**MEMORANDUM: SPECIAL EXCEPTION**

**DATE:** February 22, 2006

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Development Review Chief  
Carlton Gilbert, Zoning Supervisor

**FROM:** Joel A. Gallihue, AICP (301) 495-2119  
Development Review

**SUBJECTS:**

- A. Preliminary Forest Conservation Plan
- B. Water Quality Plan
- C. S-2659 – Veterinary Hospital
- D. S-2660 - Animal Boarding Place

*Special Exception requests, related environmental approvals, and a waiver of a parking setback is requested by Jeffrey B. W Walcoff, D.V.M. and Sheila Dearybury Walcoff for a veterinary hospital and animal boarding at 22416 Frederick Road in Clarksburg, MD.*

**ZONE:** R-200

**MASTER PLAN:** Clarksburg Master Plan. (1994)

**FILING DATE:** September 22, 2005

**PUBLIC HEARING:** March 18, 2006

**RECOMMENDATIONS:****Approval of the Preliminary Forest Conservation Plan with the following condition:**

The applicant shall submit a Final Forest Conservation Plan (FCP) prepared by a qualified professional to the Environmental Planning Staff of the M-NCPPC prior to Montgomery County Department of Permitting Services' (DPS) release of the sediment and erosion control permit, and any clearing, grading or land disturbance on the site. This plan must demonstrate full compliance with the requirements of Forest Conservation Law, Section 22A-12. A detailed Tree Save Plan prepared by an ISA-certified arborist for tree numbers T-1, T-2, and T-3 shall be a part of the FCP.

**Approval of the Water Quality Plan, Bennett Creek Veterinary Hospital with the following conditions:**

1. Compliance with the conditions stated in the DPS letter dated June 1, 2005 approving the elements of the Special Protection Area (SPA) water quality plan under its purview.
2. All litter and animal waste must be contained and controlled on site.

**Approval of both S-2659 and S-2660, with the following conditions applied to both special exceptions:**

1. The applicant is bound by all submitted plans and statements.
2. The hours when the facility is open to the public for drop-off and pick up of animals will be 7 a.m. to 8 p.m., Monday through Friday and 7 a.m. to 1 p.m. on Saturday, except in emergencies. The facility may be staffed after hours as needed but will not be open to the public.
3. No outdoor exercise of animals is permitted on the property or on sidewalks off site. Exercise must be in the internal area shown on the plan.
4. Petitioner shall be permitted to have a maximum of ten employees (including all veterinarians and support staff employees) on site at any one time provided that the number of veterinarians on site at any one time does not exceed two.

**PROJECT SUMMARY**

The applicants, Dr. Jeffrey B. Walcoff and Sheila Walcoff are requesting special exceptions for the veterinary hospital and animal boarding uses at 22416 Frederick Road (MD 355) in Clarksburg, Maryland. The application also identifies the facility as "Bennett Creek Veterinary Hospital." The applicant also requests that the Board of Appeals grant a waiver of the parking setback for special exceptions in residential zones (Section 59-E-2.83(b)) which requires double the side yard setback of the R-200 zone. This would require twenty-four feet which is double the twelve feet required by the zone. Technical staff has analyzed the waiver request and recommends approval with the uses as conditioned.

**Site Description** - The applicant currently owns two properties which will be re-subdivided to adjust lot lines and dedicate right-of-way. The properties are more particularly known as Parcels 542 and 595 shown on Tax Map EV 53. The proposed special exception will apply to the front lot (indicated as Parcel 1) which

will be 2 acres (87,138 sq. ft.) in area after dedication of approximately 11,354 square feet for public right-of-way.

The proposed site is located directly on Frederick Road (Route 355). To the north, the property is adjacent to the John Wesley United Methodist Church and cemetery, which are typically most active on Sunday when the proposed veterinary office and boarding facility will be closed to the public. On the adjacent property south of the proposed facilities are tennis courts and open space that is part of the new Rocky Hill Middle School campus. Behind the proposed site to the west is a single residence, currently owned by the applicant and rented to a family.

The property is improved with an existing house, which will be razed to allow construction of the proposed facility. Parking will be located on the west side of the property.

The rear lot will be of a flag or pipe stem configuration and will have an area which measures approximately 0.61 acres in area. The existing house on this lot will remain and continue as residential use. No special exception is proposed for this lot as it will remain after subdivision.

**Neighborhood Description** - The site is located on the west side of Frederick Road in the area between Running Brook Drive and New Cut Road, in the immediate vicinity of Seneca Creek Parkway. Frederick Road (MD 355), Running Brook Drive and the two schools define the neighborhood. For the purposes of evaluating the proposed uses staff finds the neighborhood for this special exception is all of the non-school properties on the west side of 355 and ten properties on the opposite side of 355, four to the north of Running Brook Drive and six to the east of Running Brook Drive. This area is primarily residential in nature.

