

Services, the Petitioner is seeking Conditional Use approval to formalize, under the current Zoning Ordinance, the continued long-standing use of the Property.

The Petitioner hereby incorporates by reference its Land Use Report, previously submitted into the Record, and the Supplemental Statement (attached hereto as Exhibit A).

I. STATEMENT OF GROUNDS UPON WHICH THE CASE IS BASED AND JUSTIFICATION FOR THE CONDITIONAL USE APPLICATION.

The Property subject to Conditional Use Application No. CU 24-11 (the "Application") consists of approximately 44,866 square feet (or 1.03 acres) of land located along Bradley Boulevard (MD-191), approximately equidistant between Burdette Road and I-495.

The Property is zoned Residential-200 ("R-200") and is currently improved with approximately 3,578 square feet of above-grade floor area, of which approximately 1,596 square feet is devoted to the existing Veterinary Hospital use, and associated surface parking.¹ According to the State Department of Assessments and Taxation ("SDAT") records, the existing one-story building was built circa 1951.

Pursuant to the approved Existing Conditions Plan (approved April 10, 2023), there are no forested areas on-site – nor are there any known rare, threatened, or endangered species. The Conditional Use application proposes no land disturbance. As such, the Project does not trigger the requirement for any sediment/erosion control and stormwater management. The Property is not in a Special Protection Area, so no separate water quality monitoring plan is required.

The Petitioner purchased the Property in 2000 and sought approval of a Home Occupation Certificate to continue the then-existing use of the Property as a full-service animal hospital. A full-service animal hospital has operated on the Property since the 1970s and is located in the southwestern wing of the existing building. As noted, the Veterinary Office/Hospital use is comprised of approximately 1,596 square-feet. The remainder of the existing building is used as the primary residence for Dr. Charles Weiss, owner of the Bradley Hills Animal Hospital.

As noted above a Veterinary Office/Hospital use is now permitted as a Conditional Use within the R-200 Zone (Pursuant to Section 3.1.6). As such, at the suggestion of the Department of Permitting Services, the Petitioner is seeking Conditional Use approval to formalize the long-standing use of the Property under the current Zoning Ordinance.

As outlined in the Petitioner's Land Use Report, the Application satisfies the requirements for a Veterinary Office/Hospital contained in Section 3.5.1.C.2.b of the Zoning Ordinance and also satisfies all applicable purposes and requirements of the R-200 Zone (Zoning Ordinance, Section 59-4.4.7). The existing building and site layout, and approved operations, will remain unchanged

¹The existing surface parking is proposed to remain as a grandfathered site condition pursuant to Section 7.7.1.A.1., as confirmed by Montgomery County Department of Permitting Services in the Confirmation Letter dated August 29, 2023.

as a result of this Application. As such, the proposed Conditional Use will continue to be compatible with the surrounding neighborhood, as it has since inception. The existing development exceeds all minimum setbacks required. To the rear, the building is set back a minimum of approximately 140 feet (as compared to the required 30 foot minimum setback), for the Veterinary Hospital portion of the building – the remaining residential portion of the building is set back approximately 156 feet from the rear property boundary. The required 12-foot minimum side-yard setback is exceeded with setbacks of 20 feet for the personal residence and 24 feet for the Veterinary Hospital. The front of the building is set back approximately 99 feet for the personal residence and 121 feet for the Veterinary Hospital (as compared to the minimum 40-foot setback).

The Application is also in substantial conformance with the *1990 Approved and Adopted Bethesda – Chevy Chase Master Plan* (the "Master Plan"). The Master Plan reconfirms the Property's R-200 zoning. There are no site-specific recommendations contained in the Master Plan, although the full service animal hospital use of the Property was existing at the time of the Master Plan's adoption. A primary goal of the Master Plan is "to protect the high quality of life, the existing residential character, and the natural environment throughout the area." The Application accomplishes this while allowing for the continuation of this long-standing community-serving use on the Property. As discussed herein, the existing use, building, and site improvements have existed on the Property for decades and, as such, are a well-established fixture in the surrounding neighborhood and a part of the community fabric. Notably, the existing building, which will be retained, has a residential appearance that blends in seamlessly with the surrounding neighborhood. No new development is proposed by this Conditional Use. The Application's conformance with the Master Plan is further discussed in the Petitioner's Land Use Report.

