



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

REC 13 2007

MCPB No. 07-211
Preliminary Plan No. 120070710
Widows Purchase
Date of Hearing: November 01, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on April 17, 2007, Nancy C. Nooenboom & Ruth K. Ganley ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 5.6 acres of land located in the southeast quadrant of the intersection of Lewisdale Road and Prescott Road ("Property" or "Subject Property"), in the Agriculture and Rural Open Space Master Plan Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070710, Widows Purchase ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 19, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on November 01, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

APPROVED TO LEGAL SUFFICIENCY

William J. Polun

M-NCPPC LEGAL DEPARTMENT

12/3/07

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on November 01, 2007, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor; Commissioner Lynch temporarily absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120070710 to create one lot on 5.6 acres of land located in the southeast quadrant of the intersection of Lewisdale Road and Prescott Road ("Property" or "Subject Property"), in the Agricultural and Rural Open Space master plan area ("Master Plan"), subject to the following conditions:

1. Approval under this Preliminary Plan is limited to one residential lot for 1 one-family detached dwelling unit.
2. A site inspection is required by The Maryland-National Capital Park and Planning Commission ("M-NCPPC") Enforcement Staff pursuant to Section 110 of the Forest Conservation Regulations.
3. The record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation.
4. Compliance with conditions of Montgomery County Department of Public Works and Transportation ("MCDPWT") letter dated September 29, 2003, unless otherwise amended.
5. Compliance with the conditions of approval of the Montgomery County Department of Permitting Services ("MCDPS") stormwater management approval dated July 15, 2003.
6. The Applicant must comply with the conditions of the MCDPS, Well and Septic approval dated October 18, 2007.
7. Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

The Agricultural and Rural Open Space Master Plan identifies the Subject Property in the Central Sector of the Agricultural Preserve. The Master Plan supports preservation of the agricultural/rural character of the Rural Density Transfer ("RDT") zone. Although the Preliminary Plan does not propose agricultural use, it is in keeping with the low density residential character of the RDT zone.

- 2. Public facilities will be adequate to support and service the area of the proposed subdivision.*

The lot does not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. Existing roads are safe and adequate to serve the lot. Other public facilities and services are available and will be adequate to serve the dwelling unit and use.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application meets all applicable sections. Access and public facilities will be adequate to support the lot and use. The lot size, width, shape and orientation are appropriate for the location of the subdivision.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Subject Property contains 5.6 acres of forest. The Applicant will preserve 3.6 acres of existing forest on the Property which will be protected by a Category I forest conservation easement. The Application meets the requirements of the Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

On July 15, 2003, the MCDPS Stormwater Management Section approved the project's Stormwater Management Concept Plan which includes vegetation stabilization, the submission of stormwater management computations and an engineered sediment control plan for water quality control. This 2003 approval is still valid.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be

recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is DEC 13 2007 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

At its regular meeting, held on Thursday, December 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Bryant, seconded by Vice Chairman Robinson, with Commissioner Bryant, Vice Chairman Robinson, Chairman Hanson, and Commissioner Cryor present and voting in favor, and with Commissioner Lynch abstaining. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No.120070710, Widows Purchase.



Royce Hanson, Chairman
Montgomery County Planning Board

*APPLICANT MAILING LIST
WIDOW'S PURCHASE (1-07071)*

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PLAT NO. **23886**

OWNER'S CERTIFICATION

The undersigned, owners of the property shown hereon, hereby adopts this plan of subdivision, dedicates the area shown hereon to public use, establishes and grants a temporary slope easement to the front building restriction line or as shown hereon, said temporary slope easement to be automatically extinguished following the lawful completion of a public improvements to the adjacent roads and acceptance for maintenance by Montgomery County, Maryland or other appropriate public entity, establish and grant a 10' wide Public Utility Easement shown hereon as (10' P.U.E.) to those parties named in the document entitled "Terms and Provisions for Public Utility Easements" recorded in Liber 3834 at Folio 457 and further grant a Conservation Easement, as shown hereon, to the parties named in a document entitled "Conservation Easement Agreement, Category I" as recorded in Liber 13178 at Folio 412, all among the Land Records of Montgomery County, Maryland. The owner will cause all property corner markers and any other required monumentation to be set by a registered Maryland Land Surveyor, in accordance with Section 50-24(e) of the Montgomery County Code.

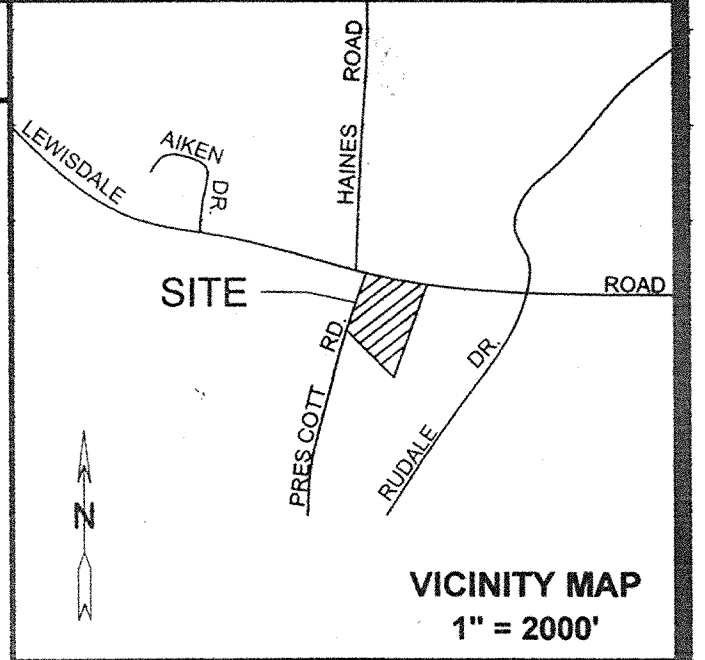
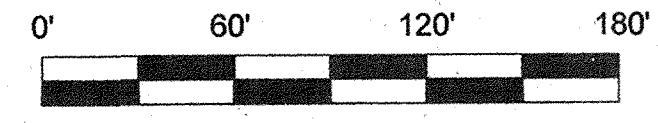
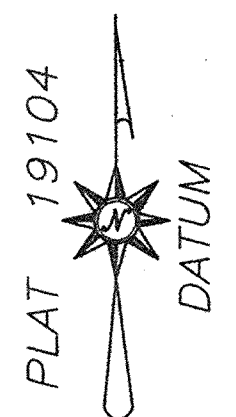
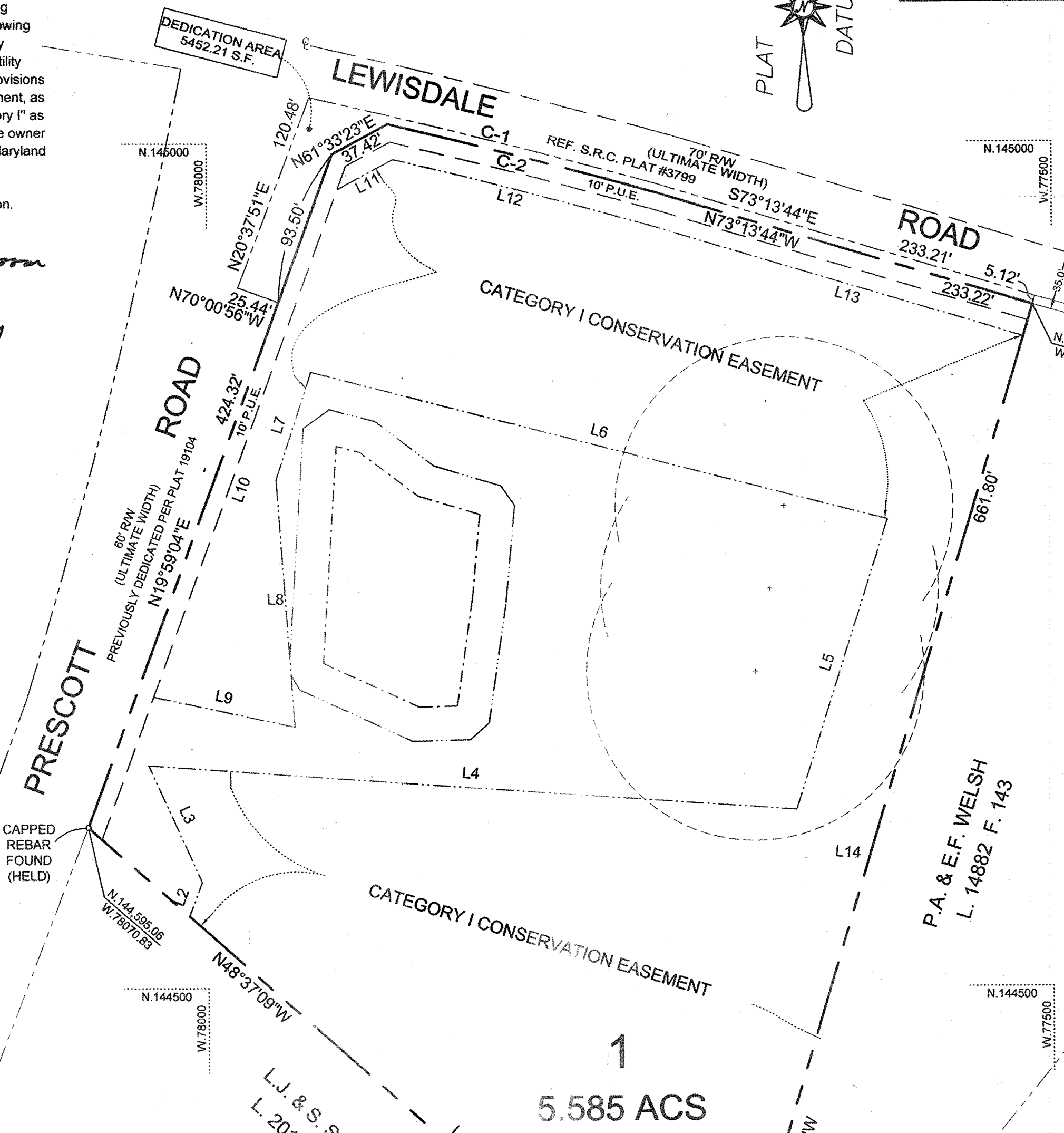
There are no suits, liens, mortgages, or trusts, affecting the property including in this plat of subdivision.