### **Project Description and Elements of Proposal**

The application describes the facility as a neighborhood veterinary hospital and boarding facility intended to serve the greater Clarksburg area with veterinary services. Staff has confirmed with the applicant that the veterinary practice would be general and would not offer specialized treatments. Care would be by appointment, and all animal hospital and animal boarding operations are contained within the proposed building. The proposed building will be mostly one story with a partial, second story, caretaker apartment. This part of the building is set back from the front. The building will have a pitched roof with residential scale windows. The height of the building, considering the architectural drawings and the elevations shown on the plan, will be approximately 31 feet. The building will be sheathed in siding in the front and brick in the rear. The applicant lives less than ten miles from the proposed veterinary hospital and, given the significant residential development in the area is convinced of a need for a

veterinary hospital in the Clarksburg community. Staff notes that this particular use is not subject to a zoning test for need. The applicant represents that the facility will offer a combination of services that include veterinary care, overnight indoor boarding (no outdoor runs) and limited grooming and bathing services in the boarding area.

Then staff members at any one time are proposed. These staff will include two veterinarians and any other staff such as veterinary technicians, kennel staff and administrative office staff. The facility is designed to house one staff person in a second floor apartment. Staff recommends the following language for a special exception condition:

"Petitioner shall be permitted to have a maximum of ten employees (including all veterinarians and support staff employees) on site at anyone time provided that the number of veterinarians on site at anyone time does not exceed two."

Staff believes this condition would not be difficult for zoning enforcement staff to check. An unannounced visit could easily confirm the employees present and then cross reference veterinarian licenses on file to confirm the number of veterinarians.

The request is for operations 7:00 AM – 8:00 PM, Monday through Friday and 7:00 AM – 1:00 PM on Saturday. Although procedures will not begin any earlier than 9:00 AM, allowing drop-offs to start at 7:00 AM would be more convenient for customers when traffic is considered. Some staff may be present at any time for animal care so the operation that is really being regulated is *hours open to the public*. This is the dimension of the use that may have any noticeable effect with customers arriving and departing.

The applicant proposes to demolish the existing house, construct a new building with parking and operate an animal hospital and boarding facility on the Property. Prior to the construction of the proposed building, subdivision would result in adjustments to this site to allow for a lot line adjustment and road dedication.

The request seeks to have a waiver approved for the parking setback requirements for special exception uses in a residential zone. The advantage to side parking is it is less prominent to confronting residences. While it is adjacent to the church cemetery, it will be screened. The site plan for the special exception shows a building in the middle of the lot with the parking configuration on the west side of the property. The building is reasonably large so the design and situation are important for compatibility with the neighborhood. An important aspect of the design is the residential features for the proposed building. Windows are residential in scale, the roof is pitched and the partial second story is set back from the front of the building. The building front is about half as wide as the building is deep. It is therefore situated to avoid presenting its mass to the road. The building is set back about seventy feet from the proposed edge of the

right-of-way. This puts the front of the proposed building in line with the rear of the church, lessening the effect of the new building and keeping the church a prominent feature.

### **Signage**

The applicant had proposed a sign for the site that is larger than what is permitted by-right under the sign requirements for residential zones. Anything beyond these requirements (2 sq. ft. in area) will require a sign variance from the Sign Board. The initial proposal for the sign was 96" x 60" or forty square feet in area. Staff evaluated this proposal and concluded that a sign of this size detracted from the otherwise residential character of the proposal. Staff reminded the applicant of the small sign size permitted by right and noted that since clients are by appointment only, the sign should only be large enough to help people find their way to the site. A larger sign would appear to be an advertisement for the business, which would be inappropriate in a residential area. The applicant decided to use the Falls Road Veterinary Hospital of 10229 Falls Road in Potomac, MD (S-1769) as a guide for a sign because it is an approved animal hospital in the R-200 zone. The sign for this project is built on a monument and contained within columns. The sign is 44" high and 52" wide. Staff examined this sign in its context and considered it to be compatible. This is also about the same size as the Board of Appeals notice sign posted on the property and smaller than the John Wesley United Methodist Church sign. A site visit confirmed that the notice sign was visible enough to locate the site but was did not overwhelm the site or surrounding neighborhood.

### **Lighting**

The parking lot lighting shown on the lighting plan consists of four 15' poles located on the western side of the lot which direct light onto the lot using a shielded fixture. Illuminated bollards are used on the pathway to the building. The initial draft of the lighting diagram indicated that some projected lighting measurements exceeded 0.1 Foot Candles at the side property line. Staff noted the standard for lighting of special exceptions in residential zones (59-G-1.23. (h)) doesn't permit lighting in excess of 0.1 Foot Candles, even if the use is not residential. The applicant's lighting consultant revised the proposed fixture to a full or zero cut-off design<sup>1</sup>, which also satisfies the luminaries design provision of this section as well. The revised lighting diagram indicates that this choice of fixture has mitigated the spread of light such that there is no light exceeding 0.1 foot candles at the side or rear property line.

