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I. STATEMENT OF THE CASE

Filed on April 20, 2018, the Applicants, Clarksburg Animal Hospital, Inc., and Mashed Potato Properties, LLC, (collectively, CAH or Applicant) seek a conditional use for a veterinary office/hospital at 26221 Prescott Road, Clarksburg, Maryland, under Section 59.3.5.1.C of the Zoning Ordinance. The property lies within the AR (Agriculture Reserve) Zone. The Office of Zoning and Administrative Hearings (OZAH) scheduled a public hearing to be held on August 14, 2018. Exhibit 45.

Staff of the Montgomery County Planning Department (Planning Staff or Staff) issued a report recommending approval of the application on June 29, 2018, subject to seven conditions (Exhibit 53(a)):

1. All uses on the site must conform to the Conditional Use Plan approved by the Hearing Examiner.
2. The normal operating hours of the facility are limited to 7:30 a.m. to 7:00 p.m. Monday through Friday and from 7:30 a.m. to 1:00 p.m. on Saturday.
3. No more than 5 veterinarians and 15 support staff may be present at any time.
4. Only domestic animals may be treated on the site.
5. The Applicant must obtain approval of an amendment to Preliminary Plan 120070710 to allow the proposed use on the lot.
6. The illuminated location sign shall only be lit during normal business hours.
7. Garbage/dumpster pick-up must comply with time of day restrictions specified in Chapter 48-solid waste regulations, which currently specify that no pick-ups may occur between 9:00 p.m. and 7:00 a.m. on any weekday, or between 9:00 p.m. and 9:00 a.m. on Sundays and federal holidays.
8. The Applicant must satisfy the requirements of the MCDPS Well & Septic Program review as detailed in their emails to the Applicant dated, June 25 and June 26, 2018.
9. A written log of all appointments and drop-in and emergency client activities must be kept, to be available for inspection by MCDPS.

At the July 12, 2018, hearing before the Planning Board, the Applicant requested that Condition No. 6 be modified to permit the exterior lights, including those for the locational sign, to be illuminated before opening and after closing. Exhibit 53. Due to concerns regarding the safety of staff and patients after dark, the Planning Board modified the language of Condition No. 6 as follows:

All exterior lights (location sign, parking lot, and building lights) may be turned on beginning one-half hour prior to the start of normal business hours and may remain on until one-half hour after normal business hours. Exterior lights may also be turned on if staff needs to visit the facility outside of normal business hours, but must be turned off upon departure. The lights attached to the building may be operated by a motion sensor.

After the Planning Board's hearing, the Applicants filed a Motion to Amend the application.¹ Exhibit 51. OZAH issued notice of the Motion the following day. Exhibit 52. Receiving no objection, the Motion was deemed granted.

The August 14, 2018, public hearing before OZAH proceeded as scheduled. The Applicant presented five witnesses, which included Dr. Greta Stamberg (a principal of the CAH). She described the proposed operations of the facility. Four experts appeared on behalf of the Applicant: Les Powell, an expert in land planning and landscape architecture (T. 21), John Stouffer, an expert in architecture (T. 37), David O'Bryan, an expert in civil engineering (T. 151), and Brian Biddle, an expert in transportation planning and traffic engineering (T. 159). Mr. Lou Sousa and Ms. Karon deSilva testified in opposition to the application.

The Hearing Examiner left the record open until September 17, 2018, to receive a number of items. The record did not contain an approved amended forest conservation plan as required by *Montgomery County Code*, §22A-11(c). She also requested that Planning Staff submit a more detailed analysis of the inherent and non-inherent characteristic of the proposed use at the proposed location, as required in Section 59-7.3.1.E.1.g. Exhibit 70. She asked the Applicant to propose a condition on lighting that would mitigate its impact on the rural and natural character of the area. The Hearing Examiner gave those opposing the application an opportunity to respond to the Applicant's arguments (made at the public hearing) that the subject property was grandfathered

¹ The Planning Board considered the amendments included in the Motion to Amend, even though the formal Motion was filed after their public hearing.

from the minimum site area requirements of the AR Zone, and all parties to make any comments on the responses from Planning Staff. T. 224-231.

While the record was open, the Hearing Examiner received numerous letters of support and opposition to the proposed use. Exhibits 43 and 79. The Montgomery Countryside Alliance submitted a letter recommending that the use be down-sized to reduce its impact on the Piedmont Sole Source Aquifer. Exhibit 80. The points raised in support and opposition of the application are summarized in Section II.D of this Report. All parties submitted the evidence requested and the record closed on September 17, 2018.

For the following reasons, the Hearing Examiner approves the conditional use application, subject to the conditions listed in Part IV of this Report and Decision (Report).

II. FACTUAL BACKGROUND

A. The Subject Property

The subject property is a 5.585-acre recorded lot in the southeast quadrant of the intersection of Lewisdale and Prescott Roads in Damascus. Exhibit 53(a). The approved preliminary plan limited the use to a four-bedroom single-family detached home. Exhibit 26. According to Mr. Powell, the Applicant's expert in land planning, the property peaks at the eastern side and slopes toward Prescott Road at a grade of approximately 10%. T. 23. Staff advises that the property drops by approximately 40 feet from east to west. Exhibit 53(a). The site is entirely forested. There is an existing well on the site, which is otherwise unimproved except for a shed. T. 23. Approximately 3.57 of the property lies within a Category I forest conservation easement established by an approved preliminary plan. Exhibit 53(a), p. 3. Some invasive plants have infiltrated the hardwoods on the property. T. 24. Staff advises that there are no environmentally

sensitive features on the site, such as wetlands, streams, or steep slopes. Exhibit 53(a). A vicinity map from the Staff Report shows the property's general location (Exhibit 53(a), p. 1, below):



In its report, Staff recounted the zoning and land use history of the property, which is important to whether the lot is grandfathered from one of the development standards of the AR Zone (Exhibit 53(a), p. 5):

The 1980 Functional Master Plan for the Preservation of Agriculture & Rural Open Space established the County's Agricultural Reserve. Land within the Agricultural Reserve, which includes the Property, was categorized within the Rural Density Transfer (RDT) Zone established by this plan. Prior to being placed in the RDT Zone, the property had been zoned Rural, which had a minimum lot size of five acres. The 1985 Damascus Master Plan ("Master Plan") recommended retaining the RDT Zone designation for the Property. The RDT Zone was renamed the AR Zone by the 2014 Comprehensive Zoning Code rewrite. The property was platted as a grandfathered parcel that pre-dated its rezoning to RDT.

The Staff Report also contains an aerial view of the subject property (*Id.* at 2, on the following page). The green line on the map depicts the boundaries of the existing forest conservation easement.



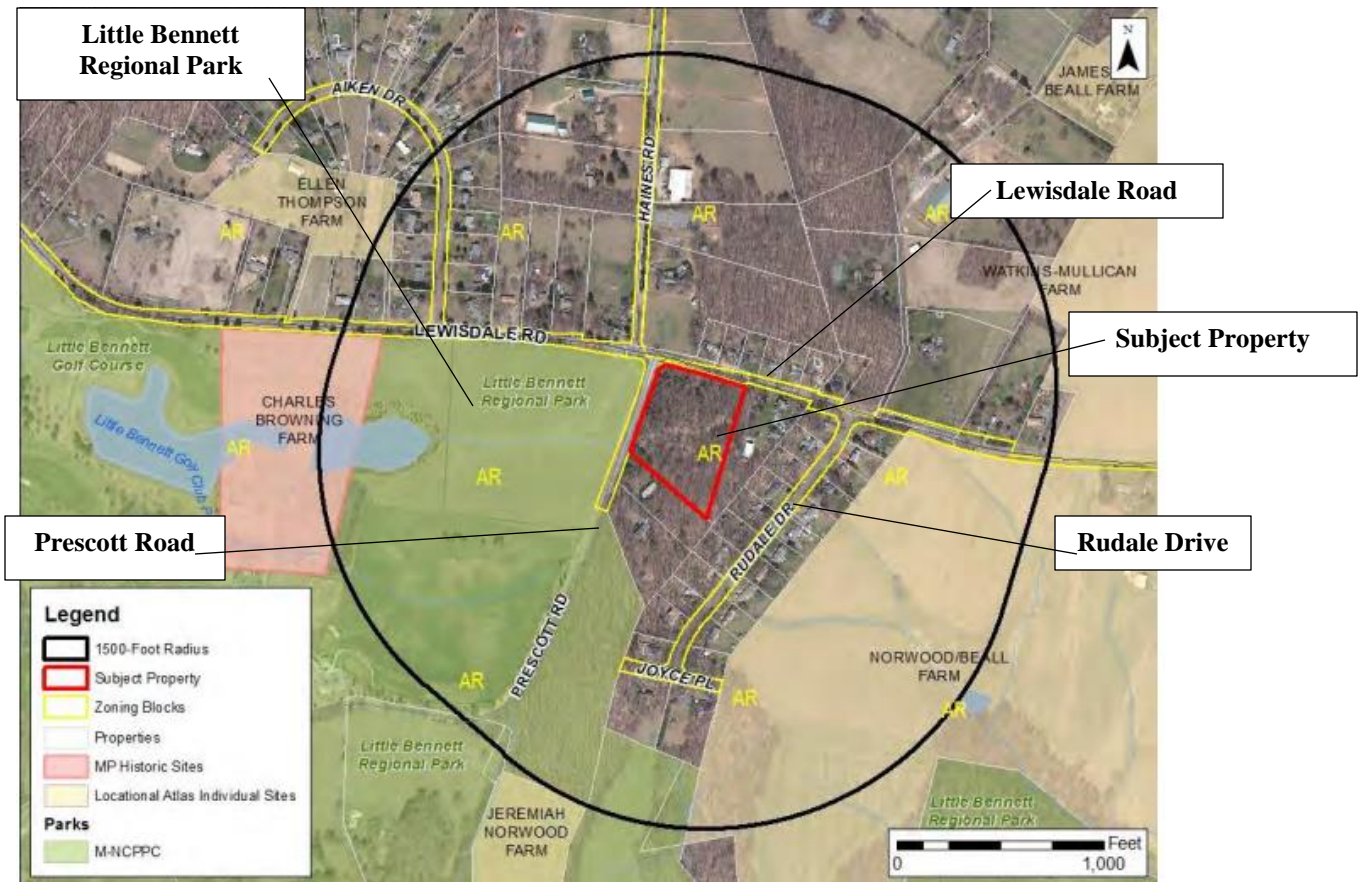
Aerial View of Subject Property
Exhibit 53(a), p. 3

B. Surrounding Area

For the purpose of determining the compatibility of the proposed use, it is necessary to delineate and characterize the “surrounding area” (*i.e.*, the area that will be most directly impacted by the proposed use). The compatibility of the use at the proposed location is determined by reviewing the impacts of the use on the “character” of surrounding area.

Staff defined the area impacted as land within a 1,500 foot radius of the site because that is the area most likely to be “impacted by the sights, sounds, and traffic associated with the

proposed use.” *Id.*, pp. 3-4. A graphic depicting the “surrounding area” as designated by Staff is shown below (Exhibit 53(a), p. 4):



The Applicant’s expert in land planning, Mr. Les Powell, defined the surrounding area differently. He opined that the “surrounding area” consists only of adjacent and confronting properties. The area defined by Mr. Powell extends further to the west of Staff’s defined neighborhood because it includes all of the Little Bennett Regional Park across Prescott Road. According to Mr. Powell, the area he defines incorporates properties along Rudale Drive and across Lewisdale Road. T. 45. Mr. Powell opined that the different delineations encumbered many of the same properties and were not significantly different. T. 45-46. Mr. Powell agreed

with Planning Staff's assessment that the use did not alter the existing residential character of the area. T. 48.

The Hearing Examiner agrees with Staff that the surrounding area is best defined by properties within one-half mile of the subject property. This includes residential subdivisions to the north that empty onto Lewisdale Road and could be affected by traffic to and from the proposed use. Because Little Bennett Regional Park is so large, drawing the boundary further to the west includes properties that may suffer only attenuated impacts.

There are multiple uses within this area. Little Bennett Regional Park directly confronts the subject property across Prescott Road. Access to the park and Little Bennett Golf Course is from Prescott Road south of the subject property. Directly confronting to the north is a horse training, breeding and boarding facility and some single-family homes. Abutting properties to the south and east are developed with single-family detached houses. Further from the property, but within the 1,500 foot radius, are single-family homes and farms. Ex. 53(a), p. 4. All properties within the surrounding area are zoned AR. In addition to the Charles Browning Farm, there are four other historic properties within the defined surrounding area: Norwood/Beall Farm, Ellen Thompson Farm, Jeremiah Horwood Farm, and Watkins-Mullican Farm.² *Id.*

Staff characterizes the area immediately surrounding the property as "rural," including "a mix of single-family residential detached houses, agricultural fields, forested areas, and open space." *Id.* The Hearing Examiner agrees, but adds that the area has an important natural and historic landscape that includes the Little Bennett Meadow and historic buildings.

² These properties and the Charles Browning Farm are on the Historical Locational Atlas. *Id.*

C. Proposed Use

The Applicant proposes to operate a veterinary office/hospital, which requires approval of a conditional use in the AR Zone. *Montgomery County Zoning Ordinance (Zoning Ordinance)*, §3.1.6. Planning Staff reports that business will consist of a “general small animal veterinary practice which offers well and sick appointments...[and] performs surgical and dental procedures.” *Id.* According to Dr. Stamberg, “hospitalizations will occur only rarely.” T. 96. Patients occasionally spend the night at the facility when an animal is not stable enough to be driven home after a procedure. She usually returns to the clinic between 10:00 p.m. and 11:00 p.m. to check on these patients. Most patients are stable enough to go home after procedures or appointments. *Id.* Except in these rare instances, emergencies occurring after hours will be referred to a 24-hour emergency clinic.

The veterinary hospital will also offer prescriptions, pet food, medications, supplements, and medicated shampoos for sale. To minimize unscheduled trips for products, the business participates with an online pharmacy. Clients may order medications online and these are shipped directly to their homes. In the future, the Applicant plans a “telemedicine” service for follow-up appointments. T. 111-112. The Staff Report contains an architectural elevation of the front (west) façade (shown on the following page (Exhibit 53(a))).

1. Conditional Use Plan

The building is sited toward the center of the north/south property lines and lies closer to the eastern property line than the western property line. Due to the property’s slope, the building will have a retaining wall varying in height up to 7-feet. The wall wraps around the north and east of the proposed building.



**Front (West) Elevation
Exhibit 37**

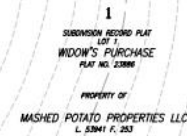
pad. Sole access is from a driveway connecting to Prescott Road. The driveway has a 10% grade at the top that flattens out as it approaches Prescott Road so vehicles don't bottom out. T. 24. A septic field lies between Prescott Road and the building. Two "walk areas" wrap around the exterior of the facility. A copy of the conditional use plan (Exhibit 51(a)) is shown on the next page.