WITNESS John D. Duerbin 4/24/08 Nancy Carroll Nootenboom
 WITNESS John D. Duerbin 4/24/08 Ruth Katherine Ganley

SURVEYOR'S CERTIFICATION

I hereby certify that the plat shown hereon is correct; that it is a subdivision of the land described in a deed from James Paul Hawse, surviving tenant by the entirety of Esther Elizabeth Hawse to Nancy Carroll Nootenboom and Ruth Katherine Ganley dated October 29, 1982 and recorded in Liber 6029 at Folio 283 among the land records of Montgomery County, Maryland. I further certify that, once engaged as described in the owner's certification hereon, all monuments and all property markers and other boundary markers will be set as delineated hereon in accordance with the provisions of Section 50-24(e) of Montgomery County Code. The total area included on this plat is 5.711 acres of land of which 5,452.21 square feet or 0.126 acres is dedicated to public use by this plat.

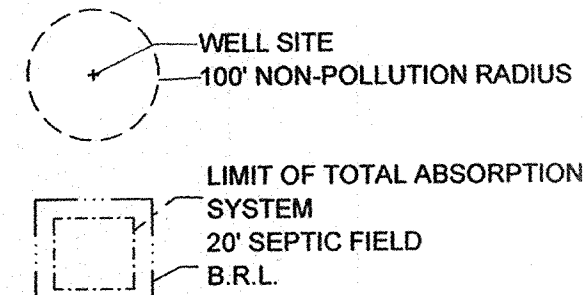
DATE 9/29/08
 THOMAS A. MADDOX - Registered Professional Land Surveyor MD #10850



NOTES

1. PROPERTY ZONED RDT.
2. THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF CHAPTER 22A THE MONTGOMERY COUNTY FOREST CONSERVATION LAW, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT.
3. THIS PLAT IS LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 120070710 ENTITLED "WIDOW'S PURCHASE" ANY PROPOSED CHANGES WILL REQUIRE FURTHER PLANNING BOARD APPROVAL.
4. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC VIEWING DURING NORMAL BUSINESS HOURS.
5. THIS PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING OR RESTRICTING THE OWNERSHIP AND USE OF THE PROPERTY. THIS PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.
6. PROPERTY FOUND ON MONTGOMERY COUNTY TAX MAP EX & W.S.S.C. SHEET 237NW13 & 14.
7. PROPERTY TO BE SERVED BY ON SITE WELLS AND SEPTIC DISPOSAL SYSTEM.
8. THE SEPTIC BUILDING RESTRICTION LINE IS SUBJECT TO CHANGE UPON APPROVAL BY THE M.C.D.P.S. / WELL AND SEPTIC SECTION.
9. THIS LOT IS APPROVED FOR A 4 BEDROOM HOUSE.
10. THIS PROPERTY IS PLATTED UNDER THE PROVISIONS OF SECTION 59 C.974 (2) OF THE MONTGOMERY COUNTY ZONING ORDINANCE.

LEGEND



PLAT TOTALS				
NUMBER OF LOTS, OUTLOTS, PARCELS	1			
AREA OF LOTS	5.585 AC.			
AREA OF DEDICATION	0.126 AC.			
TOTAL AREA SHOWN ON PLAT	5.711 AC.			

CURVE DATA				
CURVE	CHORD	DIST	RADIUS	DELTA
C1	S75°49'59"E	212.32	3789.72	212.34 03°12'37"
C2	N75°27'55"W	163.33	3784.72	163.34 02°28'22"

CATEGORY I CONSERVATION EASEMENT

BEARING	H. DIST
L1 N48°37'09"W	413.30'
L2 N20°42'42"E	21.40'
L3 N24°27'36"W	76.10'
L4 S86°00'00"E	384.00'
L5 N17°29'22"E	180.00'
L6 N75°30'00"W	352.00'
L7 S17°59'35"W	67.00'
L8 S4°12'00"E	147.00'
L9 N78°00'00"W	85.26'
L10 N19°59'06"E	320.00'
L11 N61°33'23"E	37.25'
L12 S75°25'00"E	154.28'
L13 S73°13'37"E	233.03'
L14 S16°38'32"W	642.42'

SUBDIVISION RECORD PLAT
 LOT 1
WIDOW'S PURCHASE
 ELECTION DISTRICT 2
 MONTGOMERY COUNTY, MARYLAND
 SCALE 1" = 60'
 JUNE 2008

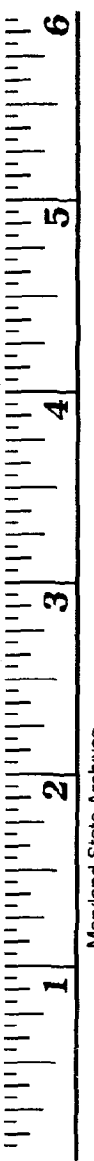
THOMAS A. MADDOX
 PROFESSIONAL LAND SURVEYOR
 8933 SHADY GROVE COURT
 GAITHERSBURG, MARYLAND 20877
 (301) 984-5804

RECEIVED
 AUG 21 2008
 Clerk of the Circuit Court
 Montgomery County, Md.

207041107071011310RDT THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MONTGOMERY COUNTY PLANNING BOARD APPROVED <u>July 3, 2008</u> CHAIRMAN <u>Royce</u> ASST.-SECRETARY-TREASURER <u>Colin</u>	MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES APPROVED <u>07/09/08</u> DIRECTOR <u>Paul</u>	PLAT DATE
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M.N.C.P. & P.C. RECORD FILE NO. 629-115

MJA SSN 1249 29488 629-115 P155360



3. Site Circulation and Access	18
4. Parking	18
5. Lighting	19
6. Signage	24
7. Noise	25
III. FINDINGS OF FACT AND CONCLUSIONS OF LAW	33
A. Necessary Findings (Article 59.7)	33
B. Standards Specific to Veterinary Office/Hospitals (Article 59.3)	51
C. Development Standards of the Zone (Article 59.4)	56
D. General Development Standards (Article 59-6)	60
1. Parking (Division 59.6.2)	60
2. Lighting (§59.6.4.4.D and E)	62
3. General Screening Requirements (Division 6.5)	63
4. Signage (Division 59.6.7)	65
IV. Decision	66

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.



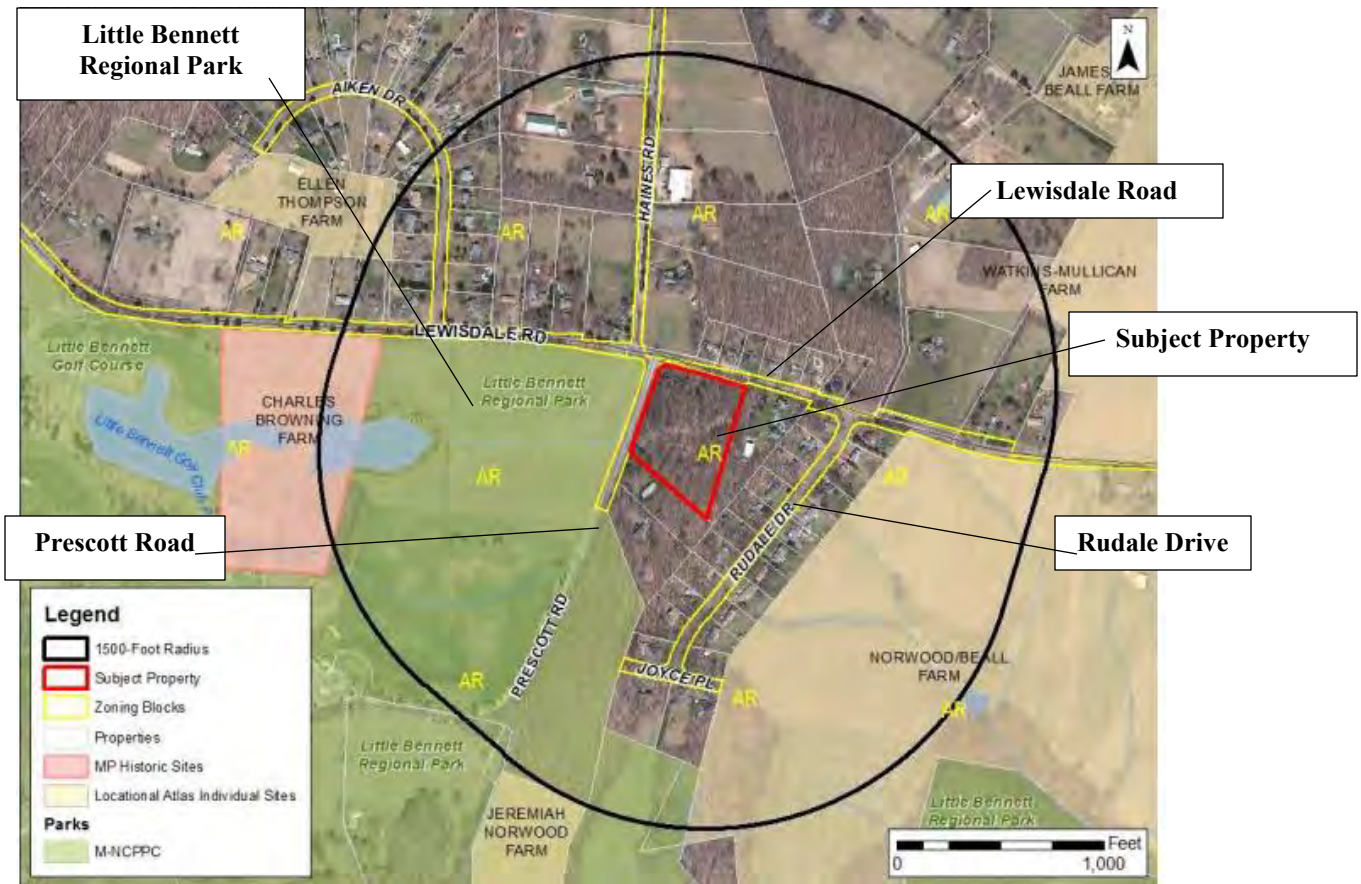
Aerial View of Subject Property
Exhibit 53(a), p. 3

