standards that the brand requires. Our support office includes an environmental biologist, canine behaviorist, and veterinarian. These subject matter experts provide additional support to ensure that we have the necessary requirements to operate a safe, healthy, and fun environment for all dogs in our care. Before utilizing our services, all dogs must go through a thorough evaluation process including a temperament evaluation, behavioral/social history, and vaccinations records from their veterinarian. We comply with all guidelines and statutes of the state and local municipality.

**Construction & Design:** Controlling for noise and odor are a necessary requirement for being good neighbors in our community. Extensive acoustical and mechanical measures are in place to ensure that our facilities are smelling fresh and not a disturbance to co-tenants or residents. Dogtopia is an entirely indoor and climate-controlled facility, which is great because no matter the weather, it's always 70 degrees and sunny inside. Finally, our cleaning and waste management program eliminates odor and has no impact on the sewer system.

If you have any questions after reviewing the materials/information provided, please do not hesitate to contact us. Thank you again for your consideration, and we look forward to working with you!

Best,

Kayla

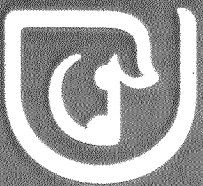
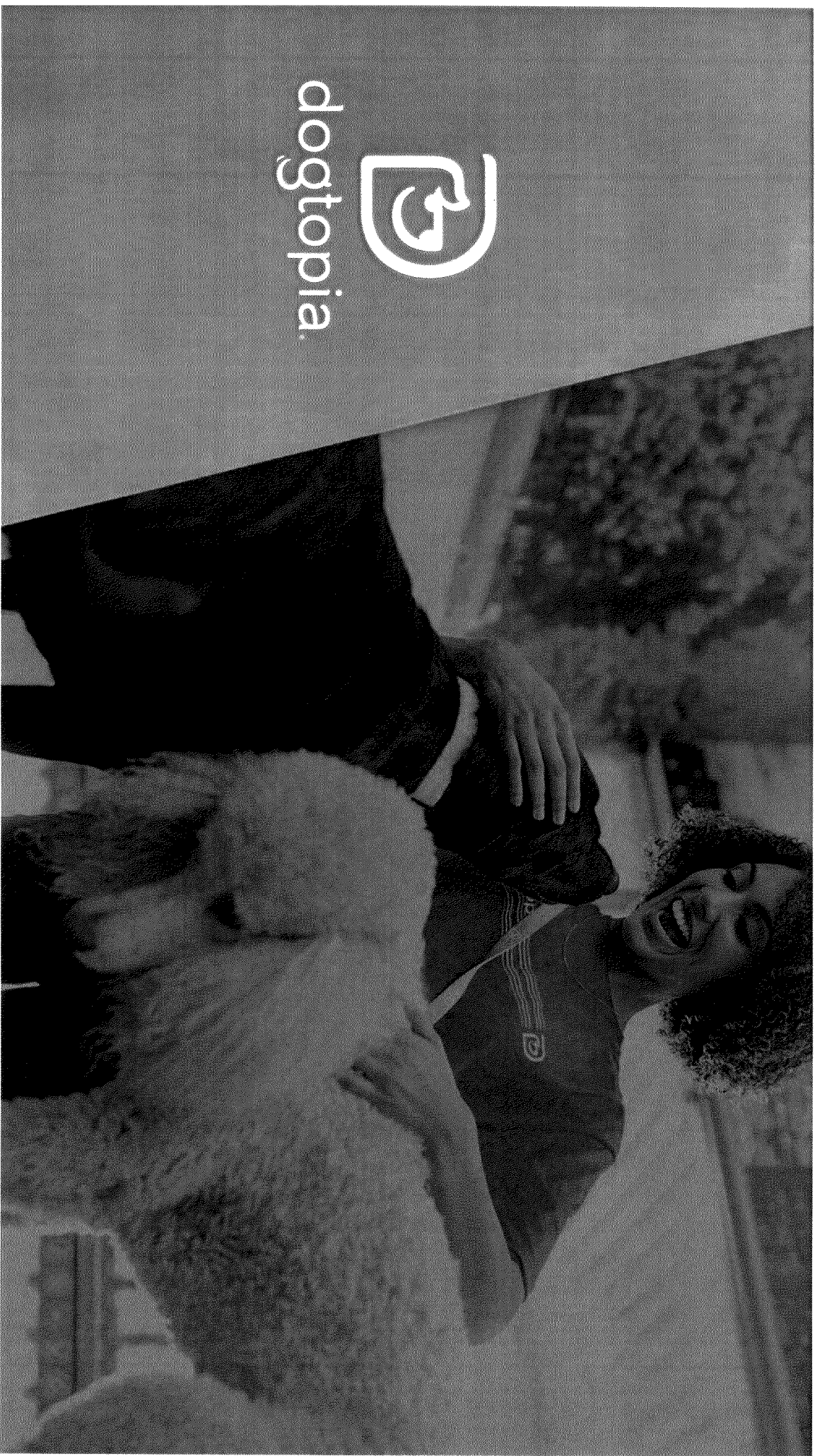
**Kayla Seely | Executive Vice President**