### **Landscaping**

The proposed landscaping called for Viburnum shrubs framed with two Cherry trees in the front of the building. On the west side, Arborvitae trees were to be

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<sup>1</sup> A term used by the Illuminating Engineering Society of North America (IESNA) to indicate a fixture that focuses light to spread within an area that is less than a right angle to the direction the light is pointed.

planted to screen the parking lot. Staff considered the front landscaping and recommended a change to five flowering trees and a line of evergreen shrubs to better blend the front of the building and screen the side of the parking area. On the west side of the parking lot, staff recommended adding a four-foot tall board-on-board fence, set back from the property line to screen parking. Staff suggested a gate based upon discussions with members of the adjacent church. The fence is designed to provide parking lot screening. To soften the look of the fence, staff recommended keeping arborvitae planted on both sides. The applicant agreed to revise the landscape plan to show these features.

**ANALYSIS**

**Master Plan** – The property is located within the area of the Clarksburg Master Plan, Approved and Adopted 1994. The recommended R-200 zoning for the property permits the use by special exception. Having considered the Master Plan objectives, Community Based Planning staff recommends APPROVAL with recommendations. Staff has recommended that the rear property not be added to the use. Although not proposed, the applicant could propose a modification or new special exception to bring the rear property into the proposal. This would increase the intensity and present forest preservation concerns and is unlikely to gain a recommendation of approval from staff. A recommendation for a fence and different vegetation has been incorporated into the plan, and the practice should be done on an appointment.

**Transportation** - The property has access from Frederick Road, which is classified as a four-lane divided arterial highway (A-251) with 120’ of right-of-way in this location. The Transportation Planning staff has reviewed the subject special exception application for the required adequate public facilities (APF). Staffing should be limited to the levels analyzed by condition, to a maximum of ten staff to keep the site to less than 30 peak hour trips during morning and evening peak periods.

**Development Standards –**

<b>Development Standard – R-200/Uses.</b>	<b>Required/ Allowed</b>	<b>Provided</b>
Maximum Building Height:	50 feet	31’
Minimum Lot Area:	20,000 s.f.	87,138 s.f.
Minimum Width at Front Building Line:	100 feet	211 feet
Minimum Width at Proposed Street Line:	25 feet	211 feet
Minimum Front Yard Setback:	40 feet	71 feet
Minimum Side Yard Setback:	12 feet one side, sum of 25 feet both sides	71.4’ feet
Minimum Rear Yard Setback:	30 feet	121.2’ feet.
Maximum Building Coverage:	25%	Appx. 10%

Minimum Lot Area for Use	87,138s.f. (per use) or 2 acres.	87,138 s.f. or 2 acres.
Minimum Building Setback for Boarding Use	75'	75'
Minimum Building Setback for Animal Hospital Use	50'	71'

**Parking-**

The parking lot provides 17 parking spaces, including one that is accessible to the handicapped. The zoning ordinance does not provide a specific parking ratio for the animal hospital but does for the animal boarding use. The requirement is one space for every employee for the maximum shift (10) plus three (13). There staff believes the extra four spaces will provide extra assurance that customers find a space for drop-off or pick-up.

The application requests a parking setback waiver. Section 59-E-2.83(b) of the Ordinance requires that the parking and loading facility for a special exception use in a residential zone must be twice the building side yard required in the zone. In the R-200 zone, the side yard setback is 12 feet, so the requirement for a parking/loading facility would be double which is 24 feet. The proposal is for the driveway and parking spaces to be set back 16 feet from the lot line. This would require a waiver, which may be granted pursuant to Section 59-E-4.5. The applicant has requested this waiver of the Board of Appeals.

The applicant has represented that the layout of the lot is such that it is not possible to move the parking area in order to comply with the setback requirement. In examining this request, staff first rules out an alternative of moving the parking to the front of the property as it would detract from the residential character of the area. Pushing the building to the east eight feet is ruled out because a 75' building restriction line must be met for the animal boarding section *and* an adequate width pipe stem for the rear lot must be maintained for subdivision. Moving the building would also push the building towards the critical root zone for a 30" oak tree contained in the forest conservation area for the site. The forest conservation area also prevents putting the parking in the rear of the building. It should be noted that an alternative suggested by a citizen is to put the uses and parking in the rear lot. The applicant has not made such a proposal, and it is not clear to technical staff whether this would have greater negative implications to forest than what is proposed, when location of the use, parking, and access are given consideration.

The applicant justifies the waiver request by citing the institutional nature (church) of the site where the waiver is requested, since the standard is intended to protect residences. Further support for this observation is that the church parking lot is near the property line. An observation that the church layout does not meet the setback for main building requirements for the zone is noted but

considered irrelevant by technical staff. The applicant suggests a board-on-board fence and plantings will accomplish the same goals as the larger setback.

Staff finds the request for a waiver can be supported with plantings to make up for the eight feet of parking setback. Staff requested the applicant revise the special exception plan to show the plantings recommended by Community Based Planning.

**Environmental** – Environmental staff have reviewed the application and recommend approval of the Preliminary Forest Conservation Plan, approval of the Water Quality Plan and approval of the proposed special exceptions. In the course of the review clarifications were made to the Preliminary Forest Conservation Plan at the request of staff.

