



Legislation Details (With Text)

**File #:** 100634.      **Version:** 0      **Name:** Petition BA-10-07 APP Appeal (B)  
**Type:** Petition      **Status:** To Be Introduced  
**File created:** 2/3/2011      **In control:** City Manager  
**On agenda:**      **Final action:**  
**Title:** Petition BA-10-07 APP Appeal (B)

This item is an appeal of a recent decision by the Board of Adjustment to the City Commission regarding an administrative decision rendered by Planning staff.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 100634\_notice of appeal\_02032011.pdf, 2. 100634A\_final order\_02032011.pdf, 3. 100634B\_staff report\_02032011.pdf, 4. 100634C\_exhibits 1-8\_02032011.pdf, 5. 100634\_appeal\_20110124.pdf, 6. 100634-MOD\_BOA Draft Minutes from 11-2-10\_20110203.pdf, 7. 100634\_appeal\_20110124.pdf, 8. 100634\_Dogsittingappeal\_20110221.pdf

Date	Ver.	Action By	Action	Result
2/3/2011	0	City Commission	Approved as shown above, (Main Motion)	Pass

Petition BA-10-07 APP Appeal (B)

This item is an appeal of a recent decision by the Board of Adjustment to the City Commission regarding an administrative decision rendered by Planning staff.

On November 2, 2010, the Board of Adjustment held a quasi-judicial hearing on Petition BA-10-07APP filed by Sondra Randon, Esquire, agent for Bruce Wayne Baber, appealing an administrative decision of the Planning and Development Services Department that a dog sitting business operated at 1713 NW 7<sup>th</sup> Avenue, is not a legal non-conforming use or a use by right in the RSF-2 (4.6 units/acre single family residential district) zoning district.

The Land Development Code specifically states: "any use not permitted by right, by zoning compliance permit, by special use permit, as a special exception or as an accessory use in the zoning district shall be prohibited in such district". The records show that dog sitting businesses have never been allowed in any single family zoning districts (neighborhood) as a permitted use under any condition. Due to the nature of a dog sitting business with potential noise, odor and outdoor activity the use would not qualify as a home occupation; however the office part of such a business would qualify, when the physical activities are conducted off-site.

After hearing testimony from staff, the applicant and citizens, the Board of Adjustment voted 3-2 to allow Mr. Baber to keep animals other than as pets, with the provision that maintaining animals other than as pets at his single-family residential property cannot be done as a business, and compensation cannot be accepted for doing so.

Section 30-354(n)(2) of the Land Development code provides that "the City Commission shall consider only the evidence and testimony placed in the record before the board at its hearing and may hear oral arguments by each party in support of or in opposition to the board's finding and decision. The City Commission shall consider only whether due process was afforded all parties, whether the board applied the correct law, and whether the board's findings are supported by competent substantial evidence and shall promptly make its decision and issue a final order affirming, amending or reversing the board's decision. The decision of the City Commission shall be reduced to writing and shall constitute final administrative action. Appeals from decisions of the City Commission may be made to the courts by writ of certiorari."

No fiscal impact.

Staff to the City Commission - The City Commission: 1) hear the appeal of Petition BA-10-07 APP; and, 2) make a decision and issue a final order affirming, amending or reversing the Board's decision.