**a:** 855 Main Street, Suite 1030 | Bridgeport, CT 06604

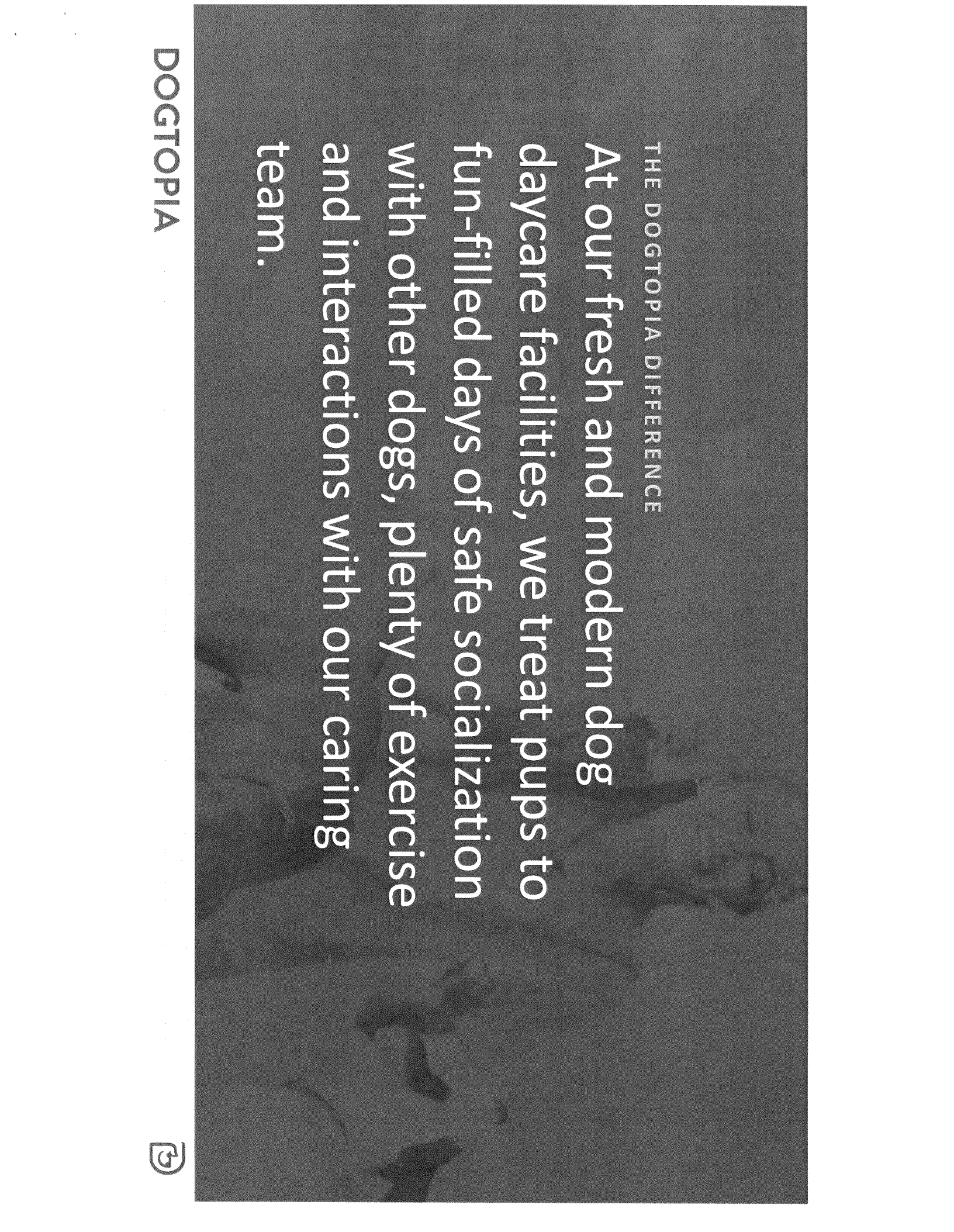
**e:** [kayla@redbarndogops.com](mailto:kayla@redbarndogops.com)

**m:** 401-556-4626 | **p:** 203-309-6031

**\*\*See attached Pamphlet on Dogtopia Use and proposed Floor Plan.**



dogtopia.



THE DOGTOPIA DIFFERENCE

At our fresh and modern dog daycare facilities, we treat pups to fun-filled days of safe socialization with other dogs, plenty of exercise and interactions with our caring team.

DOGTOPIA



# COMMUNITY trust

## CERTIFICATION

- Canine Coach Training IAABC & CCPDT
- Heroes for Healthy Pets
- Safety Officer Certification
- Power of the General Manager

## PEACE OF MIND

- Webcams mean 100% transparency
- Pet safe cleaning
- Experts in canine behavior and health to address any questions

## GOOD NEIGHBORS

- Odor control and waste management
- Noise control
- Fresh, modern aesthetic
- Operational support team

**DOGTOPIA**



# WHAT MAKES US good neighbors?

- No issues in 200 + locations for over 20 years
- Daycare, boarding & spa services
- Job creation, 20 - 25 full & part time jobs
- Bringing new customers into retail corridor
- Multi-Unit operator, 27 current locations
- Socialization promotes better canine citizens