The retaining wall is necessary because the development pad is built into the slope of the property. This permits CAH to retain 3.57 acres within the forest conservation easement. An architectural elevation submitted by the Applicant demonstrates the siting of the property in relation to the existing topography (Exhibit 65, shown on page 13).

2. Operations

a. Operating Hours

Regular business hours will be from 7:30 a.m. to 7:00 p.m., Monday through Friday and from 7:30 a.m. to 1:00 p.m. on Saturday. T. 97. As noted, patients will occasionally be kept overnight when they are too unstable to drive. After hour emergencies will normally be referred to an emergency clinic. The practice will be closed on Sunday. According to Dr. Stamberg, staff





typically arrives within 30 minutes of opening. The majority of staff leave 30 minutes after closing time, but if their caseload takes longer than expected, veterinarians may not leave until about an hour after closing time. T. 97-98.

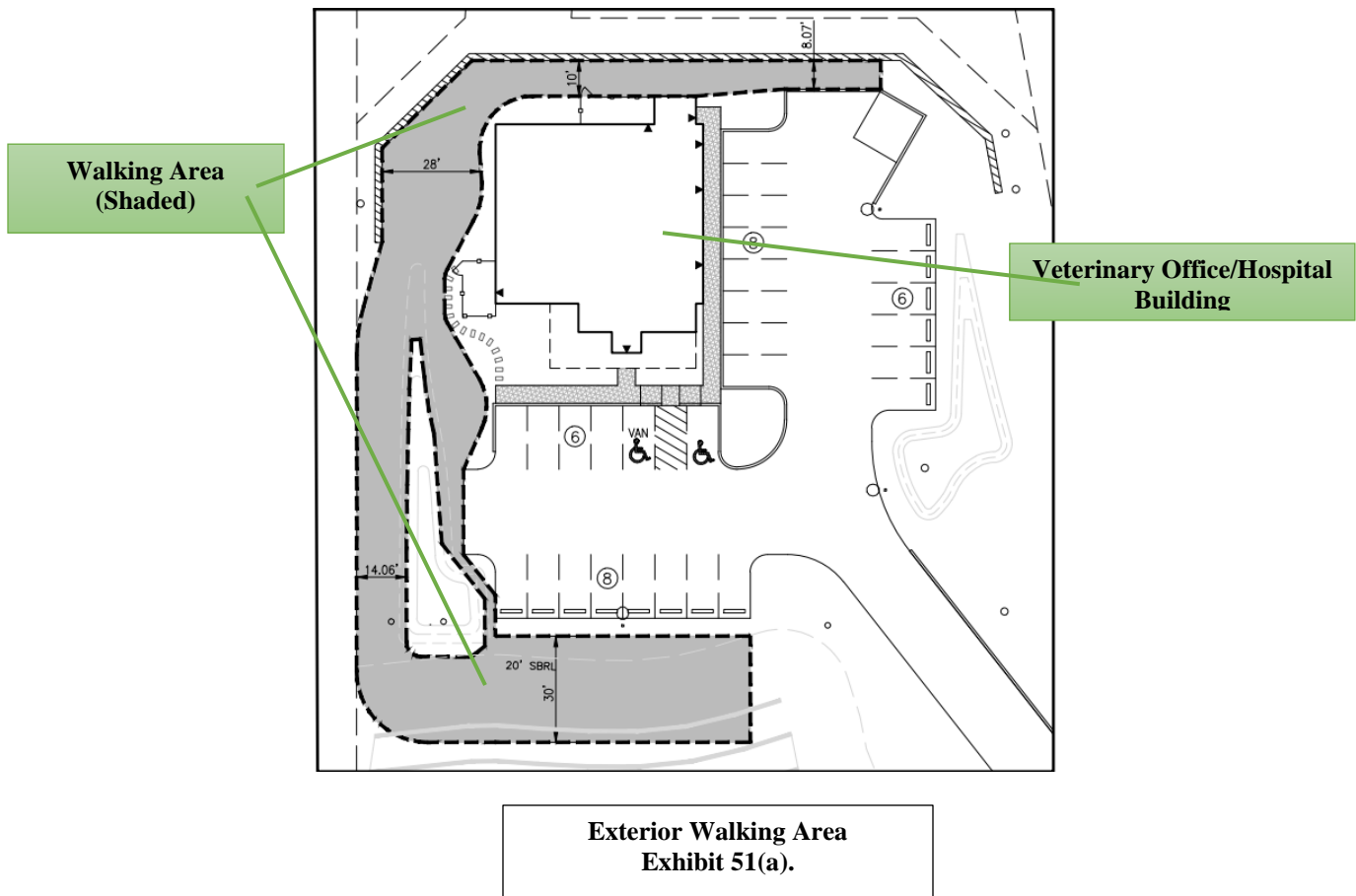
b. Staffing

Dr. Stamberg testified that, at full operation, the facility will have up to five veterinarians. This will allow her some flexibility to manage the practice rather than see patients. While the building was designed to have five veterinarians working at the same time, doing so would be very “tight”. T. 97. When operating at full capacity, the facility will have 15 staff persons in addition to five veterinarians. Exhibit 53(a), p. 11.

c. Floor Plans and Interior/Exterior Circulation

Dr. Stamberg described patient circulation inside and outside the facility. The exterior walking area is shown on the conditional use plan (Ex 51(a), on the next page).

The outdoor walking will be used for clients to take their dogs for a short walk before they come in. Staff also take the dogs outside to get urine samples and surgical patients will use the



area to relieve themselves at some point during the day. Typically, only one dog is outside at a time. Dogs receiving surgical procedures will be let out in back of the facility, rather than the front. Dr. Stamberg testified that the fence in the rear of the building acts as a failsafe to prevent animals from escaping. The fire safety door must push out, and the fenced area at that location provides a barrier if for some reason a dog accidentally pushes the door. T. 113-115.

The outside area may also be used for behavioral consults, euthanasia, etc. At times, people prefer the privacy and calm of being outdoors for the latter. These animals will not be making noise. T. 115. A handful of her patients benefit from having their exams outside because they behave much better. The smaller fenced area in the rear will serve that purpose as well. T. 116.

Mr. John Stouffer, the project architect, described the floor plans for the building. The main entrance on the first floor (Exhibit 27) is from a vestibule that leads into a waiting room and the reception area. A public corridor leads into the exam rooms. Treatment and procedure areas, such as dental services, x-ray, etc. are behind the exam rooms. T. 139. He opined that the interior is more in the nature of an office building setting, except that the reception area will have some residential furniture like a sofa. T. 140. Access to the second floor is from a stairway next to the manager/exam room. The second floor contains a break area and office, as well as some mechanical space. This space will be built out at a later date when the practice nears its full capacity. T. 140. The second floor is approximately 800 square feet. The plan (Exhibit 27) reproduced on the next page.

Dr. Stamberg testified that the interior floor plan is laid out to avoid conflicts between patients. There's a designated cat exam room near the reception area with a window, as cats prefer this. There is a multi-purpose comfort room for atypical uses and a main exam room. The large exam room on the south side of the office is designated for large dogs. That has a side door that leads into the main hallway corridor going into all of the exam rooms. Because large dogs are more likely to have problems interacting with other animals, clients may park and come in the side door directly to this exam room and then leave without mingling with other animals. Two corridors lead back into more treatment space. There will be a lab and tables for doing exams and treatments in the back. They have a designated room for dental cleanings, x-rays, and a surgical room. They also have a kennel with two interior runs for bigger dogs. An isolation room will be used for patients that have contagious diseases or need to be separated from other dogs. T. 119-120.

Dog Ward

Cat Ward

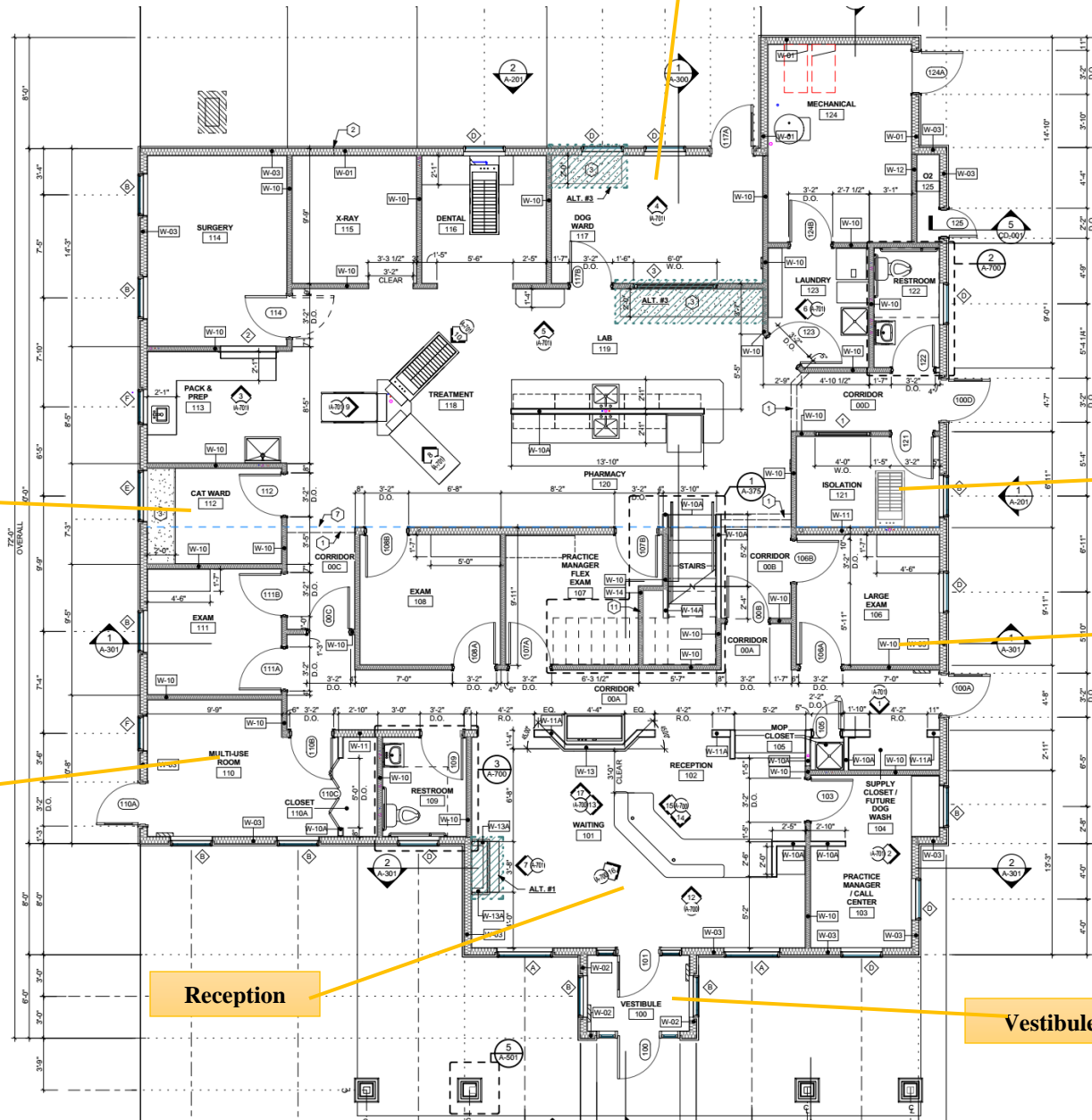
Isolation Room

Large Exam Room

Multi-Purpose Room

Reception

Vestibule



First Floor Plan
Exhibit 27

c. Management of Animal Waste and Chemicals

In her Statement of Justification (Exhibit 3), Dr. Stamberg describes her plan for managing waste on the site:

CAH has an animal waste management plan which includes providing bags and trash receptacles with lids in the walking areas and collecting animal waste immediately upon occurrence. However, there is also a daily surveying and pick up by CAH staff of any previously uncollected waste material. All bagged animal waste will be disposed of in the trash for weekly pick-up. This animal waste management plan, CAH's use of digital x-rays, which eliminates chemicals to develop x-rays, and proper disposal of medications in the trash ensure that this facility, served by private well and septic system, will not adversely affect the groundwater.

Dr. Stamberg further described the cleaning process for the facility (Exhibit 53(a), Attachment E):

Our process for cleaning cages and tables and rooms should not impact the ground water. I purposefully do not have drains in any of those rooms. We will not be spraying down rooms and kennels and putting large amounts of water and disinfectant into the septic system. They are cleaned with disinfectant sprays and wiped off with paper towels that go into the trash. Using paper towels minimizes cross contamination that can come from using towels to wipe down between patients. Sometimes we use small towels and then wash them. We do use the disinfectants in the mop water. Currently we make up about 2 gallons of mop water and change it 2-3 times a week. The mop heads go in the laundry weekly.

d. On-site sales

The Applicant described her plans for on-site sales in her Statement of Justification (Exhibit 3, p. 12):

Onsite sales at CAH are limited to items necessary for the treatment of patients, including, without limitation, prescription diet foods, medications, injectable medications, supplements, preventatives and medicated shampoos. The on-line store/pharmacy is not an accessory activity/operation because orders are fulfilled and shipped from an off-site location. However, any future sales at CAH that are considered an accessory operation/activity will be limited to a maximum of 20% of sales.

At the public hearing, Dr. Stamberg testified that, in the past 12 months, orders through the pharmacy have accounted for 32% of her total sales. T. 111.

3. Site Circulation and Access

Sole access to the facility will be from a driveway connecting to Prescott Road. Exhibit 51(a). Mr. Brian Biddle, the Applicant's expert in traffic engineering, testified that the Montgomery County Department of Fire and Rescue Services has approved the conditional use plan for fire access. A fire truck could do a three-point turn to pull up, then back up and exit the site. That would be more than sufficient for delivery and garbage trucks as well. T. 156-157.

4. Parking

The Applicant proposes a total of 28 spaces, the minimum number required, two of which are handicapped parking spaces. Exhibit 53(a), p. 11. At the public hearing, the Hearing Examiner requested more information on whether the number of spaces would be adequate to serve the use. CAH supplied that information, which is discussed in Part III.D.1 of this Report.

5. Landscaping

Mr. Powell described the proposed landscaping. The Applicants propose an evergreen hedge along western edge of the parking area to screen the bumpers of the cars. There are foundation plantings between the entry sidewalk and front porch to minimize maintenance needed. The bio-retention facilities are also landscaped. Much of the screening will be provided with forest cover; they will be preserving over three and a half acres of forest on-site. T. 55-56. He opined that the parking lot landscaping provided meets the minimum requirements of the Zoning Ordinance. T. 56. According to him, the building will relate well to the surrounding area because it will be "nestled" in between the trees and into the hillside. T. 56. Both the retaining wall and the existing woods help to screen the building from adjacent property lines. T. 24-25. During the winter, it may be able to be seen from Prescott Road because of the clearing for the septic field. As the trees along Prescott Road mature, the view will be minimized, which is why they proposed

the evergreen hedge in front of the parking lot. T. 57. The landscape plan (Exhibit 33) is on pages 20 and 21 of this Report.