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**

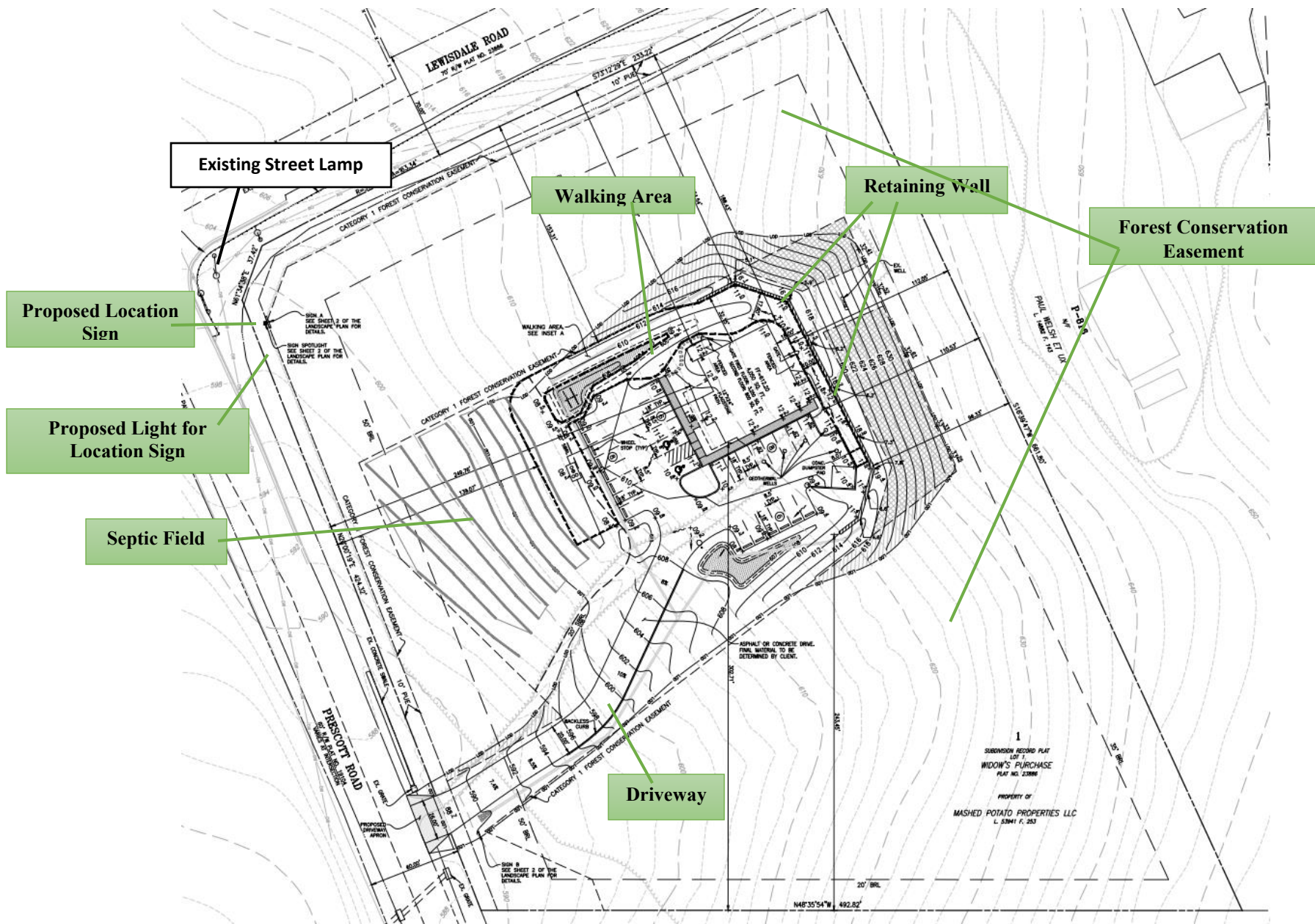
pad. Sole access is from a driveway connecting to Prescott Road. The driveway has a 10% grade at the top that flattens out as it approaches Prescott Road so vehicles don't bottom out. T. 24. A septic field lies between Prescott Road and the building. Two "walk areas" wrap around the exterior of the facility.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

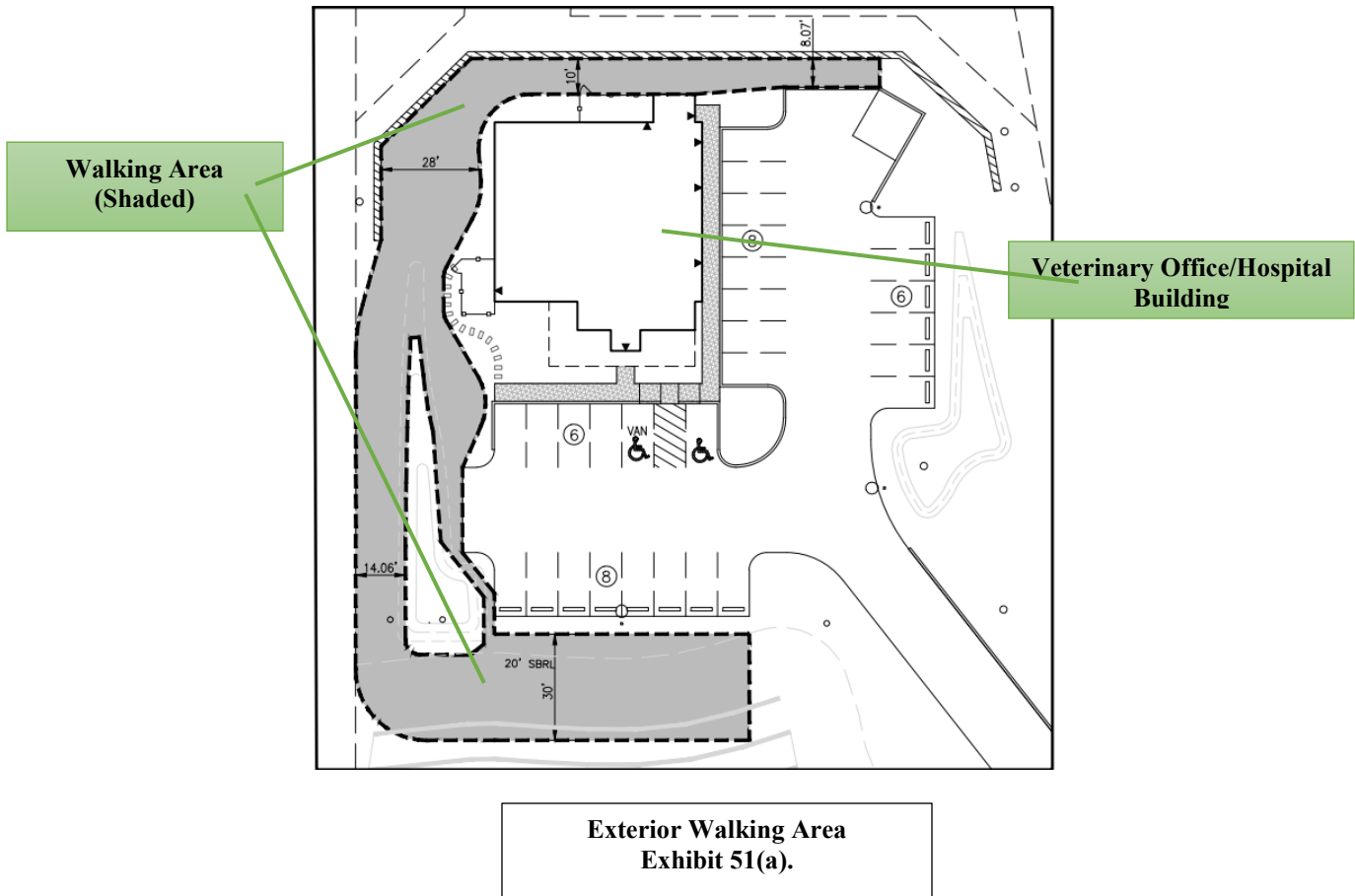
b. Staffing

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.

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

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: 2,531 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	Hamelis 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.

**Landscape Plan
Exhibit 33**

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):