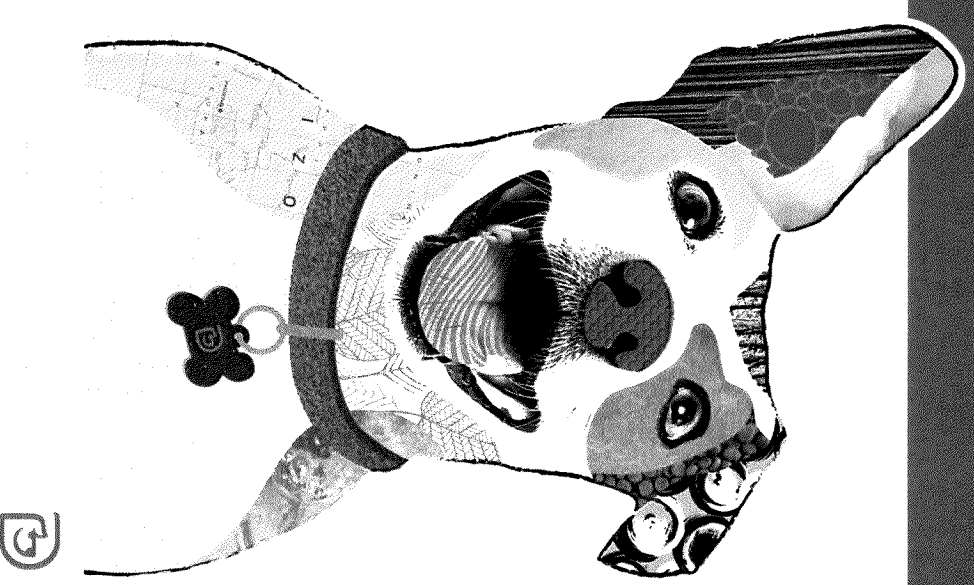
**DOGTOPIA**



# CANINE HEALTH education

- Vaccine requirements
  - Bordetella, DHLPP, Rabies & Canine Influenza
- Training to recognize health concerns
- Injury and illness prevention
- Canine CPR training
- Heroes for Healthy Pets certification

DOGTOPIA





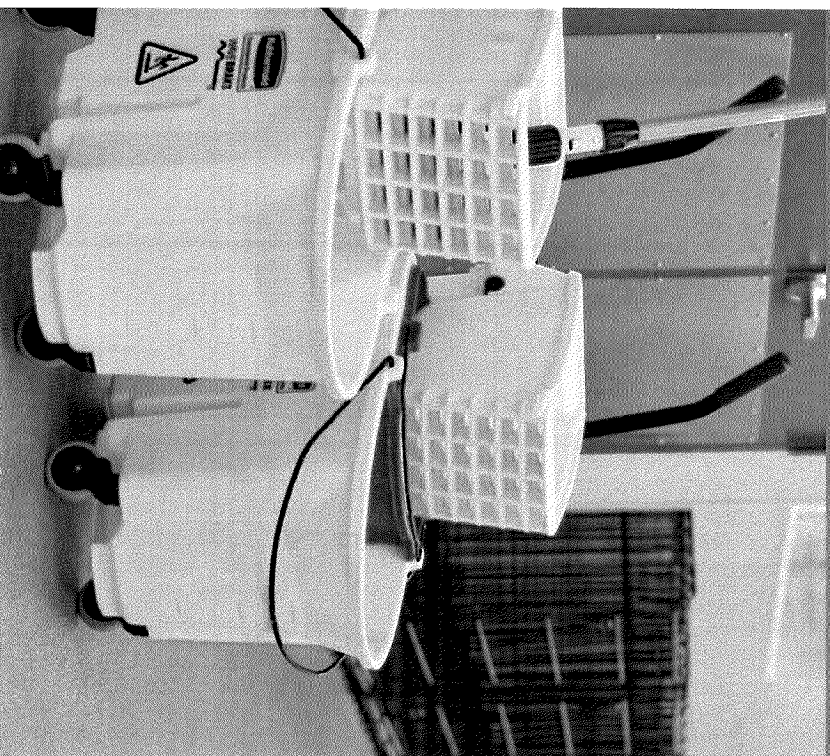
**DOGTOPIA**

## **CANINE COACH** *training*

- Formal 3-Level Learning Path (CEUs)
- Canine Body Language
- Playroom Safety
- Canine Health Concerns
- Library of Playroom Videos



# PET SAFE cleaning program



- Training Videos
- Comprehensive Cleaning Protocols
- UV light in HVAC
- Anti-microbial biodefense
- Effective Illness Prevention
- OSHA Compliant

DOGTOPIA



# ODOR control

- First impression – clean lobby
- Cleaning equipment
- Bio enzymatic odor digester
- Odor control
- Waste management plan