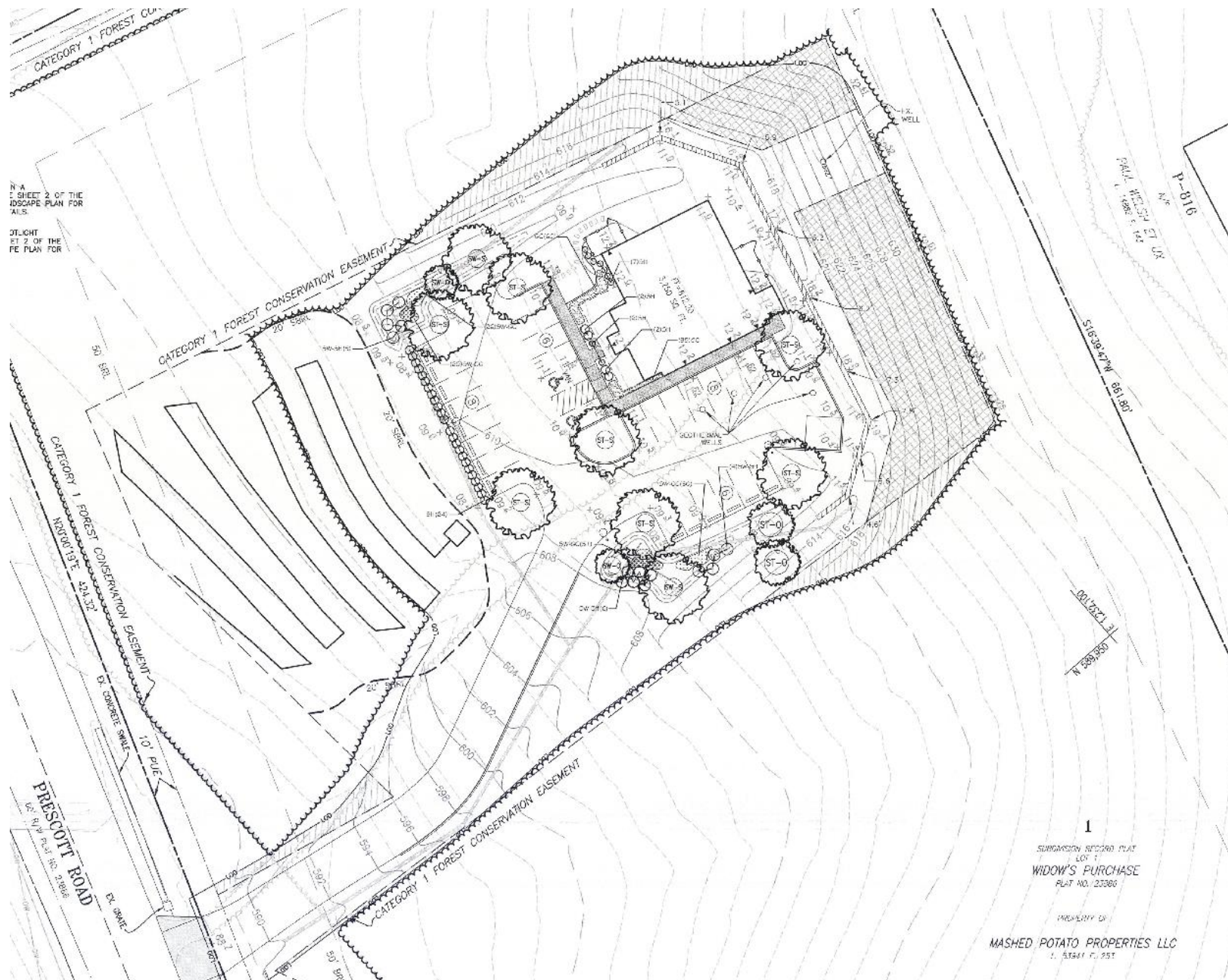
5. Lighting

The light fixtures proposed have remained the same throughout this case, although the period during which the lights may be illuminated has evolved. Staff summarized the lighting fixtures in its report (Ex. 53(a), p. 12):

The Applicant proposes wall-mounted lights, lights under the covered porch, and three 15-foot-tall pole lights in the parking area. The photometric plan provided by the Applicant shows a measurement of 0.00 footcandles at all lot lines. An additional spotlight is proposed to shine up at the location sign; this light will be directed and shielded, but is not near a lot line that abuts a detached house. Therefore, the Application adheres to the lighting requirements for a conditional use.

Mr. Powell testified that the three 15-foot high light poles that will have a dark sky compliant light fixture at the top. These fixtures have a shield that does not allow light to spill up into the air. According to him, this permits the stars to remain visible on a clear evening. They will also have lighting under the front porch and at the entrance for safety. T. 58. A photometric study prepared by the Applicant shows that illumination along the property lines will be 0.0 footcandles. Mr. Powell also testified, however, that the photometric study (Exhibit 32) does not account for the light from the illuminated location sign. T. 58.

Staff recommended a condition permitting the location sign to be illuminated only during business hours. Ex. 53(a), p. 2. Before the Planning Board, the Applicant requested that the illuminated location sign be lit at least one-half hour before opening time and one hour after closing time. Ex. 53. As described in Part I of this Decision, the Planning Board recommended extending the time that all exterior lighting (including the location sign) could be lit to one-half hour prior to and after normal business hours. The Board also recommended that exterior lights could be



Landscape Plan
Exhibit 33

PLANT SCHEDULE					
ST-S					
Common Name	Scientific Name	Cont.	Cal./DBH	Size	Comments
October Glory Maple	Acer rubrum 'October Glory'	B&B	2.5"-3" cal.		
European Hornbeam	Carpinus betulus	B&B	2.5"-3" cal.		
Fruitless Gum Tree	Liquidambar styraciflua 'Rotundiloba'	B&B	2.5"-3" cal.		
Allee Elm	Ulmus parvifolia 'Allee'	B&B	2.5"-3" cal.		
Green Vase Japanese Zelkova	Zelkova serrata 'Green Vase'	B&B	2.5"-3" cal.		
ST-O					
Common Name	Scientific Name	Cont.	Cal.	Size	Comments
Eastern Redbud	Cercis canadensis	B&B		4'-5'	
Natchez Crape Myrtle	Lagerstroemia x 'Natchez'	B&B		4'-5'	
Jane Magnolia	Magnolia x 'Jane'	B&B		4'-5'	
Okame Cherry	Prunus x okame	B&B		4'-5'	
Japanesc Pagoda Tree	Sophora japonica	B&B		4' 5'	
SH					
Common Name	Scientific Name	Cont.	Cal.	Size	Comments
Compact Inkberry Holly	Ilex glabra 'Compacta'	B&B		24" - 30"	
Sienna Sunrise Nandina	Nandina domestica 'Sienna Sunrise'	3 gal.			
Tuscan Flame Nandina	Nandina domestica 'Tuscan Flame'	3 gal.			
Korean Spice Viburnum	Viburnum carlesii	3 gal.			
GC					
Common Name	Scientific Name	Cont.	Cal.	Size	Comments
Stella D'Oro Daylily	Hemerocallis 'Stella D'Oro'				12" spacing o.c.
Lily Turf	Liriope muscari				15" spacing o.c.

Parking lot tree canopy: Minimum 25% coverage at 20 years of growth
 Parking lot: 10,525 sq. ft.
 Required tree canopy: 2,631 sq. ft. minimum
 Provided tree canopy: 3,767 sq. ft. (36%)

SWM PLANT SCHEDULE					
SW-S					
Common Name	Scientific Name	Cont.	Cal./DBH	Size	Comments
Heritage River Birch	Betula nigra 'Heritage'	B&B	2.5"-3" cal.		
Black Gum	Nyssa sylvatica	B&B	2.5"-3" cal.		
Pin Oak	Quercus palustris	B&B	2.5"-3" cal.		
Willow Oak	Quercus phellos	B&B	2.5"-3" cal.		
Sycamore	Platanus occidentalis	B&B	2.5"-3" cal.		
SW-O					
Common Name	Scientific Name	Cont.	Cal.	Size	Comments
Downy Serviceberry	Amelanchier arborea	B&B		4'-5'	
Fringe Tree	Chionanthus virginicus	B&B		4'-5'	
Flowering Dogwood	Cornus florida	B&B		4'-5'	
Sweet Bay Magnolia	Magnolia virginiana	B&B		4'-5'	
SW-SH					
Common Name	Scientific Name	Cont.	Cal.	Size	Comments
Witch Hazel	Hamamelis virginiana	B&B		24" -30"	
Inkberry Holly	Ilex glabra	B&B		24" -30"	
Bayberry	Myrica pennsylvania	3 gal.			
Arrowwood Viburnum	Viburnum dentatum	B&B		24" - 30"	
SW-GC					
Common Name	Scientific Name	Cont.	Cal.	Size	Comments
Blue Flag	Iris versicolor				12" spacing o.c.
Cardinal Flower	Lobelia cardinalis				15" spacing o.c.
Black Eye Susan	Rudbeckia hirta				12" spacing o.c.

illuminated when Staff needed to visit the facility outside of normal operating hours, citing safety reasons. Exhibit 53.

Before the Hearing Examiner, Dr. Stamberg requested that lighting be permitted to remain on one-half hour before opening and one hour (rather than one-half hour) after closing. Dr. Stamberg testified that staff leaves approximately 30 minutes after closing, but veterinarians may leave as much as one hour after closing. T. 98. She also wants to make sure that the lights remain on when clients are visiting the facility. T. 98. She rejected the idea of motion sensor lighting because they may be triggered inadvertently by animals. T. 204.

After testimony regarding the impact of nighttime lighting on Little Bennett Meadow and the rural character of the area, the Hearing Examiner requested the Applicant to propose a condition that could address these concerns. The Applicant proposed the following (Exhibit 81):

- The lighting at the proposed veterinary hospital may be illuminated in accordance with the following schedule:
 - The freestanding location sign may be illuminated between the hours of 7 a.m. - 8 p.m. seven days a week.
 - The wall pack lighting on the proposed veterinary hospital building may be illuminated between the hours of 7 a.m. – 7:20 p.m. Monday – Friday and 7 a.m. – 1:20 p.m. on Saturdays.
 - The pole lights in the parking facility of the veterinary hospital may be illuminated between the hours of 7 a.m. - 8:00 p.m. Monday – Friday and 7 a.m. - 2:00 p.m. on Saturdays.
- The porch lighting for the proposed veterinary hospital building may be illuminated at all times.
- All lighting will be controlled by automatic timers.

The Applicant justified this condition as follows (*Id.*):

The engineer confirmed that the number of parking facility pole lights is the minimum necessary to assure parking lot safety and that if a parking facility pole light is removed, it will need to be replaced with a light mounted high on the

proposed hospital building to shine down into the parking lot. According to the Applicants' engineer, this would create more light towards the property line than the dark sky compliant parking lights proposed for the pole lights. Thus, modifications to the parking facility lighting will be counterproductive; as the Applicants want to assure that the candlelights [footcandles] at the property lines remain at 0.00. However, the Applicants propose that the parking lighting be illuminated 30 minutes before opening and 1 hour after closing of the veterinary hospital. As the Applicants' architect and engineer have both confirmed, this proposed lighting is less than would be allowed and more controlled than a typical residential use...

The Applicants' architect and engineer have also confirmed that the proposed sign lighting will not create any impact beyond the existing street light (see attached photo), which does shine into the property confronting the proposed veterinary hospital. In fact, the golf course sign situated on that confronting property is lit very brightly by the street light on the East side ... all night long. Further, the proposed sign lights will be shielded cans directed at the sign, all to minimize any stray lighting. According to the following: (1) lack of additional lighting impact beyond existing conditions; and (2) that the restrictions in Section 6.7.6.E of the Zoning Ordinance do not apply to the proposed sign lighting because: (i) the shielded sign lighting will not directly face any other residences, (ii) the property line where the sign is located does not abut a property improved with a residential use; and (iii) the sign is at a distance greater than 150 feet from the nearest residential use, the Applicants respectfully request that the sign be illuminated from 7 a.m. to 8 p.m. all days of the week, which is 30 minutes before opening and 1 hour after closing on Mondays-Fridays.

The Applicants propose that the wall pack lighting on the proposed veterinary hospital building, which is situated over the doors and shining down, automatically be illuminated 30 minutes before opening and turn off 20 minutes after closing, but since there could be staff entering the building prior to opening and exiting the building as long as one hour after closing and the laboratory pick up is usually around 7:30-7:45 p.m. on weekdays (30-45 minutes after closing), the Applicants are requesting lighting for the people present to enter and exit safely by way of the parking facility pole lights as mentioned above.

In addition, the Applicants request, for security and the above safety reasons, that the proposed porch lighting, which are canned lights under the porch directed towards the ground, be left on at all times. For overall safety and security reasons, the entire building cannot be completely dark overnight. While all the lighting was designed to minimize impact, the porch and parking lighting are the least obtrusive of all the 3 light sources, which is the basis, in part, of the Applicants' request for the proposed illumination schedule.

The Applicants have given additional consideration to the suggestion that the building lighting be on motion sensors after business hours. However, the

Applicants strongly believe that motion sensors will be triggered too often by the wildlife in the area, causing them to turn on regularly and randomly through the night. This is perceived to be more intrusive than the proposed lighting at the proposed illumination schedule. Nonetheless, motion sensor lighting is not the Applicants' first preference, but the Applicants are not closing the door on the option either.

After referring this proposed condition to Staff, and in response to Staff's comments, Dr. Stamberg revised the proposed condition again, removing the ability to light the location sign seven days a week (Exhibit 105):

- The freestanding location sign may be illuminated between the hours of 7 a.m. – 8 p.m. Monday – Friday and 7 a.m. – 2:00 p.m. on Saturdays.
- The wall pack lighting on the proposed veterinary hospital building may be illuminated between the hours of 7 a.m. – 7:20 p.m. Monday – Friday and 7 a.m. – 1:20 p.m. on Saturdays.
- The pole lights in the parking facility of the veterinary hospital may be illuminated between the hours of 7 a.m. – 8:00 p.m. Monday—Friday and 7 a.m. – 2:00 p.m. on Saturdays.
- The porch lighting for the proposed veterinary hospital building may be illuminated at all times.
- All lighting will be controlled by automatic timers.