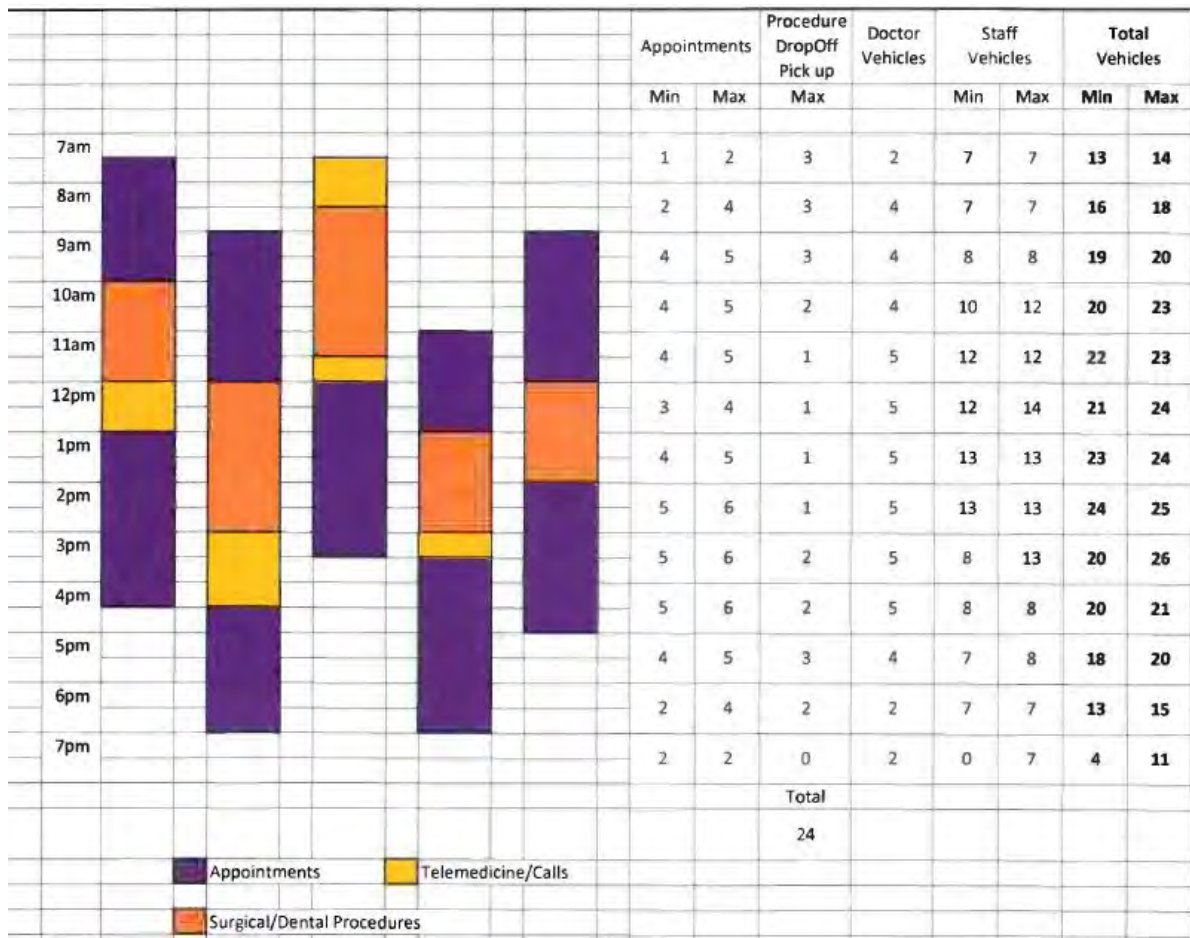
The Proposed Use will be in harmony with the character of the surrounding neighborhood. The Use will not result in any notable negative impact on the residential neighborhood in terms of traffic, parking, noise, or smells. According to the traffic statement submitted by the Applicant, the facility will 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:**
- Schedule for 5 Doctors and 15 Staff working in a single day.
 - Operating at 100% capacity for all available appointments and procedures (surgical or dental).
 - All appointments are 30 minute appointments.
 - Doctors are arriving up to 30 minutes prior to start time and leaving within 30-60 minutes after last appointment.
 - One procedure and hour is scheduled during the time allotted for procedures for a total of 12 procedures on this day.
 - 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. Clients are given a window for these rather than a specific time.
 - The total for the Procedure Drop Offs/Pick Ups is 24 – essentially 2 trips/parking at different times for each of the 12 procedures.
 - 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 reviews 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:		
• Front	50 ft.	249.8 ft.
• Side street	50 ft.	188.4 ft.
• Side	20 ft.	203.7 ft.
• Rear	35 ft.	110.5 ft.
Height:		
• Principal building	50 ft.	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:

Casey Cirner, Esquire
Mr. Lou Sousa
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

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
<http://www.montgomerycountymd.gov/ozah/index.html>
Phone: (240) 777-6660; Fax (240) 777-6665**

CASE NO. CU 18-07

**APPLICATION OF CLARKSBURG ANIMAL HOSPITAL
AND MASHED POTATO PROPERTIES, LLC**

**ORDER DENYING MOTIONS FOR RECONSIDERATION
AND MODIFYING CONDITION NO. 13**

By this Order, the Hearing Examiner denies the Applicants' Motion for Reconsideration of a Report and Decision (Decision) of the Hearing Examiner issued on October 17, 2018. (Applicant's Motion). The Applicant sought to revise Condition No. 13 of Decision to (1) permit the sale of products unrelated to medical treatment of patients (such as leashes, toys, and pet treats) as "accessory sales," and (2) exclude items needed for treatment, such as supplements, medications, and specialty pet foods, from the definition of "accessory sales."

The Hearing Examiner also denies a Motion for Reconsideration (Opposition Motion) filed by Ms. Karon deSilva on October 25, 2018. Ms. DeSilva's Motion seeks to revise Condition No. 18 to require the Applicant to permanently guarantee the health of all landscaping and forest on the property.

The Hearing Examiner revises Condition No. 13 to exclude medications and treatments administered on-site during appointments, surgeries, and procedures from the "accessory sales" limited by that condition.

A. Background

1. Applicants' Motion

On October 17, 2018, the Hearing Examiner issued a Report and Decision (Decision) in the above case. The Decision approved a conditional use permitting Clarksburg Animal Hospital and Mashed Potato Properties, LLC (Applicants) to operate a veterinary office/hospital at 26221 Prescott Road, Clarksburg, Maryland.

The Decision imposed 19 conditions on approval of the conditional use (Decision, pp. 67-68). Condition No. 13 required the following:

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.

On October 19, 2018, the Applicants filed a Motion to Reconsider the Hearing Examiner Decision (Exhibit 109).¹ The Motion seeks a revision to Condition No. 13 that would permit sales of non-medically necessary items (such as leashes, toys, and dog treats). It also would *exclude* medically necessary items, such as those currently listed in Condition No. 13, from the 20% cap on accessory sales required by the Zoning Ordinance. *Zoning Ordinance*, §59.3.5.1.C.2.b.8. The Applicants' propose the following revisions to the condition (Exhibit 109, p. 1, additions are underlined and deletions are crossed out).

On-site sales of items other than those necessary for the treatment of patients, such as prescription 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.

The Applicants argue that sales of items necessary for the treatment of patients are not "accessory" sales because they are part of the primary use (a veterinary hospital). Exhibit 109, p. 2. She believes that "accessory sales" are sales of items *not* necessary to treatment of pets. *Id.* Dr. Stamberg argues:

A limitation on the sale of medications, prescription foods, supplements, preventatives and medical shampoos ("Treatment Sales") will limit a veterinarian's ability to diligently and properly treat its patients. For example, if a veterinarian is limited to 20% for Treatment Sales, a veterinarian who has reached its maximum percentage could diagnose a patient, but not treat that patient...and this would be quite devastating if the administration (*ie.* [sic], the sale) of the medication is necessary.

Typically, Treatment Sales range from approximately 35% - 40% of a veterinarian's gross sales. Clarksburg Animal Hospital's ("CAH's") sale of treatment related items range from 26-30% of its gross sales. This is lower than typical only because CAH does not stock flea and tick preventatives, but makes them available through an online pharmacy. A certain percentage of prescription food sales are also through the CAH online pharmacy.

Another reason why Treatment Sales cannot be limited to 20% is that the costs of new medications continue to rise. A limitation on the percentage of Treatment Sales will inadvertently stifle the use of new medications and/or restrict the number of animals that may be treated at a veterinarian hospital. For example, there are two new allergy

¹ As part of its revisory power over its decisions, OZAH permits Motions for Reconsideration only when it seeks to correct or clarify its Decisions and not to revisit substantive issues). It does not accept these when a request for oral argument has been filed with the Board of Appeals, as the Board of Appeals then has jurisdiction over the case.

medications which are much safer and more effective than cortisones. So instead of a \$20.00 cortisone injection with lots of side effects, patients are administered a \$50.00 - \$150.00 injection. This increase in medications costs, as more effective and newer treatments are released, continues to be a trend. Even though CAH's inventory is minimized because of utilizing the online pharmacy, the newer drugs used, and needed to be used, are significantly more costly. Even as more chronic medications and prescription diets go through the CAH online pharmacy, CAH expects the percentage of sales will remain the same or increase due to significant increases in advanced medication costs.

Ms. Karon deSilva opposed the Applicants' Motion, arguing that many of the items Dr. Stamberg characterizes as "Treatment Sales" are readily available elsewhere. Exhibit 113. She states:

The sales of items described in the applicants motion are available at retail pet stores, if not all brands. Prescription pet food, some medications, supplements, preventatives and medicated shampoos are all available at local pet stores. The applicant stated that she uses online services for sales. CAH is not supposed to be a retail outlet.

2. Opposition Motion

Ms. deSilva also filed a Motion for Reconsideration of Condition No. 18 of the Report, which requires:

18. Prior to issuance of the Certificate of Occupancy, all landscaping on the Applicant's Landscape Plan (Exhibit 33) must be planted as shown.

. She believes that Condition No. 18 should be revised to include language that guarantees the health and survival of all landscape plantings, reasoning that (Exhibit 112):

The importance of screening has been mentioned within the [Hearing Examiner's] report. If the plants fail they do not provide their required effect. The planting of plants alone does not guarantee that they survive and thrive in order to fulfill the requirement for the planting. All plants included in the Landscape Plan, including the trees planted mitigating forest tree removal, need to be the responsibility of the applicant (or any future business owner at the site) for as long as the business operates at this location. Not only do they need to be planted they also need to be guaranteed to be established, survive, thrive and be maintained as such.

B. Analysis

1. Applicants' Motion

Section 59.3.5.1.C.2.b.viii of the Zoning Ordinance requires the Applicant to meet the following standards:

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. (Emphasis supplied).

The Applicants never explicitly described either in their statement of operations or their testimony what they now define at length as “Non-Treatment” sales. Exhibit 3; T. 110-111. The Applicant’s statement of operations (Exhibit 3) described the proposed accessory sales as follows:

CAH does not currently conduct any accessory operation/activity. 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. (Emphasis supplied).

Staff’s analysis repeats the language in the Statement of Operation and never defines the type of products that it considers an “accessory operation/activity” that would be subject to the 20% cap. Exhibit 53(a), p. 19.

With the exception of medications that must be administered during an appointment, surgery or procedure, the Hearing Examiner is reluctant to accept Dr. Stamberg’s argument that the permitting “Non-Treatment” sales as a condition of approval is appropriate on reconsideration.

One reason that the Zoning Ordinance limits the amount of accessory sales in a veterinary hospital is to limit the number of visits that are unrelated to medical appointments. If the Hearing Examiner accepts the proposed revisions to Condition No. 13, then sales of “medically necessary” items would be *unlimited*. Thus, the 20% maximum, intended to reduce trips, could very well be undercut with an unlimited amount of independent trips to the site. This was never discussed by Staff or at the public hearing.

The Applicants’ arguments that they cannot perform their job without “Treatment Sales” introduces on new evidence. This evidence was not presented at the public hearing, in part because the Applicant never affirmatively stated what types of products that she considered were “Non-Treatment” sales. The introduction of new evidence goes beyond mere clarification of the Hearing Examiner’s decision. This evidence should have been presented at the hearing, with an opportunity for those in opposition to respond.