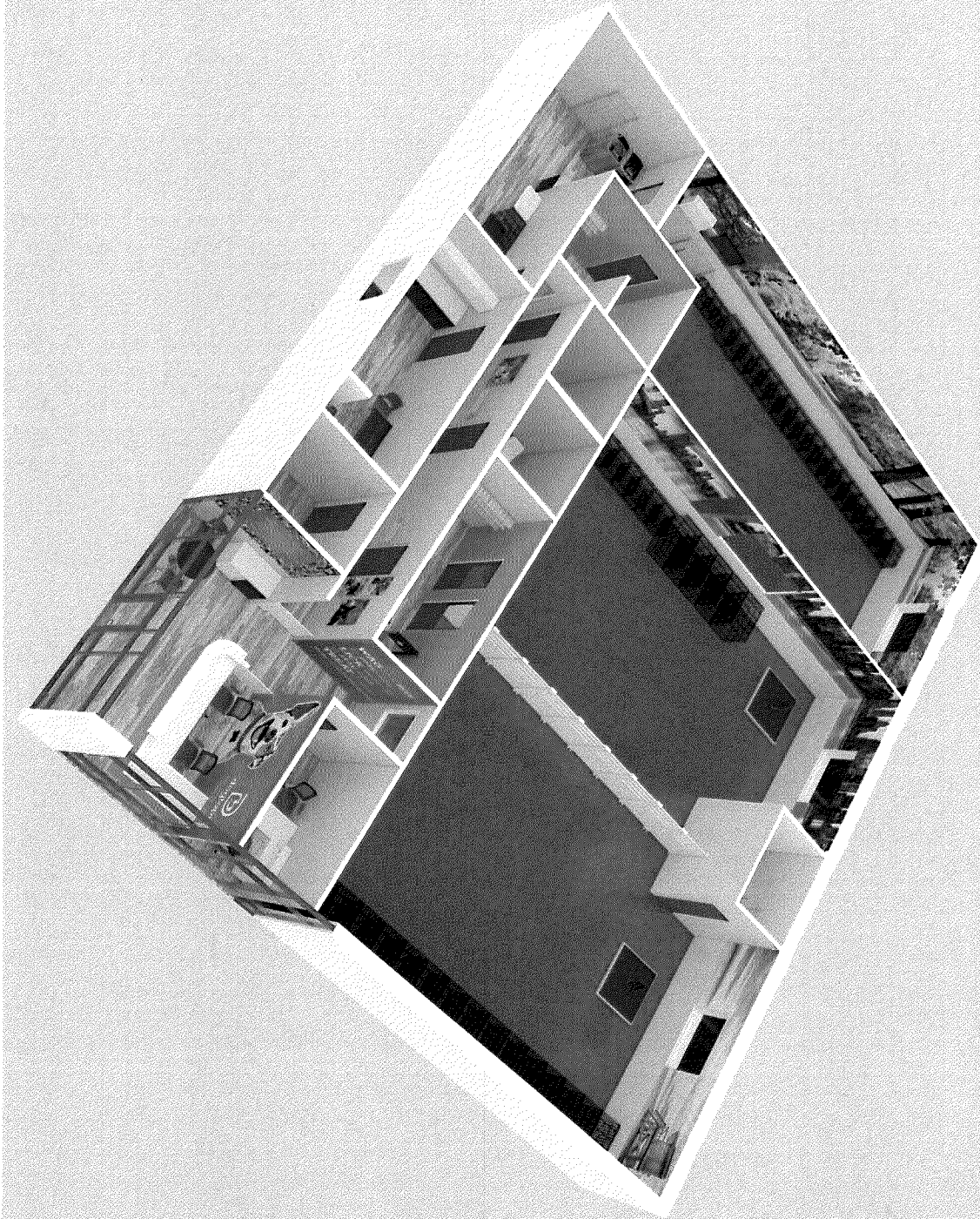
DOGTOPIA

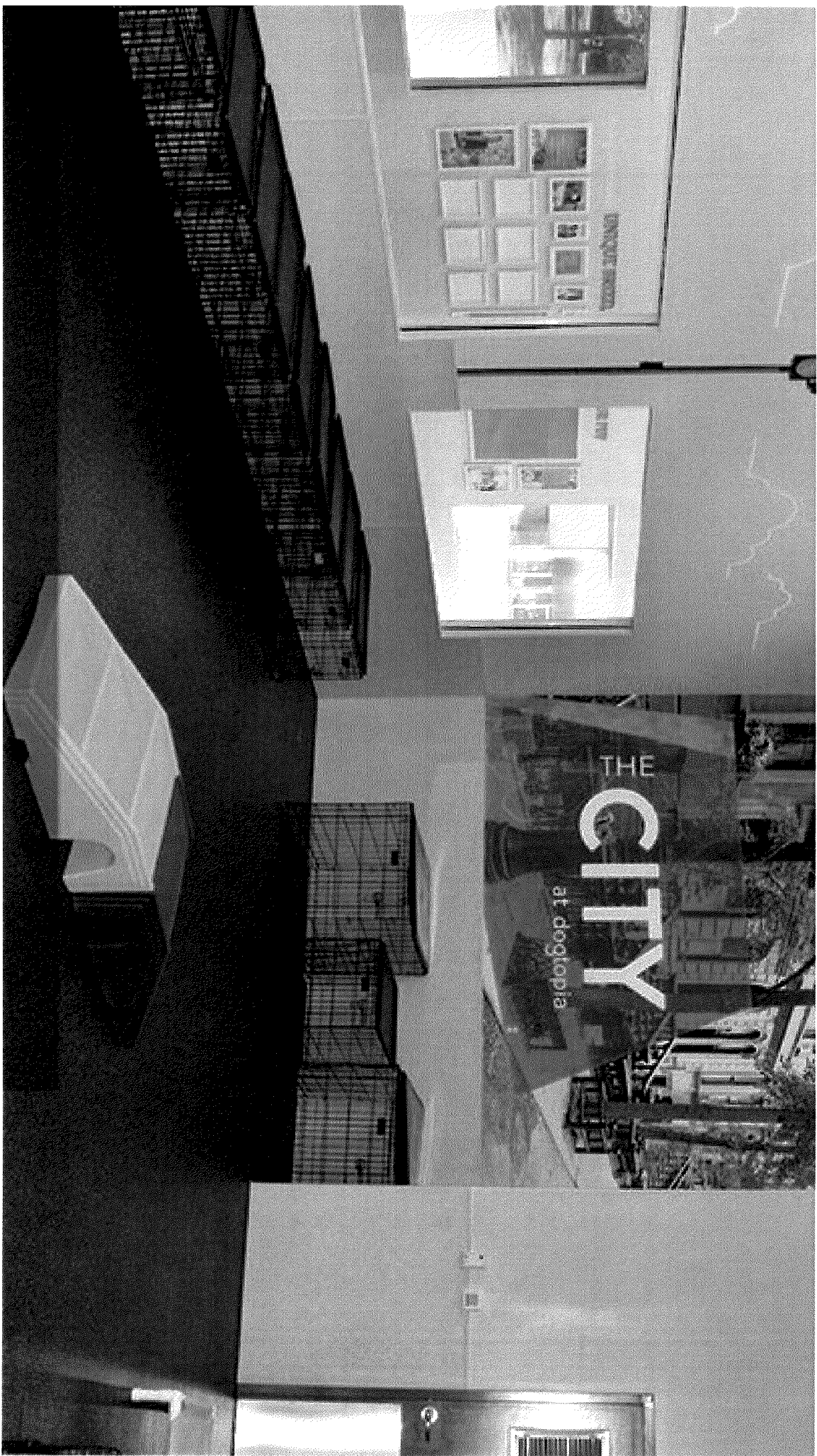


# DESIGN

DOGTOPIA







This is a detailed floor plan of a building, oriented horizontally. The plan includes the following rooms and features:

- TOY:** Located at the top center, measuring 897 SF and 44,000 S.
- ROMPER:** Located in the middle left, measuring 1,322 SF and 44,000 S.
- LAUNDRY:** Located in the middle right, measuring 199 SF.
- SHARED EVAL:** Located at the bottom center, measuring 113 SF.
- SPA:** Located on the right side, measuring 181 SF.
- BREAK ROOM:** Located on the right side, measuring 148 SF.
- OFFICE:** Located on the right side, measuring 43 SF.
- LOBBY:** Located at the bottom right, measuring 156 SF.
- GYM:** Located at the top right, measuring 1,311 SF and 32,000 S.
- Corridor:** A long corridor runs along the top edge, measuring 22'-0".
- Dimensions:** The overall dimensions of the building are 61'-10 1/2" (width) and 80'-11 1/2" (depth).
- Other Labels:** "EXISTING COLUMN, 12\"



dogtopia.

# THANK YOU!

*questions?*

**Applicant's Reason for Relief**

Attached please find Applicant's Planner's memo dated 2/19/23 prepared by Alexander Dougherty MCRP, PP, AICP of Dougherty Planning & Development, LLC



## Dougherty Planning & Development, LLC

54 Main Street, Chatham, New Jersey 07928 - 973.803.3285

KNOWING THE PAST - SEEING THE PRESENT - PLANNING THE FUTURE

M • E • M • O

---