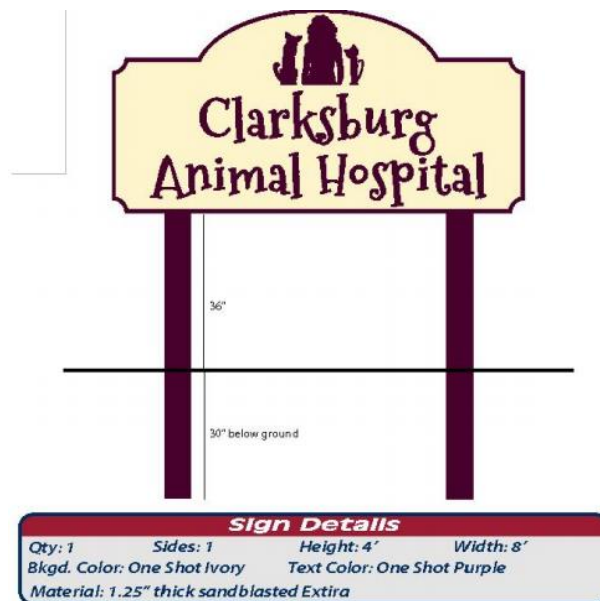
The Applicant also offered to make “all commercial reasonable” efforts to turn off the lighting during daylight hours, but was concerned that it would be unable to comply “precisely” with a condition prohibiting illumination during daylight hours. Dr. Stamberg remained opposed to the idea of motion sensors due to the potential that they would inadvertently be turned on. *Id.*

6. Signage

Mr. Powell described the signs proposed. There will be signs above the front porch, on the southern elevation, a small (non-illuminated) directional sign at the driveway entrance, and an illuminated location sign near the corner of Lewisdale and Prescott Roads. The sign over the front porch is depicted in the front elevation shown on page 11 of this Report. A smaller sign will be located on the southern side of the building (facing the parking lot) between the upper story gables (T. 66, Exhibit 69):



The location sign, which will be illuminated, will be four feet high and eight feet wide (Exhibit 64):



SIGN A. SIGN TO BE MOUNTED ON 4"X4" POSTS.

7. Noise

Mr. John Stouffer, an expert in architecture, submitted a statement that the noise levels on the exterior would comply with the requirements of the Montgomery County Code because the materials used in the exterior walls will reduce sound transmissions. Exhibit 22. This statement concluded that the noise levels caused by dogs barking inside the facility would be only 40 decibels

to someone standing just 10 feet away on the exterior. Exhibit 22. Mr. Stouffer testified that animal hospitals are designed to minimize noise primarily from the mechanical system and dog barks. T. 145. Noise limits in residential areas are 65 dBs during the day and 55 dBs at night and on the weekend. T. 145. Noise levels from a dog barking average between 75 to 85 dBs, up to as high as 100 dBs. T. 145-146.

Mr. Stouffer explained that different materials have different sound transmission classes (STC). The noise levels outside the building caused by dogs barking inside can be measured by subtracting the STC from the decibel levels on the interior of the wall. He opined that most of the barking will occur in the isolation room and in the dog kennels. The exterior walls bordering those rooms have a STC of 65. The walls on the interior of the building have a STC of 44 or 45. T. 147.

Mr. Stouffer further testified that noise from dogs barking in the walk areas would not exceed required decibel levels because sound disseminates over distance. Noise levels from multiple dogs barking outside will be higher than levels generated by a single dog barking, but will not equal the decibel level of a single dog multiplied by the number of dogs. T. 208. He believes there is room only for two dogs to be in the walking area at once. T. 210.

At the public hearing, Dr. Stamberg testified that her staff manages patient flow to minimize interactions that can cause barking. The proposed facility is designed so that staff may see out the front of the facility and leave the reception area to help them easily. Clients with reactive dogs will be asked to park at the rear door, where there is a separate entrance near the exam rooms. Once inside, it does not take a long time to place the animals in an appropriate location because this is managed by Staff. Even if multiple patients arrive at one time, it's unlikely that all three will be walking out the door with their dogs at the same time because staff's job is to

avoid that situation. T. 213. When they minimize pet conflicts, noise levels will not be significant even when the facility reaches its peak capacity. T. 214.

Dr. Stamberg agreed with Mr. Stouffer that there will not be many dogs outside at one time. Surgical patients get walked prior to surgery and the surgery schedule is staggered. She believes that no more than one dog will be outside at one time. T. 208-209. Even if there were two, there is sufficient space to separate the dogs. T. 209. Reactive dogs will generally be walked in the back, while clients will be in the front of the facility. T. 209. In addition, not all five veterinarians will be seeing patients at the same time. While they may have some dogs interacting when three veterinarians are seeing patients, their goal is to minimize interactions both inside and outdoors. T. 211. Dog interactions are further minimized by having two entrances to the exam rooms—one for larger dogs and one for smaller animals. T. 212. She testified that a condition limiting the number of dogs outside at one time would be difficult to monitor because clients may be late or early to their appointments. She believes that managing the patient flow to minimize interactions will be sufficient to limit decibel levels to those required by the County Code. T. 212.

D. Community Response

Two individuals testified at the public hearing in opposition to the application. Mr. Lou Sousa, who lives on property adjacent to the subject property's southern boundary line, opposed the application because he believes it will unduly impact the fragile beauty, quiet and peaceful enjoyment of the area. T. 168. He is concerned that business will have to resort to activities to survive that may go beyond their good intentions. T. 169-170.

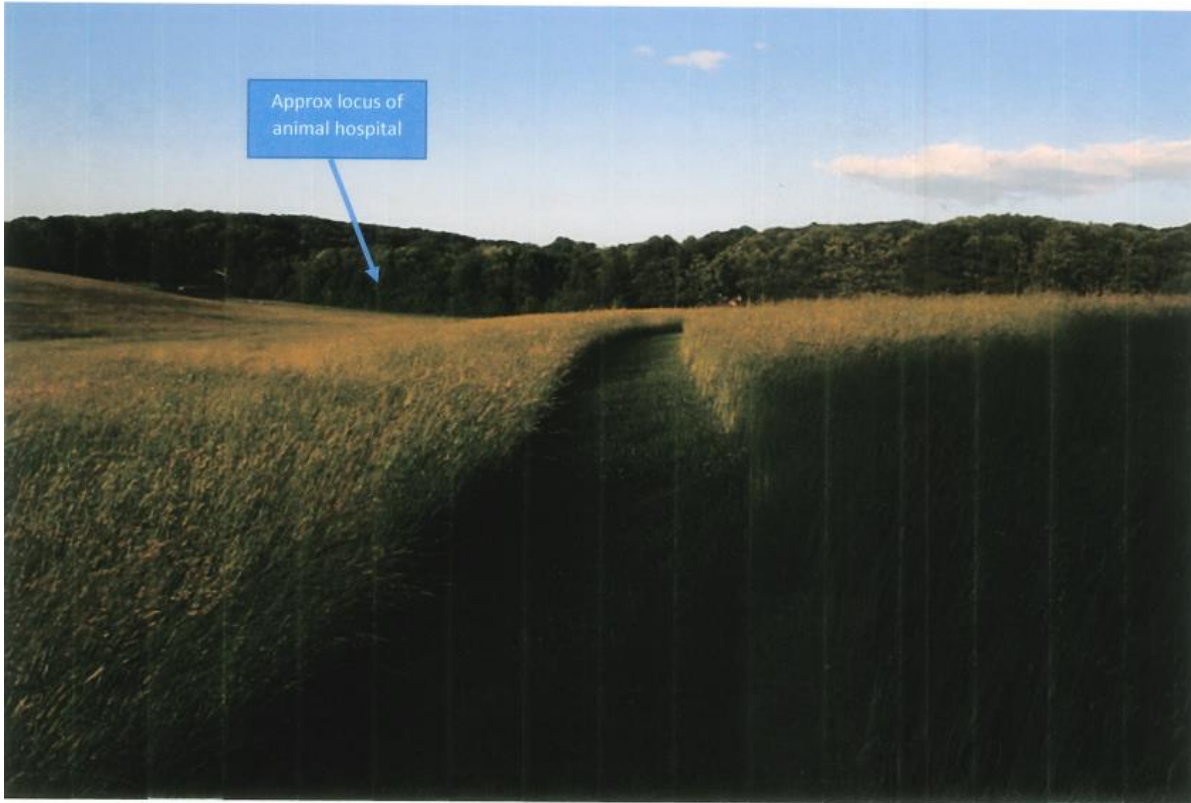
Mr. Sousa pointed out that the area is adjacent to the Little Bennett Regional Park and across Prescott Road from the pristine natural setting of Little Bennett Meadow, a 25-acre natural area. Mr. Sousa volunteers to mow the trails in the Meadow and is familiar with the area. He

believes that lights from the facility will adversely affect the dark sky at night and disrupt the existing rural setting. He submitted photographs (Exhibit 68(a), below) to demonstrate the rural character of the Little Bennett Meadow:



Mr. Sousa submitted another photograph (Exhibit 68(b), on the next page) to demonstrate that the subject property is within the direct view of someone standing in the Meadow.

Mr. Sousa testified that he is also concerned that noise from dogs barking on their way in and out of the clinic will increase barking from the 30 dogs who live in the neighborhood. Exhibit 104. Mr. Sousa estimated sound levels using the online tool NumericalExample.com. According to Mr. Sousa, the nearest dwellings are within 500 feet of the proposed use. The website estimated



**View from Little Bennett Meadow to
Approximate Location of Proposed Use
Exhibit 68(b)**

that decibel levels at 500 feet from the facility will “slightly exceed” the levels permitted by the Montgomery County Code. Exhibit 104. He believes that the commercial aspects of the facility, such as traffic, including delivery trucks, will unduly affect the peaceful enjoyment of neighboring properties, particularly in the unique rural and natural setting. *Id.*

Ms. Karon deSilva opposes the application for several reasons. Under the Master Plan, land in the AR Zone “are afforded special protection from urban and suburban development pressures.” T. 192. She disagrees with the Planning Board’s premise that the use conforms to the Master Plan because it is permitted as a conditional use in the AR Zone. T. 192. She thinks that the reason a vet was allowed in the AR Zone in the 1980’s may have been because there was little development at the time and the vet could have served the agricultural community. This

veterinary hospital will treat small animals as opposed to livestock and may not fulfill the original intent of the plan. Now, it does not make sense to permit non-agricultural businesses inside the Ag Reserve because there is so much development just outside its boundaries. T. 193.

She also feels that the Planning Board's recommendation failed to consider the amount of traffic already using Lewisdale Road throughout the day. According to her, the road has become an alternate route to I-270 and Md. Rte. 355. The golf course on the corner of Prescott and Lewisdale Road holds large events and generates daily golf traffic. The golf course parking lot is used by County employees to park their personal or government vehicles when commuting to and from work. T. 193-194. The entrance to the park from little Prescott Road occasionally holds large events, such as bicycle and foot races, and generates daily traffic from those who park horse trailers to ride the trails. There is a large stable near the intersection of Prescott and Lewisdale Roads that gives riding lessons and holds parties. Horseback riders cross Lewisdale Road at that location to ride the park trails. All of this activity occurs right at the site of the proposed use, which will draw more traffic to the area and make it more dangerous than it already has become. T. 194.

Ms. deSilva asserts that the Applicant's position (i.e., that the proposed hospital will not add much to existing traffic from the golf course) is a "Catch 22." Exhibit 102. According to her, there are no existing commercial uses generating traffic on Lewisdale and/or Prescott road. Additional traffic will conflict with existing uses and wildlife, including farmers and their equipment, horses that are pastured next to the road during the day, and chickens and barn cats occasionally wander near and/or across the roads. She believes that it will also introduce more noise in the rural setting. This includes noise from delivery trucks, which according to her, will

be heard with each pick up and delivery. It is not necessarily the decibel level that is problematic; the noise is irritating and and a “quality of life degrading aspect that cannot be ameliorated.” *Id.*

She believes that the commercial business does not belong within a rural area where individuals must cross streets to get to their mail boxes. She also thinks that it should not be where it directly impacts Little Bennett Regional Park, whose “value lies in its undeveloped state,” and its use is for the appreciation of the natural environment. T. 197.

The Montgomery Countryside Alliance recommended downsizing the proposed facility to mitigate its impact on the Piedmont Sole Source Aquifer. Its recommendation is based on the following concerns (Exhibit 80):

- The property is wholly outside of the WSSC jurisdiction.
- The viability of the groundwater aquifer is affected by impervious surface, heavy well usage, septic system discharge, storm water runoff, and, increasingly, the effects of climate change. Residents and rural businesses in the AR have no other economically feasible source of potable water. Issues with public supply wells in central Maryland offer a cautionary tale.
- The Interstate Commission of the Potomac River Basin has (ICPRB) released data that anticipates that climate changes including warming trends and how we receive precipitation will have significant impact on our regional water supply.
- The ICPRB’s recent plan recommends that agencies factor these coming changes into their decision making.

The Alliance questioned whether the Applicant had provided information on the WSSC usage at its current site. It also pointed to other “robust” veterinary practices in the area that operate with fewer veterinarians and support staff as examples of facilities that are more in scale with the rural character of the area. Exhibit 80.

Several neighbors echoed the Alliance’s concerns. Mr. Thomas Reise, who lives on Rudale Drive, wrote that several of the neighbors have had their wells dry up during periods of little rain. According to Mr. Reise, he has had to locate his well deeper in the ground to prevent it from going dry. He believes that the well from the veterinary office/hospital will make the problem

worse because it is lower than the neighbors' wells. Exhibit 100. Several nearby residents worried about the impact of the use on their wells. Some disputed the Applicant's position that the use would use no more water than a four-bedroom house. Exhibit 79(b), (d).

Other letters of opposition expressed apprehension about potential impacts similar to those raised by Mr. Sousa and Ms. deSilva. Some felt that the development pressure to expand into the AR Zone is already increasing and will undermine the function of the Ag Reserve as a "green lung" to prevent sprawl. Exhibit 54. Many felt the commercial use was incompatible with the Ag Reserve. *See, e.g.*, Exhibit 79(o). Others felt that there was no need for a hospital at that location because the area was already well-served by veterinary hospitals.³ Exhibits 79(a), (b), (c). Most of those in opposition believe that the commercial nature of the facility is not compatible with the rural character of the surrounding area and are concerned that the building will become an eyesore if the business fails. Exhibit 54, 79(a) – (g).

Several of those within the surrounding area believe that traffic from the use will create safety hazards because the roads in the area are narrow, a bus stop is located directly across Prescott Road from the subject property, and vehicles and horses enter Little Bennett Regional Park at that location. Exhibits 54, 79(c), (e), (f). They also cite to the fact that the parking lot for the Little Bennett Regional Park is used as a "park and ride" for County employees, and the King Valley Stables is located nearby. Exhibit 54. Ms. Judy Roche pointed out that homeowners on Lewisdale Road had to back up to enter Lewisdale Road or back in to their driveways due to the septic systems located on their properties. She believes that the additional traffic on the roadway, which she estimates at 120 trips per day, will generate additional opportunities for accidents. Exhibit 79(d).

³ Whether the facility is needed is not a criteria for approval applicable to veterinary office/hospitals. *See, e.g.*, §59.7.3.1.E.5 and 6.

All of those supporting the application are patients of Dr. Stamberg. Exhibit 43(a)—(bb). They attest to Dr. Stamberg’s excellence as a veterinarian, her compassion toward animals, and her community activism. *Id.* Some express confidence that Dr. Stamberg will be sensitive to the neighbors at the new facility. Exhibit 43(a). Others believe the application should be approved because there is inadequate and unsafe access at her current location. Exhibit 43((t), (aa). Two of those supporting the neighborhood are within the surrounding area as defined by Staff. Exhibit 43(u).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A conditional use is a zoning device that authorizes certain uses provided that pre-set legislative standards are met. Pre-set legislative standards are both specific and general. General standards are those findings that must be made for all conditional uses. *Zoning Ordinance*, §7.3.1.E. Specific standards are those which apply to the particular use requested, in this case, an animal boarding and care facility. *Id.*, §59.3.5.1.B.2.