**Inherent and Non-Inherent Effects-** Section 59-G-1.21 of the Zoning Ordinance (Standard for Evaluation) states the following with respect to Inherent and Non-Inherent Effects:

*A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception*

The inherent characteristics associated with the proposed use are daily arrival and departure of veterinary staff and intermittent entry and exit of customers with pets. Noise and odors of animals are inherent effects. Deliveries of materials may come by mail or in small parcels. Specialty medical equipment will need servicing but mostly by technicians in regular vehicles. Most activities are internalized within the building, however, animals must be walked or carried from the parking lot into the building. Non-inherent characteristics of this use may come from a combination of uses.

While the adjacent property is zoned residential only one abutting property is a residence. That property is currently owned by the applicant and separated from the use by a forested section on the special exception site that will remain in conservation easement. The other adjacent property is where the church is located and a school. There are residences on confronting properties, but staff



finds the road presents a significant barrier. While the building will be visible, the design incorporates residential features. Windows are residential in scale, the roof is pitched and the partial second story is set back from the front of the building. The building front is about half as wide as the building is deep. It is, therefore situated to avoid presenting its mass to the road. This attribute and the indoor kennels serve to prevent any negative non-inherent adverse effects resulting from the combination of uses. Staff finds that there are no non-inherent effects sufficient to require a denial.

**Additional Review Process** –The property is to be subdivided to accomplish the two acre minimum area for the use and provide the necessary right-of-way dedication.

**Community Concerns** – Staff has encountered a range of perspectives on this proposal. Since Dr. Wolcuff has been practicing in Frederick, MD, he already has an established reputation. Some of these customers have written emails with favorable comments. On February 12, 2006 technical staff participated in a meeting at the Cedar Lane church where a variety of development proposals were discussed. At this meeting staff encountered some who supported the application and some who opposed the project, particularly kennel. Staff also encountered people who only sought clarification particularly to confirm the nature of the indoor kennel. The viability of an indoor kennel has been questioned, which actually led staff to make a visit to Dr. Wolcuff's existing facility as well as the Germantown Animal Hospital facility on Father Hurley Boulevard. Both visits confirmed that indoor boarding is being done without a problem.<sup>2</sup>

One letter suggested that the adjacent John Wesley United Methodist Church was in opposition to the proposal. Staff contacted the pastor for written comment but it was suggested that staff would do better to come to the church during a regular service. Staff made this visit on January 22, 2006 and had an opportunity to review the special exception process for the congregation. At the visit, staff spoke to one member who specifically opposes the proposal. Others at the church had questions but were not specifically in opposition. The facts that animals would not be in outdoor runs and that the center would not be open for business on Sundays were both viewed favorably. Some thought shared parking could help with special events like weddings and funerals. Although this church does not have an official written position on record, staff concludes that on balance, the congregation is neutral or in support. Staff suggested the applicant provide a gate to allow shared parking if needed. The gate could be locked if there is not a special event to prevent vet hospital patrons from walking dogs into the church property.

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<sup>2</sup> The visits were made with only an hour notice to the owners and the facilities appeared clean and orderly.

Community Based Planning staff has been engaged in ongoing outreach with The Clarksburg Civic Association, particularly the Planning Committee Chairperson, Ms. Kathy Hulley. Both the Executive Committee and Planning Committee of this group have discussed the proposal and voted to transmit comments. Staff did observe a general vote was not taken and there were some in attendance at the meeting on February 21, 2006 that support this proposal. The attached comments from Ms. Kathy Hulley present a position in opposition to the proposal. The letter contends that while a small veterinary hospital could work in the R-200 zone, this proposal is too large and detracts from the residential character of the area. It also contended that the proposed facility would set a precedent and encourage other special exceptions being sought. Indoor kennels are opposed in general. A site plan, which puts the business and parking in the rear, is recommended.

## **CONCLUSION**

Staff finds that the proposed exception meets all the general and specific requirements for this use found in Sections 59-G-1.21, Sec. 59-G-2.02 and Sec. 59-G-2.32 of the Zoning Ordinance. Staff recommends approval of the requested special exceptions for an animal hospital and animal boarding facility.

### **Attachments:**

- General Special Exception Provisions
- Specific Special Exception Provisions
- Location Map/Vicinity Map
- Zoning Map
- Special Exception Plan
- Floor Plan
- Photographs
- Elevations
- Environmental Memorandum
- Transportation Staff Memo
- Community Based Planning Memo
- Community Input

**Sec. 59-G-1.21. General conditions.**

(a) *A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

(1) *Is a permissible special exception in the zone.*

The proposed use is allowed in the R-200 zone by special exception.

(2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

The proposed use complies with the specific standards for a veterinary hospital and animal boarding facility.

(3) *Will be consistent with the general plan for the physical development of the District, including any master plan thereof adopted by the Commission. Any decision to grant or deny special exception must be consistent with a recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that the granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The proposed modification is consistent with the land use objectives of the Clarksburg Plan.