**TO:** Zoning Board of Adjustment of West Orange

**FROM:** Alexander Dougherty MCRP, PP, AICP

**DATE:** February 19, 2023

**SUBJECT:** Red Bran Dog Ops - D1 Use Variance for Dogtopia

---

The applicant is seeking relief for a d(1) use variance in support of a state of the art community and pet friendly Dogtopia within a vacant portion of a multitenant commercial strip mall of approximately 4,969sf located at 235 Prospect Ave. The application sustains the statutory positive and negative criteria for use relief as established by N.J.S.A. 40:55D-70.d.(1) and *Medici v. BPR Co.*, 107 N.J. 1 (1987). The statutory positive criteria are met for the following special reasons:

The subject site is particularly suited for the use based upon its conditions and context. Regardless of whether the use is expressly allowed by ordinance, pet shop, kennels and shelters are defined per §10-2.3 yet not listed as permitted uses within any district of West Orange per *Part A "Permitted Uses Table of District Regulations"* (Subsection 25-7.1). The condition of the building is physically segmented to support the use. Contextually the subject site is rather unique with respects to location, zoning designation and surrounding uses. The site is located within the PC zone or Planned Commercial District, an appropriate commercial and community service-based strip mall. Dogtopia is an amenity for pet parents located in an ideal setting while meeting the intent within the PC zone.