Weighing all the testimony and evidence of record under a “preponderance of the evidence” standard (*see, Zoning Ordinance*, §7.1.1,) the Hearing Examiner concludes that the conditional use proposed in this application, with the conditions imposed in Part IV of this Report and Decision, would satisfy all of the specific and general requirements for the use.

A. Necessary Findings (Article 59.7)

The general findings necessary to approve a conditional use are found in Section 59.7.3.1.E of the Zoning Ordinance. Standards pertinent to this approval, and the Hearing Examiner’s standards for each finding, are set forth below:

- a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

Conclusion: The property is subject to an approved preliminary plan that restricted development to a four-bedroom, single-family dwelling. Due to that restriction, Staff advises that the preliminary plan must be amended to permit this commercial use. The Hearing Examiner will include a condition of approval requiring an amendment to the current preliminary plan before any permit for construction may be issued. With this condition, this standard is met.

b. satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;⁴

Conclusion: This subsection requires an analysis of the standards of the AR Zone contained in Article 59-4; the use standards for a veterinary office/hospital in Article 59-3; and the applicable development standards in Article 59-6. Each of these standards are discussed below in Parts III.B, C, and D, respectively, of this Report. For the reasons set forth in those parts, the Hearing Examiner finds that the application meets those standards.

c. substantially conforms with the recommendations of the applicable master plan;

Conclusion: The property lies within the geographic area of the 1985 *Damascus Master Plan* (Master Plan or Plan) designated as “Rural.” *Master Plan*, p. 31. Staff advises that the Plan makes no site-specific recommendation for the property, although it is included on a map outlining “existing residences” in the area (Exhibit 53(a), p. 6).

The Plan’s primary goal for the “Rural” areas is to preserve and support agricultural uses (*Plan*, p. 31):

This Plan recommends continued support for the goals of the Agricultural Reserve. The Damascus Rural Area should be an area of agricultural uses, with some low density housing. Existing rural hamlets should be protected and enhanced.

⁴ The underlined language was added by the Council when the 2014 Zoning Ordinance was amended effective December 21, 2015, in ZTA 15-09 (Ordinance No. 18-08, adopted December 1, 2015).

To further this goal, the Plan states (*Plan*, pp. 31-32):

Lands within the Agricultural Reserve are given special protections from urban and suburban development pressures. Non-agriculturally related commercial, industrial, or institutional uses are discouraged. Farming and agriculturally related activities are encouraged.

While the proposed animal hospital does not support agriculture (it will treat domestic pets rather than agricultural livestock), Staff still found that it met the goals of the Master Plan because it replaced a non-agricultural use (a single-family dwelling) with another non-agricultural use (Exhibit 53, p.6):

The Master Plan discourages, but does not prohibit, non-farm uses. The Property has already been approved for a single-family house, which is a non-farm use that was in keeping with the low-density residential character of the zone. In addition, the Master Plan encourages the existing development pattern of homes along ridge lines; the house-like design of the proposed facility and its location along a ridgeline will help continue this pattern. Furthermore, the Property is included in an area shown as “existing residences” in the Master Plan and not in the “working farms” area (Figure 3 above). Although Staff could not find any evidence of a house on the Property in the past, it appears that the “existing development pattern” of the immediately surrounding area at the time of the Master Plan was residential and not agricultural. Although the Proposed Use is neither agricultural nor residential, Staff believes that the Application continues the development pattern of the area and the Proposed Use will fit within the same development envelope established for the one family residence.

The Plan also stresses environmental protection of the area and Staff concluded that all of the environmental recommendations had been met. Staff stated (Exhibit 53(a), pp. 5-6):

The Property is across Prescott Road from Little Bennett Stream Valley Park. The Master Plan states “[t]his is a significant natural resource area because of Little Bennett Creek’s high water quality and its attributes as a natural trout stream (brown trout reproduction). All efforts should be made to protect the natural environment in this stream valley area, as well as protecting the migration routes for wildlife in and out of Little Bennett Regional Park (p. 90). As mentioned above, the Applicant’s stormwater management plan should help maintain the water quality in the watershed.

Much of the debate at the public hearing centered on what the Master Plan meant when it recommended “discouraging” non-farm uses. Ms. deSilva pointed out that the Plan sought to

protect rural areas from urban and suburban development pressures. T. 192. She believes that the reason a veterinary was allowed in the AR Zone in the 1980's may have been because there was little development at the time and the veterinary practice could have served the agricultural community. T. 193.

The central question is whether the Plan, by using the term "discourage," intended to prohibit a use that is permitted as a conditional use in the AR Zone. Merriam-Webster defines the word "discourage" as, "to hinder by disfavoring." "Discourage." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 5 Oct. 2018. Yet, neither the Plan nor the Zoning Ordinance explicitly prohibit the use.

Ms. deSilva's theory (*i.e.*, that it is permitted in the AR zone if it supports livestock), is not without some appeal, but is not bolstered by any legislative history that the Plan intended an outright ban of veterinary practices specializing in small domestic animals. The Hearing Examiner is reluctant to construe language in the Zoning Ordinance so restrictively when the "plain language" does not do so. *Kushell v. Dep't Of Nat. Res.*, 385 Md. 563, 576 (2005)("Statutory construction begins with the plain language of the statute, and ordinary, popular understanding of the English language dictates interpretation of its terminology.) The fact that a use is permitted in a zone category recommended by the Master Plan may demonstrate that the use conforms to the Plan. *People's Counsel for Baltimore County v. Loyola Coll. in Maryland*, 406 Md. 54, 82, Ftn. 23 (2008)(Courts have characterized a zoning ordinance as a part of a comprehensive plan.)

On the whole, the Hearing Examiner finds that the use, although it does not support agriculture, meets the intent of the Master Plan for several reasons. First, the proposed use does not usurp land that would otherwise be used for an agricultural purpose. The approved plat already permits a single-family detached home. The property lies clustered within a residential subdivision

does not intrude into or impact neighboring agricultural uses. Thus, the use at this location does not adversely impact the Plan's goal to preserve agriculture.

Second, the subject property has unique site characteristics that operate to mitigate the commercial aspects of the use more than is typical. The development pad is cut into the slope of the property. This lowers the profile of the building and helps to screen the use from properties to the north and east, as demonstrated by the architectural elevations. In addition, there is a significant amount of forest surrounding the development pad. The forest conservation easement ensures that this forest cover will continue to screen views of the property into the future. The landscape plan protects views from Prescott Road by using the evergreen hedge on the west side of the parking area, at least until trees along Prescott Road reach maturity. Finally, the architectural design of the facility also mitigates its impact on the rural character of the surrounding area. The design is reminiscent of a one and one-half story single-family home (although perhaps larger than other homes in the area), with a covered porch and window dormers that are residential in nature.

A commercial facility that would convert land that could be used for agricultural purposes or had fewer elements to mitigate its commercial characteristics would not be within the intent of the Master Plan, even though permitted by the AR Zone. Thus, these uses are discouraged in locations where they would have a significant impact on the goals of the Plan. Here, the fact that it is already approved for residential use, the unique building layout (in the slope of a hill), environmental characteristics (surrounded by forest), and architecture that is residential in character, mitigates that impact and allows it conform to the intent of the Master Plan.

d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;

Conclusion: This standards incorporates the findings on consistency with the Master Plan discussed in the preceding paragraph. The Hearing Examiner characterized the surrounding area

(as defined by Staff) as a “mix of agricultural, residential, and open space uses, but adds that the area has an important natural and historic landscape that includes the Little Bennett Meadow and historic buildings.”

Staff concluded that (Dkt. 53(a), p. 22):

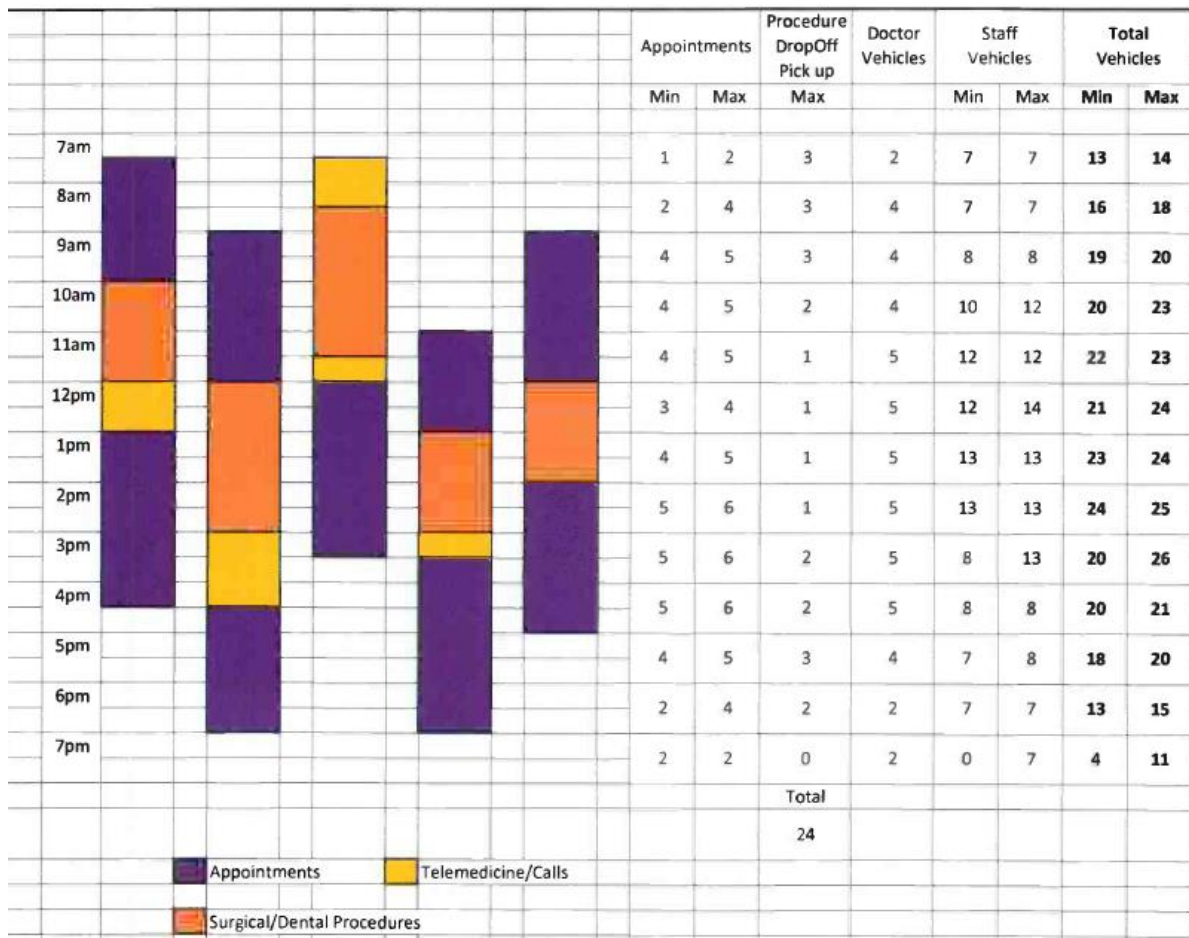
The Proposed Use will be in harmony with the character of the surrounding neighborhood. The Use will not result in any notable negative impact on the residential neighborhood in terms of traffic, parking, noise, or smells. According to the traffic statement submitted by the Applicant, the facility will generate 22 AM and 25 PM peak hour trips, but there is no evidence that this modest increase in traffic will have a significant impact on the neighborhood, especially given the staggered nature of veterinary appointments versus a facility such as a school where everyone would arrive at the same time. The proposed parking lot contains the minimum number of parking spaces for the facility and is shielded from view by existing trees.

The Hearing Examiner finds that the unique property characteristics, architectural design, and screening provided adequately mitigate the visual commercial aspects of the use, as described above. One major concern here is the lighting proposed after hours. The Hearing Examiner finds compelling Mr. Sousa’s testimony regarding the pristine natural setting of Little Bennett Meadow. Because the Hearing Examiner finds that the proximity and view from Little Bennett Meadow is a non-inherent characteristic of the proposed use at this location, the proposed lighting is evaluated under a later section of this Report.

During the public hearing, the Hearing Examiner requested the Applicant to substantiate that the number of parking spaces were adequate to serve the use during peak activity and would ensure that parking could be accommodated on the subject property. The Applicant submitted a chart summarizing the expected parking demand (Exhibit 81(a), shown on the next page).

The chart shows that the spaces provided on-site will be sufficient to serve the proposed use even at peak use. Some veterinarians perform procedures rather than see patients with 30-minute appointments times, lessening the volume of clients visiting the site. There several excess

spaces at peak times, roughly between 1:00 p.m. and 4:00 p.m. The plan shows that the requisite number of handicapped spaces are provided. The Applicant presented the testimony of an expert in civil engineering that the parking area is large enough that fire and delivery trucks will be able



Assumptions:
1. Schedule for 5 Doctors and 15 Staff working in a single day.
2. Operating at 100% capacity for all available appointments and procedures (surgical or dental).
3. All appointments are 30 minute appointments.
4. Doctors are arriving up to 30 minutes prior to start time and leaving within 30-60 minutes after last appointment.
5. One procedure and hour is scheduled during the time allotted for procedures for a total of 12 procedures on this day.
6. This assumes all Procedure Drop Offs are completed by 12pm and Pick Ups begin at 12pm (line placed in table to distinguish). This is where the most variation may occur. Cients are given a window for these rather than a specific time.
7. The total for the Procedure Drop Offs/Pick Ups is 24 - essentially 2 trips/parking at different times for each of the 12 procedures.
8. Staff leaving before closing time leave on time because the other staff have already been there and are up to speed on the day. There will be 5 staff cars leaving between 3:00 and 3:15pm.

Exhibit 81(a)

to enter, turn around, and exit the site. The Hearing Examiner concludes that the parking provided is adequate to serve the use.

Those opposed to the application are concerned that the additional traffic from the facility would create unsafe conditions in the surrounding area. They foresee conflicts with existing traffic on Lewisdale and Prescott Road, traffic entering Little Bennett Regional Park, and danger to children waiting at the bus stop directly across from the entrance to the proposed facility. The Hearing Examiner understands these concerns. However, the evidence needed to deny a conditional use must demonstrate that these impacts will *probably*, rather than *possibly* occur. *Miller v. Kiwanis Club of Loch Raven, Inc.*, 29 Md. App. 285, 296 (1975)(The possibility that such fears may occur cannot be deemed substantial or probative evidence supporting the...denial of the special exception.) Mr. Biddle testified that there is adequate sight distance at the driveway entrance and opined that there will be no adverse traffic impact from the proposed use. T. 164-165. The Applicant submitted a certified sight distance study verifying that sight distance is adequate. Exhibit 51(g). Evidence from those in opposition expresses *concerns* about traffic, but does not establish there is a *probability* that adverse traffic impacts will actually occur. Based on the weight of the evidence in this record, the Hearing Examiner finds that traffic from the facility will not adversely impact the existing character of the area.

e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;

Conclusion: Planning Staff recognized that this standard does not technically apply because it refers to “neighboring Residential Detached Zone.” Exhibit 53(a), p. 22. Staff advised that the closest Residential Detached zone is nearly a mile to the east of the Property. Nevertheless, Staff

evaluated this standard because “the immediate vicinity of the Property is somewhat residential in nature.” *Id.* Staff concluded that there were only two special exceptions/conditional uses in the surrounding area, an accessory apartment on Rudale Road and a monopole cell tower. Based on this, it concluded that the addition of this facility will not “exacerbate the concentration” of conditional uses in the surrounding area.