(4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.*

The proposed uses will add a business to the mix of uses in the surrounding neighborhood. The proposed use will not

alter population density. The design and treatment of the scale and bulk are considered sensitive to the neighborhood. The intensity and character of traffic and parking will not be changed enough to alter the harmony or the general character of the neighborhood.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site irrespective of any adverse effects the use might have if established elsewhere in the zone*

The proposed uses will not be detrimental to these neighborhood factors.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Operations will be indoors and will be of a quiet nature. Loading (drop off and pick up of animals) is proposed. Outdoor exercise of animals is prohibited.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

Given the land use context contemplated by the Master Plan and a recent site visit by staff, it is found that the proposed animal hospital and boarding will not increase these factors sufficiently to affect the area adversely. There are no other special exceptions in the neighborhood area, as defined in this report.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective on any adverse effects the use might have if established elsewhere in the zone.*

The proposed use will not adversely affect these factors.

- (9) *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.*

Public water and sewer serve the site. The site will require no school services. A fire station<sup>3</sup> and police station<sup>4</sup> are both in close proximity.

- i. If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of granting the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.*

Subdivision is required so the Board of Appeals does not need to determine Adequate Public Facilities. As noted in the Transportation Planning memorandum, public facilities are found to be adequate.

*With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.*

No change in access is proposed.

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<sup>3</sup> Germantown Volunteer Fire Department.

<sup>4</sup> 5<sup>th</sup> District (Germantown).

**Sec. 59-G-2.32. Hospital, veterinary.**

*(a) In any commercial, central business district or transit station zone where permitted by special exception, a veterinary hospital must comply with the following conditions and requirements:*

- (1) There must be no runs, exercise yards, or other facilities for the keeping of animals in any exterior space.*
- (2) All areas for the keeping of animals must be soundproofed.*

The property is not in a commercial, CBD or transit station zone.

*(b) In any residential or rural zone where permitted by special exception, a veterinary hospital must comply with the following conditions and requirements:*

- (1) In the R-150, R-90, and R-60 zone, the maximum lot size is one-half acre. In the R-60 zone a veterinary hospital must be located along a major highway with an existing right-of-way width of no less than 90 feet, and be adjacent to or confronting a central business district or a property zoned for commercial use.*

The property is not in these zones; it is zoned R-200.

- (2) Exterior areas used to exercise, walk, or keep animals must be set back from any property line 200 feet and screened from adjacent residential properties. All exterior exercise areas and runs must be fenced for the safe confinement of animals.*

This lot is only 211 feet wide. This is too small to accommodate the setback of 200 feet to a property line for outdoor exercise of animals. Consequently exercise must occur indoors. Staff examined an existing facility that has an indoor play area and indoor runs that are designed to accommodate sanitary care of animals indoors.

- (3) For all buildings in which animals will be present, maximum expected interior sound levels must be reduced to 40 dBA (A-weighted decibels) outside, measured at ten feet from the structure.*

The acoustical study indicates the building has been modified to accomplish this standard.

- (4) All buildings and accessory structures must be set back from any property line a minimum of 50 feet.*

This provision is met by the proposed building.

- (5) No animal may be outdoors between 6 p.m. and 8 a.m.*

Staff believes this provision is intended to regulate exercise of animals outdoors which is not permitted on this site because of its size and provision. A strict reading of this provision to include drop-off and pick up of animals would prevent the requested drop-offs at 7:00 AM from 8:00 PM. Staff does not anticipate this will cause conflicts for several reasons. Animals being brought in or out from care are scheduled, which prevents encounters with other animals. Animals are less likely to bark or make noise when they are alone with their owner or a handler. Also the context of the pick-up and drop-off area is screened from view off site which may also reduce the likelihood of barking at off site attractions like neighbors.

*(6) On weekdays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 8 a.m. to 6 p.m. and 50 dBA between the hours of 6 p.m. to 8 a.m. On Saturdays, Sundays, and federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. to 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.*

The acoustical study indicates that the building has been designed to meet this standard.

*(7) Dogs must not be walked or exercised in outdoor areas that are off-site.*

Outdoor exercise is prohibited.

*(8) In addition to the submittal requirements in Sec. 59-A-4.22, the applicant must submit the following information. Applications submitted without this information are incomplete and will not be accepted or assigned a case number:*

- (i) Acoustical engineering studies that demonstrate that the proposed use meets the standards in Sec. 59-G-2.02(b)(3) and (6) above. The studies must show the worst scenario sound level. The statement of operations must be sufficiently detailed to allow determination of how often the worst scenario sound level occurs.*
- (ii) Detailed floor plans that show all the interior areas and their use designations,*
- (iii) Site plans that show the layout of all exterior areas used to exercise, walk, or keep animals.*

An acoustical engineering report is present in the file and has worst-case parameters, detailed floor plans, and a special exception plan. Note that no outdoor exercise is permitted.