In addition, the Hearing Examiner agrees with Ms. deSilva that many of the medically necessary products may well be available at other locations. The Applicants’ arguments *presume* that the proposed location is the only one where such products (such as pet shampoos) can be obtained. Without more information on whether such products are available on-line or at pet stores, it remains factually debatable whether including “Treatment Sales” as part of the primary

use will actually restrict her ability to treat patients. As more facts are warranted, the matter is not appropriate for a “clarification” on reconsideration.

In addition, the Zoning Ordinance’s limitation on “accessory sales” is partly a matter of legal interpretation of the Zoning Ordinance. Before deciding that products treating medical conditions (including supplements, shampoos, etc.) are part of the primary use, the Hearing Examiner normally would request (1) legislative background, if available (2) an opinion from Staff and (3) factual information on the practices of other veterinary hospitals. This is far more than what may be done in a motion for reconsideration.

Obviously, the Hearing Examiner did not intend to limit the medications that could be given to patients on-site during appointments, surgeries and procedures (it is not clear whether the Applicants assume these are on-site sales of products). On-site administration of medically necessary treatments and prescriptions do not impact the number trips to the site. To that extent, the Hearing Examiner will clarify the condition to exclude on-site administration of medication and treatment items to patients from the limitations in Condition No. 13.

A major issue during the public hearing was whether a commercial use was appropriate in the AR Zone and at this location. The Hearing Examiner granted the conditional use primarily because she found that its commercial aspects were sufficiently mitigated to conform to the rural and agricultural character of the surrounding area. The record does not sufficiently address the impact of combining unlimited independent trips to the site for items like supplements and shampoos, available elsewhere, with independent trips for other pet products for the Hearing Examiner to address this on reconsideration. She does modify Condition No. 13 to exempt those medications or treatments administered on-site during exams, procedures, or surgeries.

2. Opposition Motion for Reconsideration

Nor does the Hearing Examiner grant Ms. deSilva’s request to revise Condition No. 18. Such a condition would be inappropriate for reconsideration, as there is no evidence regarding whether the condition (requiring survival or replacement of *all* plants and trees forever) is realistic, or what the burden would be on the Applicants. Required maintenance of the forest may already be covered by the Final Forest Conservation Plan approval or the Forest Conservation easement. Such a condition would require introduction of new evidence and is therefore no appropriate on reconsideration.

C. Order

For the foregoing reasons, the Hearing Examiner hereby denies Ms. deSilva’s Motion for Reconsideration and the Applicants’ Motion for Reconsideration. The Hearing Examiner hereby orders that Condition No. 13 be modified as follows:

13. Except for those medications or other medically necessary treatments administered to patients on-site during appointments, procedures, and surgeries, 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

SO ORDERED this 26th day of October, 2018.



Lynn A. Robeson
Hearing Examiner

COPIES TO:

Casey Cirner, Esq. (by e-mail and first-class mail)
Mr. Lou Sousa (by e-mail and first-class mail)
Mr. Marty Reese (by e-mail and first-class mail)
Ms. Karon deSilva (by first-class mail)
Mr. Jamey Pratt
Barbara Jay, Executive Director
Montgomery County Board of Appeals



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Al R. Koshdieleh
Director

December 27, 2018

Mr. Jamey Pratt, Senior Planner
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Preliminary Plan No. 12007071A
Clarksburg Animal Hospital

Dear Mr. Pratt:

We have completed our review of the preliminary plan uploaded to eplans on November 28, 2018. A previous version of this plan was reviewed by the Development Review Committee at its meeting on September 5, 2017. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. The storm drain report was reviewed and deemed acceptable by MCDOT. The existing inlet at the southeast side of the proposed entrance on Prescott Road is undersized. Details of the required improvements are to be determined at the permit stage.

Office of the Director

101 Monroe Street, 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 Fax
www.montgomerycountymd.gov/mcdot

2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line. Assure that slope easements do not conflict with the forest conservation easement.
3. Wells and septic systems cannot be located in the right-of-way or the slope and drainage easements.
4. On the certified preliminary plan, label the existing pavement widths on Prescott Road and Lewisdale Road.
5. The sight distance evaluation is acceptable. An approved copy of the certification is included with this letter.
6. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
7. Relocation of utilities along existing roads to accommodate the required roadway improvements, if necessary, shall be the responsibility of the applicant.
8. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Storm drain, side drainage ditches and appurtenances along Prescott Road per above comment number 1.
 - B. Permanent monuments and property line markers, as required by Section 50-4.3.G of the Subdivision Regulations.
 - C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Mr. Jamey Pratt
Preliminary Plan No. 12007071A
December 27, 2018
Page 3

Thank you for the opportunity to review the Preliminary Plan. If you have any questions or comments regarding this letter, please contact Mr. Billy Whelan, our Development Review Engineer for this project, at william.whelan@montgomerycountymd.gov or (240) 777-7170.

Sincerely,



Rebecca Torma-Kim, Manager
Development Review Team
Office of Transportation Policy

12007071A Clarksburg Animal Hospital - MCDOT final plan review ltr 122018

Enclosure

cc: Greta Stamberg, Clarksburg Animal Hospital
Lesley Powell, Charles P. Johnson & Associates
David O'Bryan, Charles P. Johnson & Associates
Letters notebook

cc-e: Marie LaBaw, MCDPS FRS
Sam Farhadi, MCDPS RWPR



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Clarksburg Animal Hospital Preliminary Plan Number: 1-

Street Name: Prescott Road Master Plan Road Classification: Secondary

Posted Speed Limit: 25 mph

Street/Driveway #1 (ex. driveway) Street/Driveway #2 (_____)

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right <u>380</u>	<input checked="" type="checkbox"/>	Right _____	_____
Left <u>550</u>	<input checked="" type="checkbox"/>	Left _____	_____

Comments: _____

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*	Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)
Tertiary - 25 mph	150'	
Secondary - 30	200'	
Business - 30	200'	
Primary - 35	250'	
Arterial - 40	325'	
(45)	400'	
Major - 50	475'	
(55)	550'	

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature: [Signature] Date: 11/10/17

14752
 PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 12/27/18



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane Schwartz Jones
Director

MEMORANDUM

September 25, 2018

TO: Jamey Pratt
Development Review
Maryland National Capital Park and Planning Commission

FROM: Jason L. Flemming, Sr. Permitting Specialist *JLF*
Well and Septic Section
Department of Permitting Services

SUBJECT: 26221 Prescott Rd - Clarksburg Animal Hospital

This is to notify you that the Well & Septic Section of MCDPS approves the proposed use of an Veterinary Practice and Hospital.

Approved with the following reservations:

1. The maximum daily flow must not exceed 500 gallons a day.

Please contact me at Jason.flemming@montgomerycountymd.gov or 240-777-6334 if you have any questions.



**Department of Permitting Services
Fire Department Access and Water Supply Comments**

DATE: 20-Dec-18
TO: David O'Bryan
Charles P Johnson & Associates
FROM: Marie LaBaw
RE: Clarksburg Animal Hospital
12007071A

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 20-Dec-18. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** New 30,000 gallon drafting tank proposed *****



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 28, 2018

Dr. Greta Stamberg
Clarksburg Animal Hospital, Inc.
23321 Frederick Road
Clarksburg, MD 20871

Re: Final Forest Conservation Plan
Property Name: Clarksburg Animal Hospital
Plan Number: 12007071A
Tract Size/Land Use Category: 5.59 acres/ARA

Dear Dr. Stamberg:

Based on the review by the Planning Staff of The Maryland National Capital Park and Planning Commission (M-NCPPC), the Final Forest Conservation Plan (FFCP) submitted to M-NCPPC on August 23, 2018 and referenced above, is approved with the following conditions:

1. The Applicant must have the required site inspections by M-NCPPC Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector.
3. Prior to the start of any clearing, grading, or demolition on the property, the Applicant must record a Category I Conservation Easement over all areas of forest planting as specified on the approved FFCP. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County office of Land Records by deed.
4. Prior to the start of any demolition, clearing or grading on the Property the Applicant must execute a two-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel. The maintenance and management agreement is required for all forest planting areas as shown on the approved FFCP.
5. Prior to the start of any demolition, clearing, or grading on the Property the Applicant must provide financial surety to the M-NCPPC Planning Department for the mitigation planting shown on the approved FFCP.
6. The Applicant must install the required reforestation plantings as shown on the approved FFCP within one year of the date of issuance of the building permit for the perimeter retaining wall by Montgomery County Dept. of Permitting Services (DPS).

7. At the direction of the M-NCPPC forest conservation inspector, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements. Exact locations of the signs to be placed as shown on the approved FFCP or as determined by the M-NCPPC forest conservation inspector to best define the limits of the conservation easement.
8. The Limits of Disturbance on the Final Sediment Control Plan must be consistent with the final limits of disturbance as shown on the approved FFCP.

The FFCP must now be certified by downloading this FFCP Approval Letter, attaching it to the FFCP and re-uploading the plans for final review and approval. Once the plans have been stamped as approved by M-NCPPC please download the FFCP, have the paper plans stamped and sealed by the qualified professional, and then send two signed originals back to M-NCPPC to the attention of the DARC Division for electronic capture and archiving. These plans must be certified before a pre-construction meeting can be scheduled.

The FFCP consists of 5.13 acres of existing forest, 1.81 acres of forest removed, 3.32 acres of forest saved, and 0.00 acres of total afforestation and reforestation required. The FFCP also provides 0.24 acres of additional reforestation planting. A variance request for the applicable trees affected by this plan is included with this approval.

The variance request for the removal of two (2) specimen trees that are 30 inches or greater, diameter breast height (DBH), (Table 1) for the construction of the proposed building, associated parking and proposed site grading. Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan.

