Correction
Case ZA-1132 was an incorrect number on the
previously mailed Official Decision
The correct number is ZA-1180

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Office of
Zoning Administration

Official Decision
Case ZA-1180
Zoning Administrator
Carroll County, Maryland

APPLICANT:	D. Jay Hyman & Lynne S. Schanzle, Case No. 1180
LOCATION:	5905 Kim Court, Mount Airy, Maryland 21771
ZONING:	"A" Agricultural District
DATE OF HEARING:	Tuesday, January 12, 2010
REQUEST:	An accessory use for a resident private kennel housing no more than (10) dogs within a dwelling.
CODE PROVISIONS:	§ 223-12, 223-181.1

FINDINGS AND CONCLUSIONS

Based on the testimony and evidence presented at the hearing, the Accessory Use is **DENIED.**

Findings:

Facts which support the request for relief, in this case permission to establish a private kennel as an Accessory Use within a dwelling pursuant to §223-12, are as follows:

The applicant has requested an accessory use for a private kennel for no more than ten (10) dogs (personal use). The property owner currently houses eight (8) animals on his property (four of which are listed as Afghan Hounds, four of which are listed as Rhodesian Ridgebacks), to which each animal is presently intact, and fully licensed. The property owners state that they are seeking the accessory use for private use only, and have no intention of commercially breeding, selling, boarding, grooming or otherwise operating a dog kennel for profit. The site is located at 5905 Kim Court, Mount Airy, Maryland 21771 on property zoned "A" Agricultural District in Election District 13.

A number of homeowners from the community appeared in support and in opposition to the approval of the Accessory Use. Additionally two (2) email correspondences (which were read into the record) were received opposing the approval of the Accessory Use.

It is apparent from the evidence that was presented by Mr. Clark D. Shaffer, attorney, on behalf of his clients Mr. D. Jay Hyman and Ms. Lynne S. Schanzle, that a limited amount of dog breeding and dog sales would be occurring on the property.

Mr. Hyman and Ms. Schanzle both testified to birthing dogs on the property and also selling dogs from the property (albeit only one or two dogs each year). Although Mr. Shaffer contends that the Carroll County Code of Public Local Laws and Ordinances allows for a minor amount of dog breeding and dog sales in a Private Kennel, it is the opinion of the hearing officer acting as Zoning Administrator that this is simply not the case. Specifically speaking the definition of Private Kennel under Chapter 223 of the County Code allows for no breeding, selling, boarding, or grooming of any kind. Those acts are reserved entirely within the scope of Commercial Kennel as defined within the same chapter.

Furthermore, it is the opinion of the Hearing Officer that the Applicants intend to breed animals on the property for the furtherance of their own business dealings as not only experts on dogs, but also as dog enthusiasts, and as a dog attorney in the case of applicant Mr. Hyman.

The scope of the Private Kennel use is limited to only those dog owners who wish to keep as private pets three (3) or more dogs on their property. If Mr. Hyman and Ms. Schanzle wish to conduct breeding and/or sales of dogs on their property, even in limited quantities, they must apply to the Board of Zoning Appeals for a Commercial Kennel.

Conclusions:

After review of the testimony and evidence the Zoning Administrator finds that the Applicants will be and further, have been, engaging in the act of breeding and selling dogs from their property. Therefore, because the Applicants as such do not qualify for a Private Kennel the Applicant's request for an Accessory Use is Denied.

Note: This Decision may be appealed to the Board of Zoning Appeals within thirty (30) days of the date issued in accordance with Sections 223-182 and 223-188 of the County Code.

A Decision of the Zoning Administrator made pursuant to Section 223-181.1 is final and constitutes a zoning action. Unless timely appealed, parties may not thereafter challenge the Zoning Administrator's decision.

1/22/10
Date

Hearing Officer (As Zoning Administrator)