- (9) *The Board must specify a minimum number of off-street parking spaces, taking into consideration the number of employees on the maximum shift, the number of doctors practicing simultaneously, and the number of appointments and deliveries. This number must in no case be less than 5.*

The parking lot provides 17 parking spaces, including one that is accessible to the handicapped. The zoning ordinance does not provide a specific parking ratio for the animal hospital but does for the animal boarding use. When this ratio<sup>5</sup> is applied it is estimated that 13 parking spaces are required for this use.

- (10) *The Board may regulate the number of animals that may be boarded, exercised, walked, or kept in runs or similar areas, and the manner in which animals are boarded, exercised, walked, or kept.*

No animals will be kept outdoors.

- (11) *The Board may regulate the office hours and 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 prior scheduling: abuse of this exemption may lead to revocation of the special exception. A written log of all appointments and drop-in and emergency client activities must be kept, to be available for inspection by County authorities.*

Staff confirmed that logs will be kept. Most activities are by appointment.

- (12) *Any accessory operation, such as grooming or the sale of pet food and supplies, must be set forth in the statement of operations and must be limited as an accessory activity to a percentage of sales not to exceed 20%.*

Limited grooming and bathing services are provided..

- (13) *All litter and animal waste must be contained and controlled on the site.*

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<sup>5</sup> One space for every employee for the maximum shift (10) plus three (13) and 17 are provided.



Staff saw no litter or animal waste at the existing facility in Frederick, and there was no smell of animal waste.

- (14) *Animals may be kept overnight at the hospital only for medical purposes. If animals are kept for non-medical purposes, a separate application for an animal boarding place must be approved.*

Animals will be kept overnight and staff will be present at all times. Boarding is proposed which may or may not be related to holding of animals for recovery.

- (15) *If the proposed use is located in an area that uses well water and septic facilities, the applicant must prove that the use will not have any negative effect.*

Public sewer will be used.

- (c) *Any veterinary hospital lawfully existing prior to the effective date of this ordinance is a conforming use, and may be extended, enlarged or modified by special exception subject to the provisions set forth in this section.*

This is a new facility.

**Sec. 59-G-2.02. Animal boarding place.**

- (a) *In any central business district, commercial, or transit station zone where permitted by special exception, an animal boarding place must comply with the following conditions and requirements:*

Not applicable.

- (b) *In any residential or rural zone where permitted by special exception, an animal boarding place must comply with the following conditions and requirements:*

- (1) *The minimum lot size is 2 acres or the minimum required in the zone, whichever is greater.*

The minimum lot size for the R-200 zone is one half acre so the two acre minimum lot size is dictated by this the proposed use. The proposed lot will be two acres in area after subdivision, including appropriate roadway dedication, so this provision is met.

*(2) Exterior areas used to exercise, walk, or keep animals must be set back from any property line a minimum of 200 feet and screened from adjacent residential properties. All exterior exercise areas and runs must be fenced for the safe confinement of animals.*

This provision can not be met on this site because of the size and shape of the lot. No exterior exercise areas are proposed. Interior areas will be used to exercise, walk, or keep animals including the kennel area and an exercise area located in a room at the rear of the building.

*(3) For all buildings in which animals will be present, maximum expected interior sound levels must be reduced to 40 dBA (A-weighted decibels) outside, measured at ten feet from the structure.*

An acoustical study has been submitted and amended with the application. The study concluded that the proposed animal boarding section of the building required window upgrades, increased drywall and insulation and gaskets on doors to contain noise in the building. The report indicates that the Architect has incorporated these improvements and the 40 dBA standard measured at ten feet from the structure can be met. The report stipulates that ambient exterior noise levels exceed the 40 dBA

*(4) All buildings and accessory structures must be set back from any property line a minimum of 75 feet.*

The special exception plan demonstrates that for the animal boarding area this provision is met. The setback line is indicated on the plan.

*(5) No animal may be outdoors between 6 p.m. and 8 a.m.*

Staff believes this provision is intended to regulate exercise of animals outdoors which is not permitted on this site because of its size and provision. A strict reading of this provision to include drop-off and pick up of animals would prevent the requested drop-offs at 7:00 AM from 8:00 PM. Staff does not anticipate this will cause conflicts for several reasons. Animals being brought in or out from care are scheduled, which prevents encounters with other animals. Animals are less likely to bark or make noise when they are alone with their owner or a handler. Also the context of the pick-up and drop -off area is screened from view off site which may also reduce the likelihood of barking at off site attractions like neighbors.

*(6) On weekdays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 8 a.m. to 6 p.m. and 50 dBA between the hours of 6 p.m. to 8 a.m. On Saturdays, Sundays, and federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between*

*the hours of 9 a.m. to 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.*

The acoustical report indicates this standard will be met.

*(7) Dogs must not be walked or exercised in outdoor areas that are off-site.*

No outdoor exercise is permitted.