In addition to site suitability the project promotes efficient land use and variety of land uses in appropriate locations. Adaptive reuse of existing space is favored by planners for its efficiency. The provision for a diversified mix of commercial and amenity choices is also a core goal of land use planning. The project advances the fundamental purposes of zoning in the land use law at N.J.S.A. 40:55D-2, especially purposes "a", "g" and "m".

The statutory negative criteria are satisfied because relief can be granted without substantial detriment to the public. The multi-tenanted site has adequate parking and space to accommodate a pet facility with minor and minimal interior alterations. Dogtopia has strict and high standards ensure all appropriate measures are taken to mitigate, if not eliminate completely any possible noise and odori nuisances while ensuring a safe and secure stay for dogs. Dogtopia is a by appointment-membership only facility that provides an indoor climate-controlled environment with ample care and recreational opportunities with a 27hour webcam monitoring system for pet parents. The hours of operation are 7am-7pm 7days a week with trained local staff and support staff of an environmental biologist, canine behaviorist and veterinarian. Dogtopia signage being proposed, is in compliance with PC sign requirements. The site has and will continue to function in a safe and efficient manner with the current tenants and neighboring properties. The use provides a much-needed service for the local community with a state of the art pet facility designed to care for our extended members of the family.

The statutory negative criteria are also satisfied because relief can be granted without substantial impairment to the zone plan. Relief being sought is supportive of the goals and intent of the PC zone.

Conclusion, this application is seeking to validate the exclusion of a pet friendly establishment within the PC zone, by way of a use variance. Granting relief at this location will have minimal if any negative effects both for the Planned Commercial zone as well as the neighboring uses within this location. For all the reasons set forth in this memo, the statutory criteria for grant of use relief are met, and approval is warranted.

**Past Site Plan Approval Resolutions**

PB-13-15T TRC dated 9/10/2013

ZB-06-35 revised 12/20/06

ZB-04-46 dated 10/28/2004

**PB-13-15T**  
**LEVIN MANAGEMENT CORPORATION**  
**AS AGENT FOR OWNER, WEST ORANGE PLAZA**

**235 PROSPECT AVENUE, WEST ORANGE, NJ 07052**

**RESOLUTION OF THE PLANNING BOARD OF THE**  
**TOWNSHIP OF WEST ORANGE**  
**TECHNICAL REVIEW COMMITTEE**

*Granting Technical Site Plan Approval (Technical Review Subcommittee), without variances, for exterior façade renovations to portions of the shopping center known as West Orange Plaza*

**WHEREAS**, the Technical Review Committee of the Planning Board of the Township of West Orange, at a meeting held on August 15, 2013, considered the application for Technical Site Plan Approval, without variances, for exterior renovations to portions of the shopping center known as West Orange Plaza on property located in the P-C Zone, identified as Block 152.24, Lots 1445 and 1445.05, which was submitted by Levin Management Corporation as Agent for Owner, West Orange Plaza (the "Applicant"); and

**WHEREAS**, the Planning Board considered the presentation of the Applicant, by Robert Carson, VP. Of Levin Management Corporation, Gerald A. O'Brien, Director of Development for Levin Management Corporation, the Applicant's architect, John Montoro, AIA, and the Applicant's attorney, Robert C. Williams, Esq.; and

**WHEREAS**, a complete application has been filed, all fees required by ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Technical Review Committee of the Planning Board have been properly invoked and exercised; and the Technical Review Committee of the Planning Board having conducted a vote on this application on August 15, 2013; and

**WHEREAS**, the Applicant requested Technical Site Plan approval, without variances, for exterior façade renovations to portions of the shopping center known as West Orange Plaza;

**NOW, THEREFORE**, does the Planning Board (Technical Review Committee) of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for Technical Site Plan Approval, without variances, for exterior façade renovations to portions of the shopping center known as West Orange Plaza.
2. The Board (Technical Review Committee) has recommended and the Applicant has agreed to the following additional conditions of approval:
  - a. All brick used in the renovations will match the existing brick used by Whole Foods as best as possible

**NOW, THEREFORE, BE IT RESOLVED** that this application for Technical Site Plan Approval, without variances, for exterior façade renovations to portions of the shopping center known as West Orange Plaza is approved, subject to the additional conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.



---

ROBIN MILLER, Board Secretary  
Planning Board of the Township of West Orange

Dated: September 10, 2013

REVISED 12/20/06

RESOLUTION

BOARD OF ADJUSTMENT

TOWNSHIP OF WEST ORANGE

RESOLUTION ZB-06-35

WHEREAS, West Orange Plaza ("The Applicant"), with an address of 195 Columbia Turnpike, Florham Park, New Jersey being the owner of the property located at 235 Prospect Avenue, West Orange, New Jersey 07052, being Block 142.24 Lots 1445 and 1445.05 on the Tax Map of the Township of West Orange, and located in the P-C and R-5 zones applied to the West Orange Board of Adjustment ("The Board") for an extension of its previous approvals granted under Resolution ZB-99-26 dated February 15, 2001 but extended through litigation through August 2002; and

WHEREAS the Applicant had previously obtained an extension of said approvals by way of Resolution ZB-04-46, said resolution granting the Applicant a two year extension of its approvals; and

WHEREAS municipal zoning law allows for only a total of three years of extension on site plan approval; and