Tree No.	Common Name	Botanical Name	Diameter Breast Height	Notes
6	Tulip Poplar	<i>Liriodendron tulipifera</i>	34 in.	Remove
7	Tulip Poplar	<i>Liriodendron tulipifera</i>	30 in.	Remove

Table 1 – Removed Specimen Trees

The Applicant has demonstrated that the denial of the variance request would cause an unwarranted hardship. The Applicant proposes to construct a veterinary hospital, associated parking area, a septic field and stormwater management facilities. Site grading is constrained by an existing Category I Conservation Easement that surrounds the development site. The Applicant has taken considerable measures to stay within the area of the Property that is outside of the existing Category I Conservation Easement, but site grading must temporarily encroach into this conservation easement to establish a level pad area for the building and parking. Trees # 6 and #7 are within the necessary site grading area and impacts to these trees are unavoidable.

Trees #6 and #7 are requested to be removed due to their location within the active construction zone of the proposed site grading. Staff has reviewed this application and based on the existing conditions on the property, Staff finds that there is an unwarranted hardship.

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.* Granting the variance to remove Trees #6 and #7 will not confer a special privilege on the Applicant as the impacts are due to necessary development requirements of the site. Staff has determined that the removal of Trees 6 and 7 cannot be avoided. Therefore, Staff believes that granting of this variance is not a special privilege that would be denied to other applicants.
2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.* The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based on existing site conditions and the requirements to meet development standards.
3. *Is not based on a condition relating to land or building use, either permitted or non-conforming on a neighboring property.* The requested variance is a result of the existing conditions and the required improvements, and not as a result of land or building use on a neighboring property.
4. *Will not violate State water quality standards or cause measurable degradation in water quality.* The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being impacted are not located within a stream buffer, wetland, or a special protection area. Additional trees will be planted on the property as part of the forest conservation requirements.

Mitigation for Trees Subject to the Variance Provision

The 2 specimen trees proposed for removal in this variance request are located within the forest on the Property. There is no mitigation required for the removal of these 2 trees because their removal is compensated by the requirements necessary on the FFCP. However, the Applicant has proposed to reforest and place into Category I Conservation Easement an additional 0.24 acres behind the proposed veterinary hospital.

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on August 24, 2018.

Any changes from the approved Final Forest Conservation Plan may constitute grounds to rescind or amend any approval actions taken, and to re-evaluate the site for additional or amended plantings. If there are any subsequent additions or modifications planned for this development, a separate amendment must be submitted to M-NCPPC for review and approval prior to those

changes occurring. **Please contact Mr. Michael Sharp at (301) 495-4603 at least 7 days in advance to schedule your pre-construction meeting.** If you have any questions regarding these actions, please feel free to contact Doug Johnsen at (301) 495-4559.

Sincerely,

A handwritten signature in blue ink that reads "Sandra Pereira". The signature is written in a cursive style with a large initial 'S'.

Sandra Pereira, Supervisor
Area 3, Montgomery County Planning

cc: File: 12007071A
Sallie Stewart (CPJ)



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

July 2, 2018

Mr. Charles W. Howe
Charles P. Johnson & Associates, Inc.
1751 Elton Road, Suite 300
Silver Spring, MD 20903

Re: **COMBINED STORMWATER MANAGEMENT
CONCEPT/SITE DEVELOPMENT
STORMWATER MANAGEMENT PLAN**
for Clarksburg Animal Hospital
26211 Prescott Road
Conditional Use Plan #: CU - 201807
PP#: Pending
SM File #: 283519
Tract Size/Zone: 5.59 ac/ 243,295 sf
Total Concept Area: 64,700 sf
Lots/Block: Lot 1, Widow's Purchase
Watershed: Lower Monocacy

Dear Mr. Howe:

Based on a review by the Department of Permitting Services Review Staff, the resubmission of the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via micro-bioretenion.

Please submit a revised stormwater management concept for review and approval. All submissions must be accompanied by a resubmittal application. Concept resubmissions do not require submission of additional review fees. The revised submission must incorporate the following items: The following items need to be addressed during the detailed Sediment Control/SWM plan stage:

1. A detailed review of the SWM computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices must consist of MDE approved material.
4. All measures must be designed in accordance with the latest MCDPS guidance documents.
5. Landscaping shown on the approved Landscape Plan as part of the approved concept plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.



255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850 | 240-777-0311
www.montgomerycountymd.gov/permittingservices

Mr. Charles Howe
July 2, 2018
Page 2 of 2

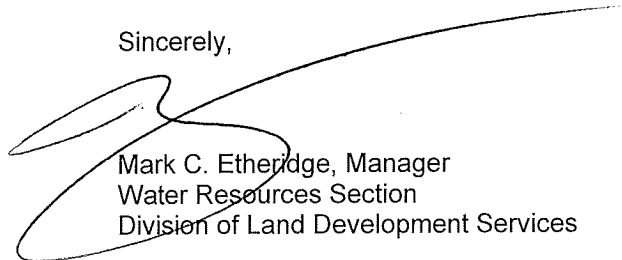
6. Prior to plan approval the applicant must provide documentation from DPS Right-of-Way section that runoff from this site can be safely conveyed into the storm drain system in Prescott Road or submit a revised concept with on-site measures that reduces the flow rate to a level that can be safely conveyed.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

If you have any questions regarding these actions, please feel free to contact Mary Fertig at 240-777-6202 or at mary.fertig@montgomerycountymd.gov.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: mmf

cc: N. Braunstein
SM File # 283519

ESD: Required/Provided: 1833 cf / 1927 cf
PE: Target/Achieved: 1.0"/1.1"
STRUCTURAL: n/a
WAIVED: n/a

From: [Quattrocchi, Dominic](#)
To: [Pratt, Jamey](#)
Cc: [Harper, Matthew](#); [Stephens, Douglas](#); [Ludwig, Doug](#); [Hanley, Wendy](#)
Subject: RE: Clarksburg Animal Hospital
Date: Monday, August 6, 2018 10:49:52 AM

Hi Jamey,

I'm getting "No Task Available" on ePlans.

After conferring with the Northern Region Park Chief and our Aquatic Staff, I offer the following comment:

The Department of Parks, subject to DPS approval of full on-site treatment of stormwater, gingerly accepts the proposed Conditional Use for the Clarksburg Animal Hospital. The scale and scope of this operation should stay limited to what is currently proposed so as to not further increase traffic, viewshed or septic waste loading impacts in the future. The subject property is part of a bucolic viewshed that supports the Agricultural Reserve and the conservation park feel of Little Bennett Regional Park. In addition, the subject property drains directly to Little Bennett Regional Park, a subwatershed noted for good to excellent water quality and a M-NCPPC designated Best Natural Area.

Dom

From: Pratt, Jamey
Sent: Monday, August 6, 2018 9:13 AM
To: Quattrocchi, Dominic <dominic.quattrocchi@montgomeryparks.org>
Subject: Clarksburg Animal Hospital

Dominic,

Do you think you will be able to complete the Parks review for Clarksburg Animal Hospital (12007071A) today? I need to get the ePlans task back to the applicant ASAP, so don't want to assign a new review to you if you won't be able to get to it soon.

Thanks!

Jamey Pratt
Senior Planner, Area 3
Montgomery County Planning Department
8787 Georgia Avenue, Silver Spring, MD 20910
301-495-4588
Jamey.Pratt@montgomeryplanning.org

08/02/18

Jamey Pratt
Senior Planner
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: **CU 18-07** (Clarksburg Animal Hospital Relocation)

Dear Mr Pratt,

I'm writing today in support of the new building location for Clarksburg Animal Hospital. Dr Greta Stamberg and her team have been providing us with excellent care of our family pet since 2007.

When we first met Dr Stamberg, affectionately known as "Dr Greta" it was due to an emergency with our puppy. He was very sick and the veterinary hospital we took him to was unable to diagnose him. Over the next several days it became clear that we had to do something quickly, or he might die. We decided to try Clarksburg Animal Hospital for a second opinion. Dr Greta quickly diagnosed him as having swallowed a foreign object (a super ball) that was obstructing his bowel. She performed emergency surgery and quickly resolved the life-threatening issue. Within a few days of the surgery he was back to normal. If it weren't for Dr Greta our pet would have died from the obstruction.

Three years ago, we relocated to Frederick County but we keep coming back to Clarksburg Animal Hospital due to the outstanding level of care Dr Greta and her team give him. We wouldn't think of taking him anywhere else.

Dr Greta is not only wonderful with our pet she is also calm, reassuring and patient with his two humans. Our dog is now a senior (15 yrs old) with dementia and other age-related issues. Even now as we inch toward making end-of-life decisions we are comforted in knowing that Dr Greta and her team will patiently guide us through what is best for our beloved pet.

In closing I would highly recommend Dr Greta and Clarksburg Animal Hospital as a great addition to any community. The new facility will allow her to expand and offer a clean and peaceful setting in which to work her magic with the animals (and their humans) in her care.

If you have any questions or would like to interview us in person, please feel free to contact us directly at 301-363-3799.

Sincerely,

Kim and Pete Strain

August 23, 2018
To: Lynn Robeson
Re: Case# CU18-07, Building an animal Clinic on Prescott Road

Dear Montgomery County Hearing Examiner,

I am writing to communicate that I **do not support** establishment of a veterinary clinic on Prescott Rd. I oppose the proposal for the various reasons outlined below, but in general, building this facility will not be a net-positive for the community. Please see below for a point-by-point summary outlining the rationale for my decision.

1. **No need for this facility.**

A Google Search for veterinary clinics in the Clarksburg area shows that there are 19 clinics available in the immediate vicinity (including: Urbana, Clarksburg and Damascus) of the proposed clinic. Given the number of alternatives, the proposed Prescott Rd. clinic is not a "must have" for the local community.

2. **Increased traffic.**

Additional traffic noise and congestion on Lewisdale road are not desirable.

3. **Potential to deal with empty facility in the future.**

The community will bear the long-term risk of building this facility. The proposed clinic will result in a permanent specialized structure with a parking lot. If the business fails, changes hands, shuts down, etc. the community will have to deal with an unused and potentially unkept building and lot. Once the land is used to build a clinic it will be difficult to reclaim that space for another purpose.

4. **Conflict with the spirit of an "Agriculture Preserve".**

One purpose of the agriculture preserve is to maintain open space and a rural setting. Building a business facility, increasing traffic, and generating additional waste contradicts the goals an agriculture preserve hopes to achieve. One could argue that the adjacent golf course and trail heads also generate traffic etc., but in those cases people are traveling to the area to enjoy the outdoors - which is in accordance with the spirit of an agriculture preserve.