*(8) In addition to the submittal requirements in Sec. 59-A-4.22, the applicant must submit the following information. Applications submitted without this information are incomplete and will not be accepted or assigned a case number:*

*(i) acoustical engineering studies that demonstrate that the proposed use meets the standards in Sec. 59-G-2.02(b) (3) and (6) above. The studies must show the worst scenario sound level. The statement of operations must be sufficiently detailed to allow determination of how often the worst scenario sound level occurs.*

A study has been submitted that shows worst case scenario sound level.

*(ii) detailed floor plans that show all the interior areas, including runs and kennels, and*

Detailed floor plans depict these features.

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

The site plan shows that no exterior areas are used for these purposes.

*(9) The board must specify a minimum number of off-street parking spaces equal at least to the number of employees on the maximum shift plus three. The required number of parking spaces must in no case be less than 3.*

The minimum number of off –street parking spaces is thirteen and seventeen are provided.

*(10) The Board may regulate hours of operation. The Board may also regulate the number of animals that may be boarded, exercised, walked, or kept in runs or similar areas, and the manner in which animals are boarded, exercised, walked, or kept.*

A condition that regulates hours of operation is recommended.

*(11) Any accessory operation, such as grooming or the sale of pet food and supplies, must be set forth in the statement of operations and must be limited as an accessory activity to a percentage of sales not to exceed 20%.*

Grooming is indicated as an additional service in the statement.

*(12) All litter and animal waste must be contained and controlled on the site.*

It has been represented that such will be the case and a site visit of the existing facility indicates that this is the practice.

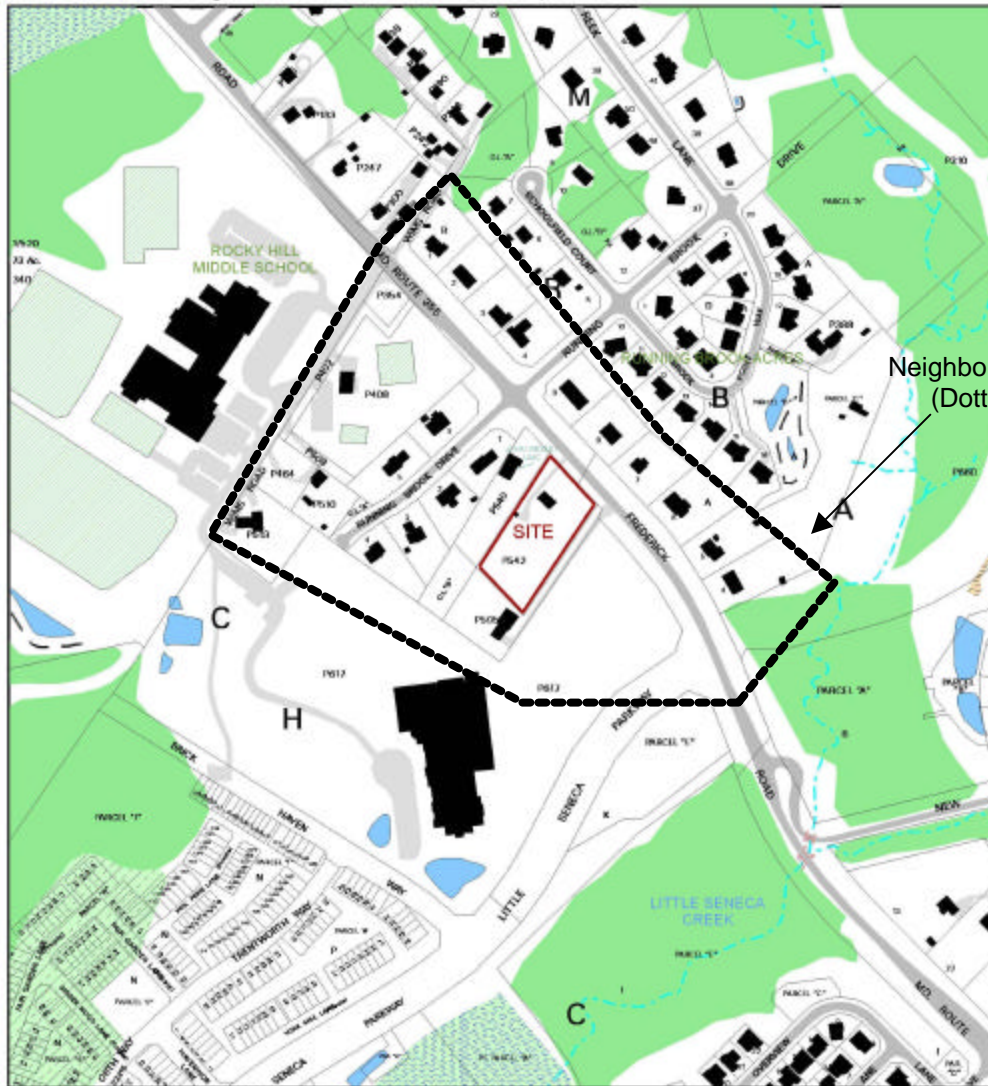
*(13) If the proposed use is located in an area that uses well water and septic facilities, the applicant must prove that the use will not have any negative effect.*

Well water and septic facilities are not used.