There is no other evidence that additional special exceptions or conditional uses are within the surrounding area. The Hearing Examiner finds that this standard has been met for the reasons stated by Staff.

f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:

i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or

ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and

Conclusion: The application requires an amendment of the approved preliminary plan. Therefore, the Planning Board will determine whether public facilities (including road and transit capacity, well and septic, and stormwater management is adequate to serve the use when it review the amendment to the preliminary plan.

Nevertheless, the Applicant did provide a “traffic statement” to demonstrate that roads will be deemed adequate to serve traffic from the proposed use under Section 50-35(k) of the Montgomery County Code, as implemented by the Subdivision Staging Policy (Council Resolution 18-671, adopted on November 15, 2017). The traffic impact is assessed under the Planning Board’s Local Area Transportation Review (LATR) Guidelines. Proposed uses that are expected to generate fewer than 50 trips are exempt from LATR review, but must submit a “Transportation Study Exemption Statement” to demonstrate that traffic generated by the application will meet the exemption. *LATR Guidelines*, p. 17. Here, CAH submitted a traffic statement to demonstrate that a full traffic study will not be required. Exhibit 6. Staff concurred with CAH’s traffic statement. Exhibit 53(a), pp. 10-11. Mr. Brian Biddle, the Applicant’s expert in traffic engineering and transportation planning, testified that trip generation rates for veterinary hospitals are 4.08 trips per 1,000 square feet in the a.m. peak hour and 4.72 trips in the p.m. peak hour. Using standard guidelines, this means that the use will generate 17 total person trips in the morning (12 in and 5 out). In the p.m. peak period, it will generate 19 trips: 7 in and 12 out. T. 165. He opined that the use would generate fewer than 50 trips. T. 164. There is nothing in this record indicating that LATR requirements cannot be met at the time of preliminary plan.

The Applicant submitted the evidence at the hearing that Montgomery County has approved its stormwater management plan. Exhibit 66. This is sufficient evidence that stormwater management will be adequate controlled on the property.

The property will be served by well and septic. CAH submitted an e-mail from DPS stating that the septic system shown on the conditional use plan “appears” acceptable (Exhibit 53(a), Attachment G):

To issue a septic permit, the test site locations and results, a system design chart, and system inverts must be added to the plan. The proposed linear feet of trench is

supported by existing tests and is adequate for the proposed facility at a maximum design flow of 500 gpd.

At present, there is no evidence in the record that the septic system will be inadequate or cause an adverse impact on the surrounding community. The adequacy of the septic system will be further reviewed by the Planning Board when the preliminary plan is amended.

A source of controversy in this case is whether the proposed use will cause wells in the area to run dry. Adequate public facilities review deals primarily whether the well will be adequate to serve the proposed use. A letter from the Montgomery County Department of Permitting Services (MCDPS) stating that the well was tested for capacity and was adequate to serve the use is attached to the Staff Report as Attachment G. Exhibit 53(a), Attachment G. Whether the well will have an adverse impact on neighboring wells or the Piedmont Sole Source Aquifer is discussed under the section relating to non-inherent characteristics of the proposed use (in the next section.)

Staff found that remaining public facilities were adequate to serve the use. Exhibit 53(a), p. 23. The closest police station is located at 20000 Aircraft Drive in Germantown approximately 9.4 miles north (15 minutes) of the Property. Staff opined that, because the use does not generate any school-aged children, review of the adequacy of school facilities is unnecessary. *Id.* at 23.

g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or*
- iii. the health, safety, or welfare of neighboring residents, visitors, or employees.*

Conclusion: This standard requires consideration of the inherent and non-inherent adverse effects on the general neighborhood of this particular use at this particular location. Inherent adverse

effects are “adverse effects created by physical or operational characteristics of a conditional use necessarily associated with a particular use, regardless of its physical size or scale of operations.”

Zoning Ordinance, §1.4.2. Inherent adverse effects, alone, are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” *Id.* Non-inherent adverse effects, alone or in conjunction with inherent effects, are a sufficient basis to deny a conditional use. Planning Staff have identified seven characteristics to consider in analyzing inherent and non-inherent effects: size, scale, scope, light, noise, traffic and environment.

Analysis of inherent and non-inherent adverse effects must establish what physical and operational characteristics are necessarily associated with a veterinary office/hospital. Characteristics of the proposed use that are consistent with the characteristics thus identified will be considered inherent adverse effects. Physical and operational characteristics of the proposed use that are not consistent with the characteristics identified *or* adverse effects created by unusual site conditions, will be considered non-inherent adverse effects. The inherent and non-inherent effects then must be analyzed, in the context of the subject property and the general neighborhood, to determine whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

Staff found that typical operational characteristics of animal boarding and care conditional use includes (Exhibit 92):

- A property with indoor and outdoor spaces sufficient to accommodate the work performed at a veterinary hospital;
- Trips to and from the facility by clients and staff;
- Adequate parking and drop-off and pick-up of pets;
- Deliveries and pick-up of mail/packages/lab samples;
- Necessary lighting of signs, facility, and parking lot;

- Water usage;
- Specified procedures for animal waste management;
- Buildings and outdoor spaces far enough from neighboring structures to reduce noise from animals.

The Hearing Examiner rephrases these slightly to reflect the adverse *impacts* that are inherent to the use, rather than what is needed to mitigate the inherent impacts, and adds two additional impacts:

- Trips to and from the facility by clients, staff and delivery vehicles;
- Larger parking pad to accommodate the use;
- Necessary lighting of signs, facility, and parking lot;
- Water usage;
- Noise from barking dogs and delivery vehicles;
- Larger building size;
- Waste from animals; and
- Discharge of chemicals from cleaners and medical equipment.

In its Supplemental Report, Staff concluded that there are two non-inherent characteristics of the proposed use at this particular location. The first is the property's location on the Piedmont Sole Source Aquifer, stating that a "large swath of northwestern Montgomery County overlies this aquifer and the homes and businesses there rely on wells as the only available source of water." Exhibit 92.

The Montgomery County Countryside Alliance recommended reducing the size of the facility to reduce demand on the Aquifer, noting that global warming may affect the future amount of water available for existing development and pointing out that the Aquifer is the only water supply for development within its boundaries. Exhibit 80(a).

Dr. Stamberg argues that the Aquifer is not non-inherent because that designation refers only to federally-funded development projects. Exhibit 103, p. 2. The Sole Source Aquifers are designated by the EPA where 50% or more of property within the area obtain their drinking water from that source only. She also argues that the County has no authority to regulate the Aquifer.

Id. at 2. Finally, the Applicant argues that the 1975 designation by the EPA was based only on 62% of the area being served by the Aquifer and believes that this has since been reduced due to the expansion of public water and sewer. *Id.*

Even if it is deemed a non-inherent site characteristic, Dr. Stamberg believes that the proposed use will not unduly burden the surrounding area. She points to her research of other veterinary practices that have a similar number of veterinarians but no boarding or grooming facilities. According to her, these use between 200 to 250 gallons of water per day, within an amount typical of a single-family detached home with four bedrooms. Based on her current practice's statements from WSSC, her current water usage has remained stable for the past eight to ten years at 65 to 125 gallons per day. *Id.* at 2; Exhibits B and C. She submitted a chart compiling the water usage of veterinary hospitals with 4-5 veterinarians and no boarding or grooming, based on information taken from the WSSC and Howard County utility billing records. *Id.* The practices included have between 3 to 5 veterinarians and floor areas between 1,431 to 4982 square feet, although Dr. Stamberg was not able to determine the number of staff all locations. *Id.* She also submitted water bills from March 2, 2017 to May 31, 2018, for one of the veterinary practices listed in her chart. These reveal that the average daily consumption ranged between 236 and 267 gallons per day. *Id.*, Exhibit E. According to her chart, this facility has five veterinarians and 5 staff. *Id.*, Exhibit D. Those in opposition remain skeptical of the proposition that the hospital will use the same amount of water as a single family home. They also cite to instances in the past where neighboring wells have gone dry.

The Hearing Examiner agrees with Staff that the property's location on the Aquifer is a non-inherent site characteristic. She disagrees with the Applicant that the County is without power to curtail local zoning approvals when the proposed use may adversely impact an environmental

resource as limited as the Aquifer. *Holiday Point Marina Partners v. Anne Arundel County*, 349 Md. 190, 208 (2008)(County could restrict marina expansion to protect shellfish beds in tidal waters regulated by the State.) Here, the County is regulating the *use on the property* rather than the Aquifer. Whether federally designated or not, the fact remains that it is a limited resource upon which many people depend for drinking water. Having water supplied from a sole source aquifer is not inherent to veterinary hospitals in general.

The existence of a non-inherent site characteristic does not mean that the use must be denied. The question becomes whether the use will cause “undue harm” to the surrounding area by disturbing the peaceful enjoyment of property and the health, safety and welfare of those within the area.

The Hearing Examiner finds that the weight of the evidence supports a finding that the proposed use will *not* cause undue harm to those in the area. Staff concluded (Exhibit 92):

The applicant in this case has provided a statement indicating that her historical water usage varies from about 65 to 125 gallons per day at her current location, and that it hasn’t changed significantly in the last eight to ten years. She indicates that other veterinary facilities with four to five doctors and no boarding or grooming use roughly 200-250 gallons per day. According to the U.S. Geological Survey, the average person uses about 800-100 gallons of water per day, so a four-bedroom house—the originally approved use on the property, would likely use more than 200-250 gallons per day if four or more people were living there. Since the Clarksburg Animal Hospital does not offer boarding or grooming facilities, the business should not have a significant adverse effect on the quantity of water available in the aquifer. Furthermore, the waste management techniques and approved septic system design should prevent any degradation of the quality of the water entering the aquifer.

Dr. Stamberg supports Staff’s conclusion with water bills of veterinary practices at approximately the same size and with similar services. The Hearing Examiner is unable to determine with precision what the projected water usage at this location will be without information on the staffing at the facilities identified by Dr. Stamberg. The Hearing Examiner

finds, however, that a range of low- to mid-200's gallons per day is reasonable given the consistency of that range for the largest practices cited by Dr. Stamberg. In addition, Dr. Stamberg testified that their cleaning practices minimize the use of water. The Hearing Examiner also relies on the fact that the site will retain a significant amount of forest and implement new stormwater management strategies designed to retain more water on-site to replenish the Aquifer. Exhibit 103, p. 4. The Hearing Examiner will impose, as a condition of approval, that CAH adhere to the description of its cleaning practices contained in the Applicant's Statement (Exhibit 3).

Evidence from those in opposition is not supported by any data except anecdotal examples of wells running dry in the past. These attest only to the possibility but do not establish a probability that the use will impact nearby wells. Similarly, the comments from the Montgomery Countryside Alliance speak in general terms of future constraints on the Aquifer, but do not pinpoint direct adverse consequences if this application is approved. The Applicant has demonstrated through comparisons with other practices that water usage will be in the range of a four-bedroom home, which would be permitted by right on the property.

The second non-inherent impact identified by Staff is the property's location directly across from Little Bennett Meadow. Staff writes (Exhibit 92):

Informal trails through the meadow allow hikers to experience the sights and sounds of the natural environment, and some neighbors have raised concerns that the peace and tranquility of the site could be disturbed by the barking of dogs encountering one another in the parking lot of the veterinary hospital. There are also concerns that lights from the facility could diminish the nighttime view of stars from the meadow.

The Hearing Examiner agrees with Staff that the location of the property within direct view of an area dedicated to the natural environment is a non-inherent aspect of the use at this location. Given Mr. Sousa's photographs, she disagrees with the Applicant that two streetlights and

proximity to the Little Bennett Golf Course destroys the natural environment so completely that further protection is unwarranted.

A key factor in determining whether the proposed use will unduly impact the current area is the extent to which lights may be illuminated after hours. The conditions relating to lighting have changed over the course of the review process. After hours lighting was initially recommended by the Planning Board out of safety concerns for those exiting the facility after daylight ended. Exhibit 53. The Planning Board recommended that lights could be turned on if staff needed to visit the facility outside of normal business hours. *Id.* After OZAH's public hearing, the Appellant sought to have the location sign illuminated seven days a week, even when the practice was closed. Staff did not recommend this, concluding that, "[T]he only reason to light the sign during non-business hours would be to advertise the business, and staff does not feel that this is appropriate in the Agricultural Reserve." Exhibit 92, p. 3. According to Staff, the lights on the sign were brighter than the "incidental" light cast on the sign for the Little Bennett Golf Course, and would seem "obtrusive" in the rural area. *Id.* Staff recommended that the locational sign be illuminated from one-half hour before opening and one hour after closing, which "will allow clients to easily locate the business without creating a 'billboard' in the Agricultural Reserve." *Id.* Staff supported allowing the wall-mounted and parking lot lights to remain on beginning one-half hour prior to opening and one hour after closing, but questioned the need for the lights to remain on during the daytime. Staff encouraged the applicant to consider automated solutions to turning these lights off when unnecessary. *Id.* After Staff's recommendation, the Applicant withdrew her proposal for lighting the locational sign seven days a week.

Aside from the illumination of the location sign, Planning Staff determined that the lighting proposed would not have an undue adverse impact on the views from Little Bennett Meadow (Exhibit 92):

As for the disturbance of the night skies by lights from the facility, the lights will only be allowed to remain on during business hours and a small window of time before opening and after closing. The lights on the exterior walls of the building and in the parking lot are designed to only shine down, and the parking lot lights are also “dark sky compliant.” Given the night-friendly design of the proposed lights and the limited hours they will be allowed to be on combined with the fact that there is already a street light at the corner of Prescott and Lewisdale Roads, staff does not feel that the facility’s lighting creates an adverse effect sufficient to deny the conditional use application.

After Staff commented on the application, Dr. Stamberg expressed her willingness to make “all commercially reasonable efforts to turn off the exterior facility lighting during daylight hours...” Exhibit 103. She did not want this to be made a condition of approval, however, because of the difficulty in determining exactly when daylight ends. *Id.*

The Hearing Examiner concludes that the final condition supported by Planning Staff and agreed to by the Applicant strikes a balance between the need to preserve the natural character of Little Bennett Meadow and the safety of those visiting the proposed facility. The location sign should not be illuminated more than is necessary to direct clients to and from the facility. One of the major reasons the Hearing Examiner found the use consistent with the Master Plan is that the commercial aspects have been significantly mitigated. Requiring the location sign to be turned off one hour after closing serves both safety and preserving the rural character of the area. The parking lot lights will not be illuminated after 8:00 p.m. on weekdays and are dark sky compliant, which permits views of the stars at night. The one set of lights to be left on at all times (the porch lights) are the least obtrusive and will allow staff to visit the facility safely when there is an emergency after hours.