5. **Lack of proactive proposals to bring value to the community to offset negative impacts.**

The proposers of the new facility have not sufficiently demonstrated that they considered the negative impacts their facility would bring to the community and a willingness to work with the community to offset these impacts. Demonstrating that the animal clinic owners are sensitive to the concerns of the community and having plans to address them would bring this proposal into a much more positive light. Additional creative suggestions to bring value to the community would be welcomed (such as working to install a traffic photo camera to offset increased traffic, installing privacy barriers, etc.). The current proposal solely focuses on how the business owner wants to permanently alter our community for their benefit. This raises major concerns with how the business owner will work with the community in the future when issues arise.

In summary, **I do not support** building an animal clinic facility on Prescott Rd. I wish the proposers of the clinic all the best with finding a more appropriate location to grow their business.

Thank you for your time and consideration in this manner.

Sincerely,



Ronald James Christie
26217 Rudale Drive
Clarksburg, MD
20871

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caroline@mocoalliance.org

Kristina Bostick
Senior Conservation
Associate
kristina@mocoalliance.org

Statement Supporting Conditions: CU 18-07, Clarksburg Animal Hospital

Before Montgomery County Office of Zoning and Administrative Hearings August 23, 2018

On behalf of our members and supporters that reside and recreate near the property proposed to host the Clarksburg Animal Hospital, we request that approval of this use be conditioned upon the requirement that the petitioner diminish the scale of the constructed space and size of practice. Montgomery Countryside Alliance's mission since 2001 has been the preservation of Montgomery County's nationally recognized Agricultural and Open Space Reserve (AR) and its natural resources. We have dedicated particular emphasis on the protection of its water resources, especially the federally designated [Piedmont Sole Source Aquifer](#). I prepared and filed the successful petition to US EPA Region III. The petitioner's property, and indeed much of the Reserve are served by the groundwater aquifer and are, by design (Preservation of Agriculture and Rural Open Space master plan - AROS p. 59), wholly outside of WSSC's public water/sewer service area (envelope). Here is information that we trust will be considered in rendering a decision:

1. 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.
2. The State of Maryland, in 2007, in the [case of Poolesville's interconnected wells](#), determined that wells as distant as one mile away may affect each other, including producing significant drawdown. It has been determined that difference in depth of wells does not negate the wells pull from a single source.
3. With regard to the effect of climate change on water resources – [The Interstate Commission of the Potomac River Basin has \(ICPRB\) released sobering data](#) that anticipates that climate changes including warming trends and how we receive precipitation will have significant impact on our regional water supply.
4. While the AR zoning provides for veterinary clinics as conditional uses, there is every expectation that the size and intensity of the use will be properly scaled in relation to surrounding uses and supporting infrastructure as part of the decision making. [The ICPRB's recent plan](#) (see [summary](#)) recommends that agencies factor these coming changes into their decision making noting: "To manage



GREATER WASHINGTON

human land use... pursue actions that contribute the protection of water quality, water use, and aquatic health..."

5. Comments in the record from MCA member and adjacent property owner Lou Sousa rightly document that the proposed facility is significantly larger than the petitioner's current facility, which is served by WSSC. Has the board been provided with WSSC usage at the current site in order to project what the larger staffed and sized new facility will utilize and discharge?
6. Providing a comparison of an AR facility that supports a large area of the Reserve in the greater Poolesville area - [VCA Peachtree Animal Hospital](#) has a staff of 2 vets and 2-3 support staff. Their practice is robust and served by a smaller facility that is a scale with the surrounding rural community. Other thriving area vet practices, including two in Poolesville, have similar sized facilities.

In summary, the proposed facility (non-agricultural) would be properly located in an area served by public water and sewer. This oversized facility introduces a suburban/urban scale use into a rural community and is inconsistent with the AROS master plan principles and goals (AROS p. 27). We therefore ask that the petitioner scale back their facility, as the board deems appropriate to conform to the master plan and ensure that resource needs do not outpace the carrying capacity currently, and in the future.

Respectfully submitted,



Caroline Taylor
Executive Director

From: [Johnson, Nana](#)
To: [Robeson, Lynn](#); ljsousa@verizon.net; [Cirner, Casey L.](#); martyreese@mail.com; [Greta Stamberg](#)
Cc: [Pratt, Jamey](#); [Tesfaye, Elsabet](#); [Boyd, Fred](#); [Weaver, Richard](#)
Subject: FW: CU 18-07 follow up
Date: Monday, August 27, 2018 10:42:02 AM

Please see e-mail below from Karon DeSilva sent via "martyreese@mail.com". Thanks.

-----Original Message-----

From: Marty Reese [<mailto:martyreese@mail.com>]
Sent: Friday, August 24, 2018 1:21 PM
To: Grossman, Martin <Martin.Grossman@montgomerycountymd.gov>
Subject: CU 18-07 follow up

Thank you for the opportunity to comment on the exhibits provided by the applicant at the hearing Aug. 14th regarding "grandfathering". Although I do not have a professional opinion due to the fact that I am not a lawyer nor do I have the funds to hire one, I would still like to comment. From what I understand the lot purchased by Greta Stamburg for CAH was originally part of a larger family parcel. When sectioned off it was recorded as a lot for a single family home with the intention of keeping it in the family for a residence. The AR encourages such land use. I am unclear as to the meaning of the technicalities which the applicant hopes to use as reasons to develop her business on that lot but am confident that you have the skill, the experience and the responsibility to both parties to decipher what is applicable and to decide what is important.

From: [Johnson, Nana](#)
To: [Robeson, Lynn](#); [Cirner, Casey L.](#); ljsousa@verizon.net; martyreese@mail.com
Cc: [Greta Stamberg](#); [Pratt, Jamey](#); [Tesfaye, Elsabet](#); [Weaver, Richard](#); [Boyd, Fred](#)
Subject: FW: Case # CU 18-07
Date: Friday, August 31, 2018 10:37:00 AM

Good Morning :

Please see e-mail below. A signed copy was received via USPS this morning and has been placed in the record. Thank you.

Nana Yaa A. Johnson
Administrative Specialist I
Office of Zoning and Administrative Hearings
100 Maryland Avenue, Suite 200
Rockville, MD 20850
(240) 777-6663
nana.johnson@montgomerycountymd.gov

From: Office of Zoning and Administrative Hearings
Sent: Friday, August 31, 2018 10:25 AM
To: Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>
Subject: FW: Case # CU 18-07

From: Stasi Tyser <tyserana87@gmail.com>
Sent: Wednesday, August 29, 2018 4:30 PM
To: Office of Zoning and Administrative Hearings <OZAH@montgomerycountymd.gov>
Subject: Case # CU 18-07

I am writing to voice my concerns regarding the Clarksburg Animal Hospital /Vet being built in my neighborhood. I am a resident on Lewisdale Road and would be directly affected by this addition. I am concerned mostly regarding the traffic it will cause in a residential area. My family and I moved into this house knowing that the land around us was zoned for residential and is mostly agricultural/park land that cannot be built on. It is a quiet, and peaceful neighborhood only because it is not commercial, but strictly residential. We already have many vets in the surrounding area, and do not need another one placed where homes and trees should be. This appears to be a large business and will cause additional traffic where my son will be waiting for the bus each morning. With additional cars for employees and customers, I am worried for his safety walking too and from. A private/commercial business does not belong here. We are also concerned that if we do chose to move at a later time that these same concerns will bring the value of our house down. I am asking that you keep the integrity of our rural area in-tact and keep these concerns in mind when looking at

this case. Thank you for your time and attention.

*I have also sent a signed copy of this email via USPS

Anastasia Cox
13513 Lewsidale Rd
Clarksburg, MD 20871

Judy Roche
13609 Lewisdale Road
Clarksburg, MD 20871
301-335-9183

August 29, 2018

Montgomery County Government
Attn: Lynn Robeson

RE: Case No. CU 18-07

Dear Ms. Robeson,

I am sending you this letter to adamantly dispute the permitting and building of the veterinarian hospital across the street from my residence. My home faces the proposed business. It is my understanding that the lot is intended for a residential 4-bedroom house.

There are several reasons, I am opposed to Montgomery County allowing Greta Stamberg build an animal hospital in the proposed corner lot. Below are the reasons, I hope you will review and understand the opposition:

- 1) Increased traffic to an agricultural and residential area:
 - a. In doing a little math (I am a CPA), I wanted to determine approximately how much additional traffic a hospital operating 6 days a week would create on Lewisdale and the corner of the proposed building. What I determined was that there will be on average 40 additional vehicles coming and going from the business each day for patients only. This is based on revenue for 5 veterinarians and 10-15 support staff. This is likely a conservative number.
 - b. There would also be an average of 10 staff members driving to and from the proposed site each day. This assumes they will not be driving elsewhere for lunch, etc.
 - c. There will also be supplier, UPS, FEDEX, waste removal, pharmaceutical reps, etc. delivering products to the business. Estimating 5 commercial vehicles coming and going each day.
 - d. Clients dropping in to buy feed, medicine, supplements, dropping off fecal specimens, etc. will add additional traffic. Conservatively, 5 clients per day.
 - e. Based on the above people coming and going each day, on average there will be approximately 60 vehicles coming and going from the proposed location Monday through Saturday. There is no public transportation in this area. This may be slightly off, but the point is, this would be a substantial increase to the current traffic flow on Lewisdale Road and the intersection of Lewisdale and Haines Road.