A preliminary plan of subdivision is not required, as no new development is proposed. The existing Veterinary Office/Hospital use currently operates pursuant to a valid Home Occupation Certificate. Since the issuance of the Home Occupation Certificate, building permits have been issued for the Veterinary Office/Hospital. The issuance of these building permits and the Home Occupation Certificate is prima facie evidence that the use is operating under a valid determination of Adequate Public Facilities. This Application does not propose any changes to the existing use or operations. As such, public facilities will remain adequate to serve the use. Never the less, an analysis by the Petitioner's civil engineer has confirmed that there are adequate public facilities to serve the Veterinary Office/Hospital. The Traffic Statement submitted with this Application demonstrates that the Conditional Use will not generate any additional trips, as compared to the existing use. Furthermore, if evaluated as a brand new use (*i.e.* not taking into account the trips generated by the lawful existing use), the proposed Veterinary Office/Hospital would only generate 8 AM peak hour person trips and 8 PM peak hour person trips. As such, under either analysis, because the Conditional Use will result in fewer than 50 net new peak hour person trips, the Application is exempt from Local Area Transportation Review ("LATR").

The Property is already served by existing water and sewer. The Property is located within water and sewer categories W-1 and S-1. Electric, gas and telecommunications services will also be available. Other public facilities and services – including police stations, firehouses, and health care facilities – are currently operating in accordance with the Growth and Infrastructure Policy and will continue to be sufficient. Formalizing the existing Home Occupation use as a Conditional Use does not alter the Property’s use of, or current impact on, public facilities and services.

For the reasons stated herein, and discussed in detail in the reports submitted on behalf of the Petitioner, the existing use is compatible with its surroundings. The Property has operated as a full-service animal hospital for over 45 years. This Application merely seeks to formalize the existing, approved, long-standing use, through a Conditional Use. As such, the proposed Conditional Use will not have any adverse effects on the character of the surrounding area, which has largely grown up and developed around this use. Furthermore, as described herein and in the Petitioner’s Land Use Report, the Conditional Use substantially conforms with the recommendations of the Master Plan. Additionally, as depicted on the Conditional Use Plan and discussed in detail in the Land Use Report, the Application satisfies the requirements of the Zoning Ordinance and all necessary findings contained in Zoning Ordinance Section 7.3.1.E, for approval of a Conditional Use.

The evidence to be presented at the hearing will demonstrate: (1) that the Conditional Use Application satisfies the development standards of the R-200 Zone; (2) that the Conditional Use Application satisfies applicable use standards contained in Section 3.5.1.C.2.b of the Zoning Ordinance for a Veterinary Office/Hospital; (3) that the available public facilities and services will be adequate to serve the proposed development; (4) that the Conditional Use substantially conforms with the recommendations of the Master Plan; and (5) that approval of the Conditional Use complies with the required general and specific findings contained in Zoning Ordinance Section 7.3.1.E.

II. REPORTS INTENDED TO BE INTRODUCED AT THE HEARING

1. Land Use Report;
2. Supplemental Statement of Petitioner;
3. Noise Study prepared by Polysonics; and
4. Traffic Exemption Statement prepared by MHG.

III. SUMMARY OF EXPERT TESTIMONY

At the present time, the Petitioner intends to call the following expert witness to testify in support of the Conditional Use application:

1. Mr. Patrick La Vay, P.E., Civil Engineer with MHG will testify as to among other things, the physical characteristics and natural environmental features of the Property, the proposed Conditional Use Plan, conformance of the existing

development with applicable standards and requirements of the Zoning Ordinance, the Traffic Exemption Statement prepared for the Conditional Use, the adequacy of public facilities, Master Plan conformance, and compliance of the Application with use-specific standards for a Veterinary Office/Hospital.

Mr. La Vay's resume is being submitted into the Record concurrently with this Statement (see Exhibit B). The Petitioner reserves the right to call additional expert witnesses if it deems necessary.

IV. OTHER WITNESSES WHO WILL TESTIFY

In addition to the above expert witness, the Petitioner will also call on the following witness testify:


Dr. Charles Weiss, D.V.M., practicing doctor of veterinary medicine and owner of Bradley Hills Animal Hospital, will testify as to among other things, the long-standing use of the Property as a full-service Animal Hospital, as well as the existing operations that are proposed to continue.

V. ESTIMATED TIME REQUIRED FOR PRESENTATION

The Petitioner anticipates that, excluding questions, the presentation of its case-in-chief for the proposed Conditional Use will take approximately two (2) hours.

This submission is intended to satisfy the requirement of the Rules of Procedure for Conditional Use Cases. If it is subsequently determined that new or supplemental information is necessary, the Petitioner will make a supplemental submission in a timely fashion.