WHEREAS the Applicant presented proof that adequate notice of the hearing on the application was published in the West Orange Chronicle, one of the official newspapers of the Board; and

**WHEREAS** the Applicant submitted proof of notice of the hearing upon all property owners within 200 feet of the property; and

**WHEREAS** the Application was heard at a public meeting of the Board held on November 9, 2006; and

**WHEREAS** the Applicant was represented by its counsel, Robert C. Williams, Esq. and

**WHEREAS** the Applicant represented, through its attorney; that the prior approval granted the right to add an additional 67,500 square feet of retail space to the to the western rear portion of the property, but that 7,500 square feet of that space has been used by the expansion of the existing structure to accommodate the Whole Foods store; and

**WHEREAS** the Board considered the report of Susan Borg, Township Planner dated October 23, 2006; and

**WHEREAS** members of the Board questioned the applicant's attorney; and

**WHEREAS** there was no public comment or questions; and

**WHEREAS** the Board having made the following specific findings and conclusions:

- A. The Applicant is the owner of the property located at 235 Prospect Avenue, West Orange, New Jersey 07052, being Block 142.24 Lots 1445 and 1445.05 on the Tax Map of the Township of West Orange, and located in the P-C and R-5 zones.
- B. The Applicant seeks an extension of its previous approvals granted under Resolution ZB-99-26 dated

February 15, 2001 but extended through litigation through August 2002, which approvals were again extended by Resolution ZB-04-46.

- C. The board, by statutory law, can grant only one additional one year extension
- D. The extension will be based on the same facts and data and conditions contained in the original application which are incorporated by reference as if set forth more fully herein.

E. The granting of the extension will not impair the general purposes of the Zoning Plan, Master Plan, or Zoning Ordinances of West Orange.

F. The purposes of the Municipal Land Use Law will be advanced by the granting of this extension application.

A motion to grant the Applicant's request for an extension of Resolution ZB-99-26 dated February 15, 2001, which was extended by Resolution ZB-04-46 dated October 28, 2004 for a period of one year until October 5, 2007 under the same terms and conditions, as set forth above and with the additional conditions contained herein was made by Alice Weiss and seconded by Patty Spango and voted upon as follows:

|           | <b>Ayes</b> | <b>Nays</b> | <b>Abstentions</b> |
|-----------|-------------|-------------|--------------------|
| Brunelle  | Aye         |             |                    |
| Bullock   | Aye         |             |                    |
| Spango    | Aye         |             |                    |
| Steinhart | Aye         |             |                    |

Sussman        Aye  
Weiss           Aye  
Ricci           Aye

**NOW THEREFORE**, be it resolved by that the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey that it hereby grants the Applicant an extension of the approvals granted within Resolution ZB-99-26 dated February 15, 2001, as extended by Resolution ZB-04-46 dated October 28, 2004 as set forth herein.

**BE IT FURTHER RESOLVED** that the grant of said variance shall be conditioned upon the Applicant's full and complete satisfaction of all of the conditions set forth in Resolution ZB-99-26 and Resolution ZB-04-46, a copy of which shall be incorporated into this Resolution with the following additional conditions:

1. The Applicant shall, by February 1, 2007 submit plans and begin construction within 60 days thereafter of four (4) new replacement pylon signs in the same locations at no greater sign area than as present at all entrances of the Plaza.
2. All exterior fixtures shall be repaired or replaced to ensure full operation of all exterior lighting at the Plaza.

Moved: Mr. Sussman

Seconded: Mr. Steinhart

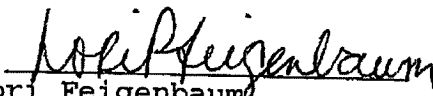
Those in Favor: 7

Those Opposed: 0

Abstention: 0

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of December 21, 2006 and that said Resolution memorializes the action of the Zoning Board taken at its meeting held on November 9, 2006 granting the application by a vote 7 in favor, 0 against and 0 abstentions.

December 21, 2006

  
Lori Feigenbaum  
Board Secretary

**RESOLUTION**  
**BOARD OF ADJUSTMENT**  
**TOWNSHIP OF WEST ORANGE**  
**RESOLUTION ZB-04-46**

**WHEREAS,** West Orange Plaza, having its principle office at 195 Columbia Turnpike, Florham Park, New Jersey 07932 ("The Applicant"), being the owner of the property which is the subject of this application being property at 235 Prospect Avenue, corner of Prospect Avenue and Eagle Rock Avenue, West Orange, New Jersey 07052, being Block 152.24, Lots 1445-1445.03 on the Tax Maps of the Township of West Orange, and located in the O-R Zone, applied to the West Orange Zoning Board of Adjustment ("The Board") for a two year extension of its approval dated December 2000. The resolution was adopted on February 15, 2001 and litigation was settled in August 2002. The Applicant seeks an extension of the approval to October 5, 2006; and

**WHEREAS,** the Applicant presented proof that adequate notice of the hearings on the said application was published in the West Orange Chronicle, one of the official newspapers of the Board; and

**WHEREAS,** the Applicant submitted proof of notice of the hearing upon all property owners within 200 feet of the property; and