The Hearing Examiner does not impose a condition requiring the Applicant to turn the lights off when daylight ends. She agrees that such a position would be difficult to enforce, and instead only encourages Dr. Stamberg to do so. With these restrictions on lighting, the Hearing Examiner finds that the proposed use will not cause undue harm in the surrounding area.

- 2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.*

Conclusion: Staff correctly points out that this standard does not apply because the use lies within an agricultural zone. Exhibit 53(a), p. 24. However, the Hearing Examiner does conclude that the proposed design of the building includes residential features that make it compatible with the neighborhood.

- 3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.*

Conclusion: The Applicant has presented substantial evidence that the proposed use at this location satisfies all specific requirements for the conditional use, and with the conditions imposed to mitigate adverse impacts, meets the standards required for approval.

- 4. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.*

Conclusion: The use proposed here is commercial, rather than agricultural, and this standard does not apply.

B. Standards Specific to Veterinary Office/Hospitals (Article 59.3)

The specific standards for approval of an animal boarding and care facility are set out in Section 59.3.5.1.C.2.b of the Zoning Ordinance. Standards applicable to this application are:

1. Defined

Veterinary Office/Hospital means any structure and land where medical, surgical, and other veterinary care is provided to domestic animals, which may stay overnight only for medical purposes. Veterinary Office/Hospital does not include Animal Boarding and Care (see Section 3.5.1.B, Animal Boarding and Care)

Conclusion: The proposed use meets the definitional requirements. Dr. Stamberg proposes to perform medical, surgical, and dental procedures with overnight stays only when the patient is not stable enough to drive. T. 96.

2.b.i. Exterior areas used to exercise, walk, or keep animals must be set back a minimum of 75 feet from any lot line and screened under Division 6.5

Conclusion: Dr. Stamberg proposes two exterior walking areas. These areas wrap around the west, north and east sides of the building. Staff advises that the area on the east side is than 100 feet from the property line, the fence on the north side is over 180 feet from the property line, and the fence in front of the property is approximately 95 feet from the property line. Exhibit 53(a), p. 18. This standard has been met.

2.b.ii. All exterior exercise areas and runs must be fenced.

Conclusion: Staff concluded that this standard was met because the exterior areas will not be used for exercise. Exhibit 53(a), p. 18. The Hearing Examiner wishes to avoid future arguments about whether patients are exercising or not. Either way, the exterior walking areas shown on the conditional use plan are fenced, meeting this standard.

2.b.iii. Animals are prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.

Conclusion: The Applicant proposes to comply with this standard. The Hearing Examiner will impose a condition to this effect. Thus, the application, as proposed and conditioned, will meet this requirement.

2.b.iv. Animals must only be walked or exercised in on-site outdoor areas.

Conclusion: Once again, the Applicant intends to comply with this requirement and the Hearing Examiner will impose such a condition on the approval of the conditional use.

2.b.v. The sound level at the nearest property line must satisfy Chapter 31B.

Conclusion: The evidence is uncontroverted that noise from dogs barking inside the building will be mitigated below the Code standards by materials with high STC ratings used in the walls. Exhibit 22. Based on this, Staff determined that this criteria for approval had been met. Exhibit 53(a), p. 19.

Those in opposition raised the question of whether noise from dogs barking outside the facility would exceed the decibel levels required by the County Code. Mr. Stouffer opined that decibel levels disseminate over distance, noting that only two dogs may be in the exercise area at one time. Dr. Stamberg testified that the practice manages the flow of animals carefully to avoid interaction and has a separate entrance for dogs that may be reactive.

While the Hearing Examiner understands Mr. Sousa's concerns, he provided only one sound level measurement, calculated from a website. Exhibit 104. This evidence was not subject to cross-examination, and therefore, is given less weight than evidence presented at the public hearing.⁵ There is no basis in the record to determine the accuracy of the website, or the methodologies employed.

The Hearing Examiner concludes that the weight of the evidence supports a finding that noise from barking dogs entering and exiting the facility will be sufficiently controlled to meet the requirements of the County Code. She finds persuasive Mr. Stouffer's expert testimony that

⁵ OZAH Rule 3.2(d) provides, "Signed, written comments timely submitted to OZAH by participants will be considered in evaluating the case, but not necessarily given the same weight as statements that are made under oath and subjected to cross-examination at the hearing."

exterior sound will be disseminated. Dr. Stamberg's testimony, based on her own experience, that proactive management of animal flow to avoid conflicts reduces barking is more quantifiable and concrete than possibilities expressed by those in opposition. The Hearing Examiner will impose a condition of approval requiring that sound levels at the property line meet the standards of Chapter 31B of the County Code.

2.b.vi. All buildings and accessory structures must be set back a minimum of 50 feet from any residential lot line.

Conclusion: Staff advises that the building will be setback at least 100 feet from any residential lot line. Exhibit 53(a), p. 10. Having no evidence to the contrary, this standard has been met.

2.b.vii. All litter and animal waste must be contained and controlled on the site.

Conclusion: Dr. Stamberg testified that her waste management plan calls for bagging all solid waste and depositing it in the trash. Surveys of the property are performed daily. Water used in mopping floors is poured down the drain and other surfaces are cleaned with paper towels to avoid cross-contamination. The paper towels are then disposed of in the trash. T. 121.

From this evidence, the Hearing Examiner finds that animal waste will be sufficiently controlled on the site and will require compliance with the Applicant's waste management plan (Exhibit 3, p. 8) as a condition of approval for the conditional use.

2.b.viii. Any accessory operation, such as the sale of pet food and supplies, must be in the statement of operations and must be limited as an accessory activity to a maximum of 20% of sales.

Conclusion: The on-site sales provided at the property will be limited to items necessary for the treatment of patients, including, without limitation, foods, medications, supplements, preventatives and medicated shampoos. The Applicant states that "any future sales at CAH that are considered an accessory operation/activity will be limited to a maximum of 20% of sales"

(Exhibit 3, p. 12). The Applicant will also have an online store/pharmacy, but orders from the online store will be fulfilled and shipped from an offsite location. The online pharmacy accounted for 32% of her gross sales in the last 12 months. T. 111.

There is nothing in this record to contradict the Applicant's statement of intent, and the use of the on-line pharmacy supports a finding that on-site sales will be limited as required. The Hearing Examiner will include a condition requiring that on-site sales be limited to 20% of total sales and that the Applicant be required to maintain records substantiating this that can be made available to inspectors from the Montgomery County Department of Permitting Services (MCDPS).

2.b.ix. The Hearing Examiner may regulate hours of operation. The Hearing Examiner may also regulate the number of animals that may be boarded, exercised, walked or kept in runs or similar areas, and how the animals are boarded, exercised, walked or kept.

Conclusion: Staff did not foresee any issues with the intended hours of operation. Exhibit 53(a), p. 19. Nothing in the record indicates that the hours of operation should be curtailed further than proposed, with the condition limiting lighting. The Hearing Examiner notes that the hours proposed enables client visits to be spread out during the day, as demonstrated by the parking schedule submitted by Dr. Stamberg. Exhibit 81(a). A condition of approval will limit operating hours to those proposed by the Applicant.

2.b.x. The Hearing Examiner may regulate the number of appointments. Animals may be seen by appointment only. Emergency patients and visits to pick up prescriptions and pet-related items may also occur, within office hours only and without a scheduled appointment; abuse of this exemption may lead to revocation of the conditional use. A written log of all appointments and drop-in and emergency client activities must be kept, to be available for inspection by DPS.

Conclusion: Staff also foresaw no need to regulate the number of appointments. Dr. Stamberg testified that appointments are generally one-half hour each, except for surgeries during the day.

The parking schedule (Exhibit 81(a)) demonstrates that parking is adequate to serve the appointment schedule she proposes and the on-line pharmacy reduces the need for trips to the site.

A conditional of approval will require the Applicant to keep a written log of all appointments and drop-in and emergency client activities for inspection by MCDPS during operating hours.

2.b.xi. The applicant must submit the following:

(a) Acoustical engineering studies that demonstrate that the proposed use will meet required noise levels. The studies must show the worst case scenario sound level (for example, full occupancy). The statement of operations must be sufficiently detailed to allow determination of how often the worst case scenario sound level occurs.

(b) Detailed floor plans that show all the interior areas, including runs and kennels.

(c) Site plans that show the layout of all exterior areas used to exercise, walk, or keep animals.

Conclusion: The Applicant has submitted these items. See, Exhibits 22, 27, 51(a) and 51(f).

2.b.xii. In the R-90 and R-60 zones:

(a) The minimum lot area is one-half acre; and

(b) In the R-60 zone, the Veterinary Office/Hospital must be located on a site with frontage on a road with a minimum existing right-of-way width of 90 feet, that confronts a property zoned Commercial/Residential or Employment.

Conclusion: This standard is inapplicable because the property is zoned AR.

2.b.xiii. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

Conclusion: Planning Staff advises that the use is not encumbered by a recorded Transfer of Development Rights easement. Exhibit 53(a). Having no evidence to the contrary, the Hearing Examiner concludes that this standard does not apply to this use.

C. Development Standards of the Zone (Article 59.4)

In order to approve a conditional use, the Hearing Examiner must find that the application meets the development standards of the AR Zone, contained in Article 59.4 of the Zoning Ordinance. Staff concluded that, with the exception of the minimum site area, the application

meets the development standards of the AR Zone, as illustrated in the table Staff Report (Exhibit 53(a), pp. 9-10, on the next page).

Development Category	Standard	Proposed
Minimum site area	25 acres	5.585 acres
Minimum lot area	40,000 SF	5.585 acres
Lot width at front building line	125 ft.	584.2 ft.
Lot width at front lot line	25 ft.	424.3 ft.
Density	1 lot per 25 acres	1 lot

Development Category	Standard	Proposed
Maximum lot coverage	10%	1.3% (3,250 SF)
Minimum building setback, principal building: <ul style="list-style-type: none">• Front• Side street• Side• Rear	<ul style="list-style-type: none">50 ft.50 ft.20 ft.35 ft.	<ul style="list-style-type: none">249.8 ft.188.4 ft.203.7 ft.110.5 ft.
Height: <ul style="list-style-type: none">• Principal building	<ul style="list-style-type: none">50 ft.	<ul style="list-style-type: none">26 ft.

Staff concluded that the property was exempt from minimum site area requirement because the approved preliminary plan was grandfathered under the prior (2004) Zoning Ordinance (Exhibit 53(a), p. 10):

... the lot was created in 2008 under the previous zoning code, which allowed the lot to be exempt (grandfathered) from the area and dimensional requirements of the former Rural Density Transfer (RDT) Zone as long as the deed was recorded prior to its reclassification into the RDT Zone and it met the requirements of the prior zone, (Section 59-C-9.74 of the old Zoning Ordinance). The Property was in the Rural Zone (5-acre minimum lot size) prior to being rezoned RDT and the Property was found to meet the requirements of the Rural Zone when the Preliminary Plan was approved.

Section 59-C-9.74(b)(2) of the 2004 Zoning Ordinance established the exemption to the minimum site area requirement for “lots created by deeds” before being rezoned to the RDT Zone:

(b) The following lots are exempt from the area and dimensional requirements of section 59-C-9.4 but must meet the requirements of the zone applicable to them before their classification in the Rural Density Transfer zone.

* * *

(2) A lot created by deed executed before the approval date of the sectional map amendment which initially zoned the property to the Rural Density Transfer Zone.

The Hearing Examiner asked the Applicant to justify whether the lot was grandfathered under the *current* (i.e., 2014) Zoning Ordinance. Exhibit 55. The Applicant argues, in part, that the lot is exempt under Section 7.7.1.D.9 of the 2014 Ordinance. While that section is captioned “Residential Lots and Parcels,” the text includes the following exemption:

9. Exempted Lots and Parcels in the Agricultural Reserve Zone

A lot or parcel in the Agricultural Reserve (AR) zone, in addition to other exemptions in this subsection, is exempt from the minimum lot area requirements and lot width requirements of the AR zone, but must satisfy the requirements of the zone applicable to it before its classification to the AR zone if:

- a. the lot or parcel was created before January 6, 1981; or

* * *

The Hearing Examiner holds that the lot is entitled to an exemption from the minimum site area in the AR Zone under Section 59.7.7.1.D.9 of the 2014 Ordinance. From the information in this record, the Hearing Examiner finds that the lot meets the plain language of the current Zoning Ordinance because it is a “parcel” created before 1981. *Motor Vehicle Admin. v. Jaigobin*, 413 Md. 191, 197 (2010)(“In seeking to ascertain legislative intent, we first look to the words of the statute...).

The 2014 Zoning Ordinance exempts “lots or parcels” created before January 6, 1981. The current Zoning Ordinance defines a “parcel” as “[A] contiguous area of land that is described by deed or plat recorded in the land records.” *2014 Zoning Ordinance*, Section 59.1.4.2. The 2004 Zoning Ordinance exempted “a lot created by deed” prior its rezoning to the RDT Zone. *2004 Zoning Ordinance*, §59-C-9.74(b)(2).

In order to qualify for the exemption in the RDT Zone, it is more probable than not that the deed originally creating the subject property was executed prior to January 6, 1981. That is the date that the Council enacted several new rural zones, including the RDT Zone. *1980 Functional Master Plan for the Preservation of Agricultural and Rural Open Space in Montgomery County* (Agricultural Master Plan), “Notice.” These zones were intended to implement the recommendations of the Agricultural Master Plan. Thus, it is likely that the subject property would have been created by deed prior to 1981 or it would not have qualified for the 2004 exemption in the RDT Zone. Even though the property wasn’t subdivided until 2008, neither the 2004 nor 2014 exemptions require this. The 2004 exemption applied to a “lot created by deed,” and the 2014 exemption applies to a “parcel” that is described by deed.

The legislative history of the current exemption (*i.e.*, Section 59.7.7.1.D of the 2014 Zoning Ordinance) supports its application to this property as well. In 2015, the District Council enacted amendments to the 2014 Zoning Ordinance intended to restore the lot exemptions available in the 2004 Ordinance.⁶ Exhibits 58-60. A legislative packet prepared for the Council’s Planning, Housing, Education and Development (PHED) Committee refers to the Planning Board’s recommendation to revive “previously allowed exemptions in the RE-1, RE-2, Rural, Rural Cluster, and AR zones.” Exhibit 59. Even though the language didn’t specifically refer to the RDT Zone, it was one of the prior rural zones now subsumed by the AR Zone. The RDT Zone did not exist when this ZTA was adopted. Thus, when the Planning Board recommended reviving exemptions in the “AR” Zone, it would have been referring to properties previously within the RDT Zone, as well as the other rural zones.