Respectfully submitted,

By: 
Elizabeth C. Rogers

By: 
William Kominers

EXHIBIT A

SUPPLEMENTAL STATEMENT
7210 BRADLEY BOULEVARD
CU202411

This supplemental statement is submitted on behalf of Doctor Charles Weiss, on behalf of the Bradley Hills Animal Hospital (the "Petitioner"), in connection with its request pursuant to Section 7.3.1 of the Montgomery County Zoning Ordinance ("Zoning Ordinance") to permit and confirm the continued use of the property, located at 7210 Bradley Boulevard in Bethesda, Maryland (the "Property"), as a full service Veterinary Office/Hospital (per Section 3.5.1 of the Zoning Ordinance) (the "Project"). As discussed in the Petitioner's Land Use Report, the Property has operated as a full-service animal hospital since the late-1970s. The existing use has operated pursuant to a validly issued home occupation certificate, issued on March 01, 2000, which was based on the on-going activity that proceeded it. No changes are proposed to the existing building, site layout, or approved operations. Rather, the Petitioner is merely seeking Conditional Use approval, at the suggestion of the Department of Permitting Services, to formalize, under the current Zoning Ordinance, the long-standing use of the Property.

This Supplemental Statement serves to confirm that: (1) no frontage improvements should be required for this Application, and (2) to request approval of an Alternative Method of Compliance to retain existing driveway access points.

I. No Frontage Improvements are Required for this Application, as No Development is Proposed.

Section 7.3.1.E.1.c of the Zoning Ordinance requires the Hearing Examiner to make a finding that the proposed Conditional Use substantially conforms with the recommendations of the applicable master plan. As discussed in detail in the Petitioner's Land Use Report, the continued operation of this long-standing, community serving use substantially conforms with the goals and recommendations of the *1990 Approved and Adopted Bethesda – Chevy Chase Master Plan*. The Petitioner firmly believes that frontage improvements are not required in this instance, for the reasons discussed below. Therefore, the absence of frontage improvements does not affect the Hearing Examiner's ability to make the required finding of Master Plan conformance.

Frontage improvements are traditionally required in connection with development applications, as a public improvement that is justified by the new use of land (*i.e.* either physical development or a change in use). The new development is the nexus for requiring such improvements. Here, no new development is being proposed, as the Petitioner is not proposing any site modifications or changes to the existing, approved operations. Rather, the Petitioner is merely seeking to reconfirm an existing use. Accordingly, the frontage improvements recommended by the various functional master plans, are not applicable to this Application. For example, absent public funding, the recommendations in the Bicycle Master Plan are to be implemented through the “Montgomery County Planning Board’s approval of development.” (Emphasis added; *See* Bicycle Master Plan page 139). The Bicycle Master Plan includes numerous references to “developers” implementing the bicycle improvements as “part of their development projects.” (*See Id.* page 141). Similarly, the Pedestrian Master Plan also notes that “[d]evelopers are required to construct pedestrian facilities through the development approval process” (Emphasis added; *See* Pedestrian Master Plan page 270). Complete Streets confirms this relationship to “development” in recognizing that “[t]he bikeways identified in the Bicycle Master Plan should be implemented whenever feasible through redevelopment, street reconstruction, repaving, and/or capital improvement projects” (emphasis added; *see* page 56) (*see* also reference to construction of bicycle facilities “as part of development projects” on page 170).

This Conditional Use proposes no new development and merely seeks to re-confirm the existing, approved operations on the Property. As such, no additional pedestrian, bicyclist, or vehicular trips will be generated by the proposal (as compared to the existing conditions). Given that there is no new development proposed, no frontage improvements are triggered by the Application. Furthermore, because there are no new person trips being generated by the Conditional Use, there is no nexus to request the Petitioner to construct frontage improvements or make a monetary contribution for any frontage improvements.

II. Request for Alternative Method of Compliance

Pursuant to Section 6.8.1 of the Zoning Ordinance, the Petitioner is requesting approval of an alternative method of compliance for the site access requirements in Division 6.1, to allow the existing vehicular access points to the Property to remain. Specifically, Section 6.1.4.D allows for “[a] maximum of 2 driveways... for every 300 feet of site frontages along any street.” The

Property currently has two essential driveways that have served the Property for over the past 45 years. These entrances are grandfathered today as an existing site condition under Section 7.7.1.A.1 and are proposed to remain unchanged by the proposed Application. However, because this existing, grandfathered condition deviates from the requirements of Section 6.1.4.D, the Petitioner is conservatively requesting approval of an alternative method of compliance to affirmatively allow the existing driveways to remain.