*(c) Any animal boarding place lawfully existing before November 1, 1977, is a conforming use and may be extended, enlarged or modified by special exception subject to the provisions of this section.*

This is a new proposal.

**S-2659/S-2660 JEFFERY B. WALCOFF, DVM**



Neighborhood Area  
(Dotted line)

Map compiled on January 03, 2006 at 8:34 AM | Site located on base sheet no - 2310W13

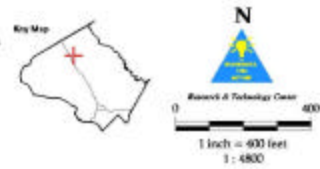
**NOTICE**

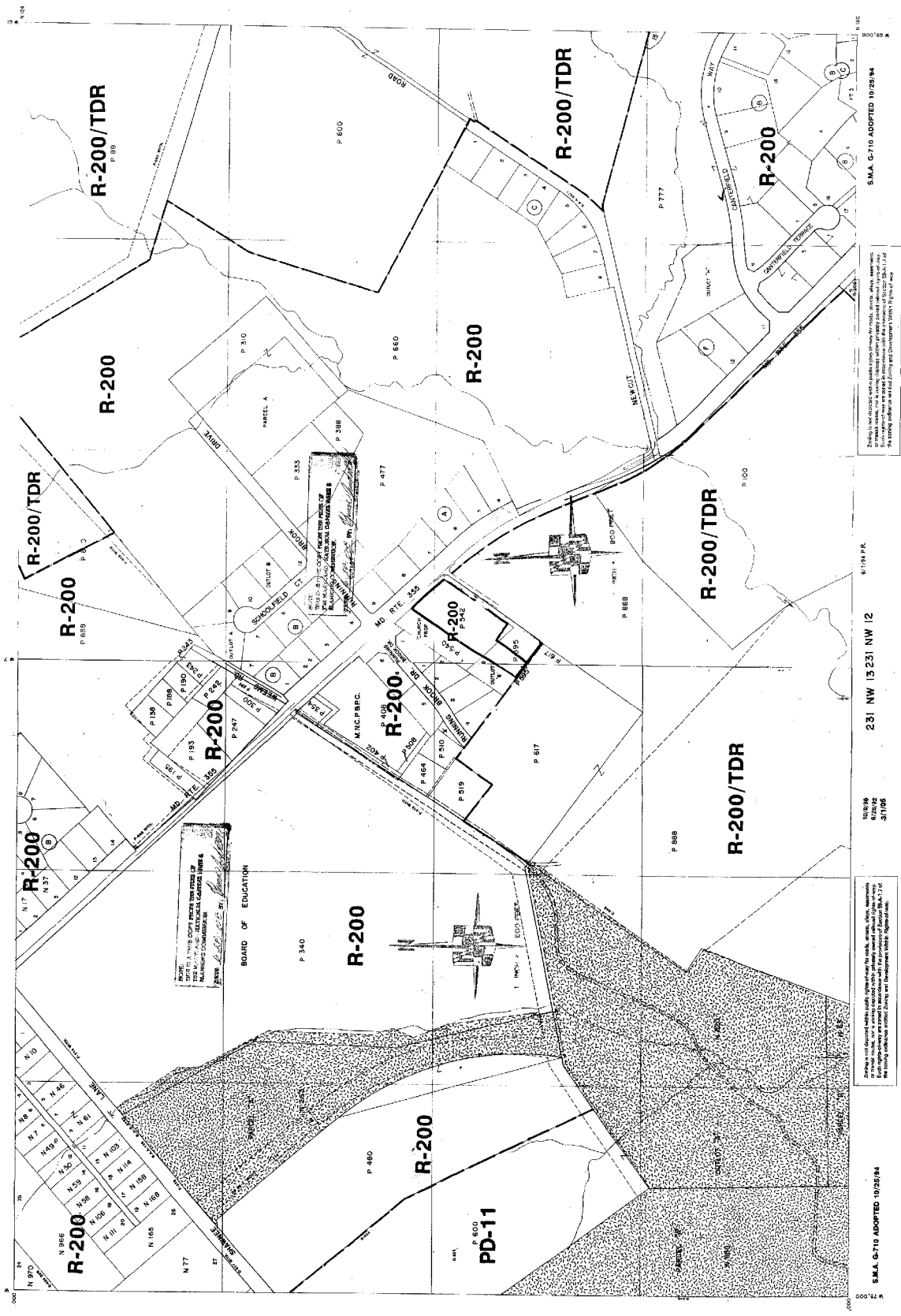
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**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
897 George Mason - Silver Spring, Maryland 20910-0199





S.M.A. G-710 ADOPTED 10/28/84

Zoning is not to be construed as a guarantee of any particular use, and it is not to be construed as a guarantee of any particular use. It is the responsibility of the applicant to determine the zoning classification for any particular use. The Board of Zoning Adjustments may, at its discretion, grant a variance from the zoning classification for any particular use.

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231 NW 13231 NW 12

31705

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