⁶ The Council adopted these exemptions in ZTA 15-09 (Ordinance No. 18-08) on December 1, 2015.

The Applicant correctly points out that the title of subsection 59-7.7.1.D cannot be used to interpret its meaning, as this is specifically prohibited by the Zoning Ordinance. In any event, the Applicant accurately points out that the Council has included grandfathering for commercial uses within this section and therefore, the Hearing Examiner does not rely on the title to construe the exemption in Section 59-07.7.1.D.9.⁷

For these reasons, the Hearing Examiner finds that the proposed conditional use meets all of the development standards of the AR Zone.

D. General Development Standards (Article 59-6)

Article 59-6 sets requirements for parking, screening, landscaping, lighting, and signs. Section 7.3.1.E.1.b of the Zoning Ordinance permits the Hearing Examiner to require compliance with these standards “to the extent the Hearing Examiner finds necessary to ensure compatibility.”

1. Parking (Division 59.6.2)

a. Number of Spaces

Planning Staff summarizes the parking requirements in its report (Exhibit 53(a), p. 11):

<i>Use or Use Group</i>	<i>Metric</i>	<i>Baseline Minimum in Agricultural Zone</i>	<i>Spaces Required</i>	<i>Spaces Provided</i>
<i>Veterinary Office/Hospital</i>	<i>Employee</i>	<i>1.0</i>	<i>15</i>	<i>28 total spaces, which includes 2 handicap parking spaces</i>
	<i>Plus, Each Doctor Practicing Simultaneously</i>	<i>2.5</i>	<i>13</i>	
		<i>(Minimum of 5)</i>		

⁷ The Council adopted ZTA 15-06 (Ordinance No. 18-09), exempted all buildings, including commercial buildings, from the minimum side setbacks in the RC (Rural Cluster) Zone. ZTA 18-09 (Ordinance No. 18-49), amended Section 59-7.7.1.D of the Zoning Ordinance to permit certain existing commercial uses in the RC Zone.

Staff concluded that the number of parking spaces met the Zoning Ordinance standards because it provided the minimum required. *Id.* The Hearing Examiner agrees that the minimums required by the Zoning Ordinance are provided.

b. Parking Lot Screening Requirements

Parking lot screening and lighting requirements are set forth in Section 59.6.2.9 of the Zoning Ordinance:

1. Landscaped Area

- a. A surface parking lot must have landscaped islands that are a minimum of 100 contiguous square feet each comprising a minimum of 5% of the total area of the surface parking lot. Where possible, any existing tree must be protected and incorporated into the design of the parking lot.*
- b. A maximum of 20 parking spaces may be located between islands.*
- c. A landscaped area may be used for a stormwater management ESD facility.*

2. Tree Canopy

Each parking lot must maintain a minimum tree canopy of 25% coverage at 20 years of growth, as defined by the Planning Board's Trees Technical Manual, as amended.

3. Perimeter Planting

- a. The perimeter planting area for a property that abuts an Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use must:*
 - i. be a minimum of 10 feet wide;*
 - ii. contain a hedge, fence, or wall a minimum of 6 feet high;*
 - iii. have a canopy tree planted every 30 feet on center; and*
 - iv. have a minimum of 2 understory trees planted for every canopy tree.*

Conclusion: Staff provided no analysis as to whether the conditional use plan meets these requirements. Mr. Powell, the Applicant's expert in landscape architecture, opined that the

landscaping proposed does so, including the provision of canopy trees. T. 56. Having no evidence to the contrary, the Hearing Examiner finds that these requirements have been met.

2. Lighting (§59.6.4.4.D and E)

The standard for exterior lighting for new development is set forth in Section 6.4.4.D of the Zoning Ordinance, which states, “on-site illumination must be 0.5 footcandles or less at the lot line, excluding street lights within the right-of-way.” Certain conditional uses in the AR Zone must also comply with the following standard (*Zoning Ordinance*, §59.6.4.4.E):

E. Conditional Uses

Outdoor lighting for a conditional use must be directed, shielded, or screened to ensure that the illumination is 0.1 footcandles or less at any lot line that abuts a lot with a detached house building type, not located in a Commercial/Residential or Employment zone.

Conclusion: The Applicant submitted a photometric study to demonstrate that illumination would be no more than 0.1 footcandles at all property lines. Exhibit 51(c). Planning staff concluded that the standard in Section 59.6.4.4.E did not apply to the spotlight for the location sign because the that lot line does not “abut” a lot with a detached house building type.⁸ Exhibit 53(a), p. 12. At the public hearing, Mr. Powell testified that the photometric study (showing less than 0.1 footcandles) did not include illumination from the spotlight on the location sign. T. 58.

There is nothing in the record to document whether the lighting proposed by the Applicant will be under 0.5 footcandles at the property line nearest the locational sign, as required by Section 59.6.4.4.D of the Zoning Ordinance. Nevertheless, the Hearing Examiner may require compliance with this standard to the “extent necessary to ensure compatibility.” *Zoning Ordinance*, 7.3.1.E.1.b. Mr. Powell testified that there is an existing street lamp close to the proposed sign that will be “much brighter” than any illumination caused by the sign. He opined that the light

⁸The term “abutting” is defined in the Zoning Ordinance as “2 properties are abutting if they share a property line or easement line.” *Zoning Ordinance*, §1.42.

from the street lamp would subsume any impact of the lighting proposed by for the locational sign. T. 58. He further testified that the lights illuminating the sign will be directed specifically toward and sign, and have little spillage toward the exterior of the property. *Id.* The Applicant provided a photograph of the street lamp (Exhibit 81(b, below).



The evidence presented supports a finding that the proposed lighting will be compatible with the surrounding area. The Applicant's photometric study does demonstrate that no light spillage will occur around the bulk of the property, other than the in the area already illuminated by the existing street light. Therefore, the Hearing Examiner finds that the proposed lighting will be compatible with the existing conditions in the surrounding area.

3. General Screening Requirements (Division 6.5)

Section 59.6.5.3.C of the Zoning Ordinance requires applicants for conditional uses in the AR Zone to provide one of two alternative screening options for the site.



**Existing Streetlight Near
Locational Sign
Exhibit 81**

		
	Option A	Option B
Dimensions (min)		
Depth	8'	12'
Planting and Screening Requirements		
Trees (minimum per 100')		
Canopy	2	2
Understory or Evergreen	2	4
Shrubs (minimum per 100')		
Large	6	8
Medium	8	12
Small	8	--
Wall, Fence or Berm (min)	4' fence or wall	--

**Screening Options under
Section 59.6.5.3.C**

Conclusion: The two screening options required by Section 59.6.5.3.C of the Zoning Ordinance are shown above.

Staff found that the screening provided by the forest is “more screening than the required amount.” Exhibit 53(a), p. 12. Option B of the Zoning Ordinance standard requires a 12-foot wide landscaping strip with plantings every 100 feet. Staff advises that the forest conservation easement is approximately 33 feet wide from the eastern property line and at least 70 feet wide from the southern property line and will more than adequately screen the facility from these neighbors. Exhibit 53(a). Mr. Powell testified that, during the winter, the front may be able to be seen from Prescott Road because of the clearing for the septic field. As the trees along Prescott Road mature,

the view will be minimized. The Applicant also proposes an evergreen hedge along the western side of the parking area to reduce the view of cars in the parking lot. T. 57. Mr. Powell opined that the unique layout of the site will make it appear to be “nestled” among the trees because it is set into the slope, further screening it on all sides. T. 56. The parking area will also be partially screened on the western and southern sides by canopy trees.

Even though the proposed screening does not technically comply with the requirements of the Zoning Ordinance, the Hearing Examiner finds that it is sufficient to ensure the compatibility of the proposed use. Much of the the forest cover and on-site landscaping far exceeds what would otherwise be required, the low profile on two sides further mitigates views of the building, and the hedge on the west side protects against direct views of vehicles until trees along Prescott Road mature.

4. Signage (Division 59.6.7)

Section 59.6.7.7 sets out the permissible number and size of signs in the AR Zone. Section 59.6.7.6 of the Zoning Ordinance includes requirements for illumination of signs. As these requirements are set forth in detail in the Staff Report (Exhibit 53(a)), the Hearing Examiner does not repeat them here.

Conclusion: Staff advises that the signs proposed meet the standards of Section 6.7.7 of the Zoning Ordinance with one exception: The Zoning Ordinance prohibits more than two wall signs. *Zoning Ordinance*, §59.6.7.7.A.2. Thus, the Applicant must seek a variance for one of the wall signs from the Sign Review Board under Section 59.7.4.2. of the Zoning Ordinance. The requirement to obtain such a variance will be made a condition of approval of this conditional use.

Planning Staff concluded that the signs were compatible with the surrounding area (Exhibit 53(a), p. 16):

The amount and type of signage proposed to mark the location of the veterinary office is well-designed to fit into the rural setting of the Property and is not significantly different than the nearby sign for the Little Bennett Golf Course. The building is located far from the road and will be adequately screened by forest to detract from the current experience of driving past the property on Prescott Road.

Mr. Powell testified that the wall signs on the building are unlikely to be visible from the street. T. 67. The major concern regarding the location sign has been the time period it should be illuminated. That is addressed in the conditions of approval in Part IV of this Decision. The Hearing Examiner finds that the signs proposed are compatible with the surrounding area for the reasons stated by Planning Staff.

IV. Decision

Based on the foregoing findings and conclusions and a thorough review of the entire record, the application of Clarksburg Animal Hospital and Mashed Potato Properties, LLC, for a conditional use to operate a Veterinary Office/Hospital at 26211 Prescott Rd, Clarksburg, Maryland, under Section 59.3.5.1.C of the Zoning ordinance is ***granted***, subject to the following conditions:

1. The facility is limited to a maximum 4,050 square feet of floor area.
2. Petitioner must comply with the terms of its Conditional Use Plan (Exhibit 51(a)), Landscape Plan (Exhibit 33), Lighting Plan (Exhibit 51(c)), and Final Forest Conservation Plan (Exhibit 92).
3. The operating hours of the facility are limited to 7:30 a.m. to 7:00 p.m. Monday through Friday and from 7:30 a.m. to 1:00 p.m. on Saturday.
4. No more than 5 veterinarians and 15 support staff may be present at any one time.
5. Only domestic animals may be treated on the site.
6. The Applicant must obtain approval of an amendment to Preliminary Plan 120070710 prior to issuance of any permit for construction on the site.
7. Animals are prohibited from being outdoors between 9:00 p.m. and 7:00 a.m.

8. Animals must only be walked in the exterior walking areas shown on the Conditional Use Plan (Exhibit 51(a)).
9. The sound level at the all property lines must satisfy Chapter 31B of the Montgomery County Code.
10. Lights may be illuminated only in accordance with the following:
 - The freestanding location sign may be illuminated between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and between 7:00 a.m. and 2:00 p.m. on Saturdays;
 - The wall pack lighting on the hospital building may be illuminated between the hours of 7:00 a.m. and 7:20 p.m., Monday through Friday, and between 7:00 a.m. and 1:20 p.m. on Saturdays;
 - The pole lights in the parking facility may be illuminated between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, and 7:00 a.m. and 2:00 p.m. on Saturdays.
 - The porch lighting for the proposed veterinary hospital building may be illuminated at all times.
 - All lighting must be controlled by automated timers.
11. No new exterior lighting may be installed on the property without modifying the conditional use approval.
12. The Applicant must obtain a sign variance from the Sign Review Board for the number of wall signs proposed. The Applicant must obtain permits from the MCDPS for all signs, and must file a copy of any such sign permit with OZAH.
13. On-site sales of items necessary for the treatment of patients, such as pet food, prescriptions, diet foods, medications, supplements, and medicated shampoos, must be limited to a maximum of 20% of total sales. The Applicant must maintain records substantiating the percentage of sales from these items. These records must be made available for inspection by the MCDPS.
14. Garbage/dumpster pick-up must comply with time of day restrictions specified in Chapter 48-solid waste regulations, which currently specify that no pick-ups may occur between 9:00 p.m. and 7:00 a.m. on any weekday, or between 9:00 p.m. and 9:00 a.m. on Sundays and federal holidays.
15. The Applicant must satisfy the requirements of the MCDPS Well & Septic Program review as detailed in their emails to the Applicant dated, June 25 and June 26, 2018 (Exhibit 53(a), Attachment H).
16. A written log of all appointments and drop-in and emergency client activities must be kept and must be available for inspection by MCDPS.

17. The waste and runoff from the outdoor exercise yard must not be intentionally discharged directly into a channel that may drain to the local stream. The Applicant must implement the animal waste management, and cleaning protocols described in the Applicant's Statement of Justification, dated June 22, 2017 (Exhibit 3).
18. Prior to issuance of the Certificate of Occupancy, all landscaping on the Applicant's Landscape Plan (Exhibit 33) must be planted as shown.
19. The Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the conditional use premises and operate the conditional use as granted herein. The Applicant shall at all times ensure that the conditional use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements, including the annual payment of conditional use administrative fees assessed by the MCDPS.



Lynn A. Robeson
Hearing Examiner

Issued this 17th day of October, 2018.

NOTICE OF RIGHT TO REQUEST ORAL ARGUMENT

Any party of record may file a written request to present an appeal and oral argument before the Board of Appeals, within 10 days after the Office of Zoning and Administrative Hearings issues the Hearing Examiner's Report and Decision. Any party of record may, no later than 5 days after a request for oral argument is filed, file a written opposition to it or request to participate in oral argument. If the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. A person requesting an appeal, or opposing it, must send a copy of that request or opposition to the Hearing Examiner, the Board of Appeals, and all parties of record before the Hearing Examiner.

Contact information for the Board of Appeals is listed below, and additional procedures are specified in Zoning Ordinance §59.7.3.1.F.1.c.

The Board of Appeals may be contacted at:

Montgomery County Board of Appeals
100 Maryland Avenue, Room 217
Rockville, MD 20850

(240) 777-6600

<http://www.montgomerycountymd.gov/boa/>

The Board of Appeals will consider your request for oral argument at a work session. Agendas for the Board's work sessions can be found on the Board's website and in the Board's office. You can also call the Board's office to see when the Board will consider your request. If your request for oral argument is granted, you will be notified by the Board of Appeals regarding the time and place for oral argument. Because decisions made by the Board are confined to the evidence of record before the Hearing Examiner, no new or additional evidence or witnesses will be considered. If your request for oral argument is denied, your case will likely be decided by the Board that same day, at the work session.

Parties requesting or opposing an appeal must not attempt to discuss this case with individual Board members because such *ex parte* communications are prohibited by law. If you have any questions regarding this procedure, please contact the Board of Appeals by calling 240-777-6600 or visiting its website: <http://www.montgomerycountymd.gov/boa/>.

NOTICES TO:

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Ms. Karon deSilva
Barbara Jay, Executive Director
Montgomery County Board of Appeals
Jamey Pratt, Planning Department
Ehsan Motazed, Department of Permitting Services
Alexandre A. Espinosa, Director, Finance Department