The Hearing Examiner can waive the site access requirements of Division 6.1 if it is determined that there is a unique site, a use characteristic, or a development constraint, such as an existing building or structure, which precludes safe or efficient development under the requirements of Division 6.1. The retention of the existing site condition satisfies the findings of Section 6.8.1, as demonstrated below:

- *Satisfy the intent of the applicable Division;*

The intent of Division 6.1 is to “ensure safe and convenient vehicular, bicycle, and pedestrian circulation within and between lots on the same block face and to reduce traffic congestion.” The proposed alternative method of compliance merely seeks to preserve the existing, long-standing site condition. The existing access points work in tandem to ensure that there is safe and convenient access to the Property. The access points are necessary to accommodate the one-way circulation pattern that exists on the Property today. The one-way circulation contributes to safety of visitors to the veterinary hospital, by minimizing the potential for internal conflicts within the parking area. There is not enough room within the existing property (given the location of the existing building) to accommodate the necessary parking and two-way internal circulation. Any changes to the existing circulation pattern would require additional, undesirable paving area. As such, the existing access points are critical to the successful operation of the long-standing veterinary hospital and to retaining the existing character of the Property.

- *Modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;*

The Applicant is seeking to retain the existing access points for the Property. As mentioned above, given the location of the existing building, there is no way to meet this standard without significantly compromising the operations of the existing veterinary hospital use. Without the

proposed alternative method of compliance, the on-site circulation and parking will be significantly impaired. Importantly, the Petitioner is not proposing any new driveway entrances with this Application, but rather merely seeking to retain what exists today and has existed for many years.

- *Provide necessary mitigation, alleviating any adverse impacts; and*

The existing site access points have been in place for over 45 years and are an important operational component of the approved veterinary hospital use. The retention of the existing access points will not cause any adverse impacts. Rather, the alternative method of compliance will allow the Petitioner to continue to accommodate adequate on-site parking and circulation, to ensure there are no impacts on the surrounding roadway network.

- *Be in the public interest.*

The proposed alternative method of compliance (of preserving the existing site access points) is critical for maintaining adequate parking and circulation on the Property, just as it existed when the home occupation certificate was approved 24 years ago. The veterinary hospital has been serving the needs of the surrounding community for at least the past 45 years. Thus, approval of this alternative method of compliance will allow for the continued, successful operation of the long-standing, neighborhood serving veterinary hospital.

For all of these reasons the Petitioner respectfully requests approval of this alternative method of compliance, to allow for the retention of the existing site access points.

EXHIBIT B

PATRICK G. LA VAY, P.E.

TITLE: Vice President / Senior Project Engineer

EXPERTISE: Civil Engineering, Land Planning and Project Management Relating to Development Projects in Maryland, Virginia and Washington, D.C.

EXPERIENCE WITH MACRIS, HENDRICKS AND GLASCOCK, P.A.

(2009 - Present):

- Principal Project Engineer in charge of managing commercial, institutional, and industrial projects under design by Macris, Hendricks and Glascock, P.A. Responsibilities include: project coordination and scheduling, plan and specification preparation and review, development application and permit processing, LEED Certification and construction administration.

(2007 – 2009)

- Design Engineer in charge of the design of Stormwater Management & Storm Drainage Systems and Soil Erosion/Sediment Control Plans. Responsibilities included feasibility investigations, plan and specification preparation, and construction administration.

ACADEMIC BACKGROUND:

- B.S., Virginia Tech (2005) – Mining and Minerals Engineering
- Phi Sigma Theta National Honors Society

PROFESSIONAL REGISTRATION:

- Professional Engineer, State of Maryland
- Professional Engineer, District of Columbia
- Professional Engineer, Commonwealth of Virginia

PROFESSIONAL AFFILIATIONS:

- American Society of Civil Engineers (ASCE), Member

EXPERIENCE AS EXPERT WITNESS:

- Office of Zoning Hearing Examiner for Montgomery County, Maryland
 - Special Exception Case No. S-2819, Olney Assisted Living
 - Special Exception Case No. S-2820, Fairland Animal Hospital
 - Special Exception Case No. S-2815 Alfredhouse Eldercare, Inc.
 - Special Exception Case No. S-687-G, Bullis School
 - Conditional Use Case No. CU 15-05 Artis Senior Living, Potomac
 - Local Map Amendment Case No. H-118, Georgetown Professional Associates
- Montgomery County Department of Transportation
 - Abandonment/Disposition of Water Johnson Road, Germantown, AB-779
- Frederick County Board of Appeals
 - Special Exception Case No. B-14-17, Kelkimric Properties

AWARDS AND HONORS:

- Shelton Award for Academic Achievement in Engineering – Class of 2005
- Maryland National Capital Building Industry Association, 2011 Environmental Award – Watkins Mill High School, Regenerative Storm Drain Outfall Restoration Project