**WHEREAS,** the Applicant made their presentation through Jack Dusingberre, Esq., with the firm of Mandelbaum, Salsburg, Gold, Lazris, Discenza & Steinberg, P.C., attorneys for the Applicant. Mr. Dusingberre explained why the Applicant was seeking an approval for a two year extension to October 5, 2006; and

**WHEREAS**, the Applicant presented Fredrick Kruvant, one of the owners of West Orange Plaza, who explained that his present plan is to have a Pathmark or a new supermarket move into the new location; and

**WHEREAS**, The Board considered the report and comments of Susan Borg, Township Planner; and

**WHEREAS**, various members of the Board questioned the witness; and

**WHEREAS**, no one else testified and no one else appeared, either in favor of or opposed to the request for a two year extension; and

**WHEREAS**, the facts and data contained in the submitted application and all of the facts and data contained in the original application including the Resolution dated February 15, 2001 are incorporated herein as findings of fact of this Board as if set forth at length herein; and

**WHEREAS**, the Board having made the following specific findings of facts and conclusions:

A. The Applicant is the owner and operator of a shopping development know as West Orange Plaza, located at 235 Prospect Avenue, West Orange, NJ 07052, being the corner of Prospect Avenue and Eagle Rock Avenue, designated as Block 152.24, Lots 1445-1445.03 on the Tax Maps of the Township of West Orange and is in the O-R Zone.

B. The Applicant is seeking a two year extension of the approval to October 5, 2006. The Applicant has not submitted complete and final site plans, but agreed to submit those plans as a condition of this Resolution.

C. The purposes of the Municipal Land Use Law will be advanced by the grant of the two year extension to October 5, 2006.

D. The granting of the extension requested will not substantially impair the general purposes of the Zoning Plan, Master Plan, or Zoning Ordinances of West Orange.

A motion was made by Mr. Ricci to grant the Applicant's request for a two year extension to October 5, 2006 and seconded by Mr. Buechler and voted upon as follows:

| <u>AYES</u> | <u>NAYS</u> | <u>ABSTENTIONS</u> |
|-------------|-------------|--------------------|
| Buechler    | 0           | 0                  |
| Bullock     |             |                    |
| Flannery    |             |                    |
| McElroy     |             |                    |
| Ricci       |             |                    |
| Weiss       |             |                    |

**NOW THEREFORE**, be it resolved that the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Facts and Conclusions aforesaid, and upon the laws established in the State of New Jersey hereby grants the Applicant, West Orange Plaza, an extension of the approval previously dated February 15, 2001, a two year extension to October 5, 2006; and

Be it further resolved that the grant of said extension shall be conditioned upon the Applicant's full and complete satisfaction of the following conditions:

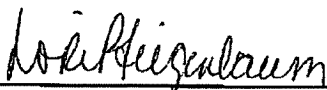
1. Previous site and architectural plans must be updated to include all items approved in the prior Resolution dated February 15, 2001.
2. Eight copies of the site and architectural plans must be signed and sealed and provided within 45 days of today's date September 9, 2004 or the Resolution will be null and void.

3. All of the conditions set forth by the Board during the hearings which took place from January 6, 2000 through December 14, 2000 are incorporated herein including all information, variances and items adopted by the Board in its Resolution dated February 15, 2001.

Moved By: Mr. Ricci  
Seconded By: Mr. McElroy  
Those in Favor: 3  
Those Opposed: 0  
Abstentions: 0

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of October 28, 2004 and that said Resolution memorializes the action of the Zoning Board taken at its meeting held on September 9, 2004, granting the application by a vote 6 in favor and 0 against.

October 28, 2004

  
Lori P. Feigenbaum, Board Secretary

### 10% OWNERSHIP DISCLOSURE STATEMENT FORM

A corporation or partnership submitting a development application to the West Orange Planning Board or Board of Adjustment must list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership.

|             |                             |           |                        |
|-------------|-----------------------------|-----------|------------------------|
| Subject     | Red Barn Dog OPS NJ LLC     | Block(s): | 152.01                 |
| Property    |                             |           |                        |
| Address:    | 223-235 Prospect Avenue     | Lot(s):   | 1445                   |
|             | West Orange Plaza           |           | 1445.05                |
| Applicant:  | Red barn Dog OPS NJ LLC     | Owner     | West Orange Plaza      |
| Applicant's |                             | Owner's   |                        |
| Address:    | 855 Main Street, Suite 1030 | Address:  | 71 Valley Street       |
|             | Bridgeport, CT 06604        |           | South Orange, NJ 07079 |

| Entity/Individual                                                        | Address                                             | Ownership Interest (%) |
|--------------------------------------------------------------------------|-----------------------------------------------------|------------------------|
| Red Barn Dog Holdings, LLC                                               | 855 Main Street, Suite 1030<br>Bridgeport, CT 06604 | 100%                   |
| individual owner of<br>Red Barn Dog Holdings, LLC<br>Christopher Kempner | 855 Main Street, Suite 1030<br>Bridgeport, CT 06604 | 100%                   |
|                                                                          |                                                     |                        |
|                                                                          |                                                     |                        |
|                                                                          |                                                     |                        |

Please attach additional sheet(s) if necessary.