- f. This additional traffic will create hazardous driving situations for the current residents on Lewisdale Road, Haines Road and Prescott Road. My reasoning behind this statement is as follows:
- i. Lewisdale Road and Haines Road (the corner where the hospital is proposed) is at the bottom of a hill. Vehicles speed up just before Haines Road to get up the hill and cars fly down the hill towards Haines Road. By adding 60 additional vehicles multiplied by 2 for a total of 120 additional trips at that intersection will result in accidents. Patients will not understand how fast the vehicles travel on Lewisdale Road as they do not live on the road and experience each and every day.
 - ii. Prescott Road is a dog leg from the intersection of Lewisdale Road and Haines Road. There are vehicles turning in and out of this intersection as well. The Prescott Road residents cross Lewisdale Road with their horses and their vehicles. There are many residents on this road with horses crossing to use Little Bennett Parks horse trails. Some of the best in the county. Again, people pulling in out of both Haines Road and Prescott Road will be competing with the extra traffic in an area of accelerated speed.
 - iii. Current residents on Lewisdale Road either have to back into their driveways or back out onto the Lewisdale Road to enter traffic on Lewisdale Road. As a resident, we do not have the luxury of having driveways large enough to turn around in our front yards due to septic systems/fields. Having to back in and out of our driveway with in proposed hospital will increase the potential of being hit.
- g. In summary, the proposed hospital will undeniably add traffic to Lewisdale Road and likely result in an increase in accidents. The lot was designed for a house with up to 4 bedrooms. Assume on average there are 4 drivers. The hospital cannot argue the traffic will be increase by at least 50 vehicles per day Monday through Saturday coming to and from the hospital. ***This will impact the area.*** For the safety of the residents and visitors to Little Bennett Park (entrance at Lewisdale Road and Haines Road), I cannot emphasize denying the permitting of the hospital for the greater good of the county and its residents. Safety should be considered as a major factor in allowing or denying the permit.
- 2) Impact to the current residents and farms ground water supply. As noted the proposed hospital will have at approximately 10 people on site during operating hours. The use of well water will be a higher demand than a 4-bedroom house. One cannot argue this point. Few houses in the Lewisdale/Haines area have 10 people on site at any point during the day. Most of the residents on Lewisdale Road and Haines Road have on average 4 people. There will be an additional burden to the ground water supply beyond what the lot was designed for.
- 3) Impact to current residents: there will be an impact and it will not be positive. All indications point to negative impact: additional traffic and traffic noise, increase chance of vehicle accident, noise of animals being walked outside during operating hours, business lighting through at off hours when the office is closed, increased opportunity for other business to open shop on Lewisdale (i.e. animal boarding, landscapers, etc.).

- 4) Unknown impact: Dr. Greta Stamberg desires to build a business to house 5 veterinarians and as a business person, I understand her desire to increase her wealth and business. What is unknown to all of us, the county included, is the long-term plan for the building. For example, if Dr. Stamberg builds the business and sells in it say five years to a large veterinary corporation like VCA, how will this sale impact the area? A corporation will not care what Dr. Stamberg's intentions and promises were in 2018 to were to the county and its residents to obtain the permission for the building. A potential buyer will likely only care about the "building" being a profit center. Once the county allows Dr. Stamberg to build the hospital, future use once she sells the "business" is out of the counties hands. The county, at this point, is the only safeguard to the residents, farmers and those using Montgomery County's Little Bennett Park.

In summary, as a resident my entire life in Montgomery County, I ask you and Montgomery County to deny the permit and building of the animal hospital. It will change the area's safety and impact the environment. The pure increase in traffic alone identifies the issues the residents, Little Bennett Park (MC Park) users, farmers and those traveling on Lewisdale Road. Should safety and environment preservation be more important to the county than allowing one business owner to build a building for profit? What is more important to the greater good of the county?

Respectfully, I encourage you to deny the permitting and building of the animal hospital. There must be other suitable properties in the county for an animal hospital.

Sincerely,


Judy Roche

Care of Lynn Robeson

To the Hearing Board and Ms. Robeson

I am respectfully writing to you in response to the proposed construction of the commercial establishment on the corner of Lewisdale Rd and Prescott Rd (Clarksburg Animal Hospital) in Clarksburg. I live with my family at 26195 Prescott Rd, approximately 100 yards from the proposed retail property. I have been a Montgomery County Police Officer for nearly 24 years and my wife is a Pediatric Speech Pathologist specializing in children with special needs. We have 2 children in elementary school and a dog that is a beloved member of our family. We moved to this location 11 years ago specifically for the country atmosphere and the peace and quiet. We paid for this dream location and we feel now that our dream is being threatened.

It is my understanding that this property is zoned for residential and not commercial. I cant help but to think this was done for a reason, to maintain the integrity of the natural surroundings. Either way, our family, as well as many of the surrounding residents are opposed to this commercial establishment in this location. Bringing a commercial establishment of this size and nature will negatively affect the area in many different ways. Added noise, water table, well and septic, vehicle traffic, etc are just some. We are animal lovers and support the efforts of the owners and employees of animal hospitals. However, these businesses do not belong in a residential area such as this one. There are more than enough properties specifically zoned for commercial establishments that would be better suited for this business. Those locations are zoned for commercial businesses for a reason.

The main concern we have is the safety of the children in the area and people that come and visit Little Bennett Park. There are several elementary and middle school bus stops within yards of the proposed location. The closest bus stop location is directly in front of the property at the corner of Lewisdale Rd at Prescott Rd. Several elementary school children get on and off of school buses twice a day at these stops. It is my understanding that the owner of Clarksburg Animal Hospital hired a professional traffic engineer who stated added traffic in the area would not have a negative effect. I would respectfully disagree and offer my nearly 24 years of service as a Montgomery County Police Officer as a testament to my expert opinion. Too many times I have witnessed the result of drivers failing to pay full time and attention to their driving. The

additional traffic of a commercial establishment will increase the opportunity for traffic accidents to occur. The type of business will also contribute to the increase in potential accidents. People will be bringing their loved family members, their pets, to this location for services all day long. Many times their beloved pets will be ill or even possibly gravely ill. This is a prime example of a time when individuals would fail to give their full time and attention to driving. Having multiple children's bus stops within mere yards of this location is a recipe for disaster. Many people also use Prescott Rd to visit the peaceful serenity of the trails in the park both on foot and on horseback. Additional vehicle traffic in the area will also negatively effect the safety of these individuals.

In closing, I would like to say that I have dedicated close to 24 years of my life to the safety of the people who live and work in Montgomery County. I would ask that you please deny the construction of the Clarksburg Animal Hospital at this location. I would ask that you consider the safety of the children in the area and the patrons of the park as well as the preservation of the peace and serenity of the area.

Thank you for your time,

A handwritten signature in black ink, appearing to read "Paul and Diane Bandholz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Paul and Diane Bandholz

26195 Prescott Rd

Clarksburg MD

September 4, 2018

Lynn Robeson, Esquire
Hearing Examiner
Office of Zoning and Administrative Hearings
County Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

Ma'am:

I am writing to share our support for the new facility for the Clarksburg Animal Hospital, in Clarksburg, Maryland. Please consider my reasons below.

Our family is a long-term resident of Clarksburg, having been here since 1997, and in Germantown for many years prior to moving into our home at Timbercreek Estates. As such, we have seen dramatic change in Clarksburg; most of which represents a betterment of the community. The relocation of the post office from Clarksburg Road to Gateway Boulevard was one of many such changes, and the facility there is much better suited to the community than the old facility would have been today.

The practice now uses the former Post Office facility on Frederick Road. Clarksburg Animal Hospital is a special small business concern with a very special staff. Our family and our family dog became patients on the first day they opened 14 years ago. It was clear from the very minute we walked in the front door how committed their staff is to the pets and families under their care. We have three dogs under their care, and their personal attention and care is second to none. One only needs to walk in the front door and see the countless thank you's, patient pictures, and children's sports team photos to realize these folks are good people actively supporting their community.

As Clarksburg has grown, so has their practice. They have experienced the same changes as the local citizenry. They are no longer a start-up business, and they have more local competition. But that is not my immediate concern; such is the fate of the entrepreneur. I would, though, like to utilize the additional intended offerings and flexibilities that Dr. Stamberg has contemplated; offerings and flexibilities that the current facility could not support.

My primary concern, though, is the changed state of the facility. Since the hospital took occupancy of the retired postal facility, they have gotten a new neighbor. The building occupying 22315 Frederick Road, which includes Bennigan's among other tenants, is quite problematic, in that it created a changed experience trying to leave the Clarksburg Animal Hospital facility.

If you examine the picture below, you will note that both of the neighboring properties lie close to the state highway. Prior to being build, one could easily turn right to gain a safe exit onto Frederick Road. However, since being erected, the Bennigan's facility makes even a right turn a high risk maneuver. Turning left is incrementally more difficult, as the Clarksburg Grocery Mart building encroaches similarly to the north, and is often a test of nerves, especially as the 30 MPH speed limit is not regularly observed by motorists, to include school busses on their daily business. It is not atypical to have cars exceeding 50 MPH here, and as you can see, these buildings, and thus the parking lots, are in close proximity to each other. The lunch hours are evening rush hours are particularly challenging as the Clarksburg Grocery has a deli & grill which is quite popular, and road is far undersized for the volume it carries. Frankly, I'm surprised there haven't been more accidents and even fatalities over the years since Bennigan's was built. Having four daughters, three who regularly visit the hospital, I deeply care about the safety issues which cannot easily be resolved.



The proposed facility is just the opposite. There is no commercial traffic, nor structures hugging the shoulder of the road. While it is far less convenient for us, it is an easy decision to support this action.

As a final note, I hope that the existing facility is turned to additional parking for one of the adjacent properties; there is no such thing as safe occupancy of this facility in today's Clarksburg. If we can manage traffic safety, don't we have a moral obligation to do so?

Please consider supporting this zoning request. It is in the best interest of the community at large, and all of Clarksburg's residents.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Donaldson", written in a cursive style.

Michael Donaldson

12601 Clark Meadows Court
Clarksburg, MD 20871
(301) 353 - 0615
michael.donaldson@gsa.gov

Case # CU 18-07

Hearing Examiner: Lynn Robeson

Hello,

My concerns are the traffic, water, smell & community.

Traffic in this area has increased significantly due to building, these back roads were never intended to handle this kind of weight & volume. The roads leading to this site are all small feeder roads. The community is already experiencing tractor trailers traveling this road now which is a serious risk. The addition of a commercial business in this rural community doesn't seem to make sense on many points unless all you're looking for is tax revenue. There is a Regional park with a golf course surrounded by single family homes with a big agricultural farm (Beall's).....it doesn't fit in. Why not utilize the industrial area in Hyattstown which has the ability to handle the traffic.

I've lived here long enough to have seen droughts that have caused home owners to have another well drilled because the current well went dry. The animal hospital will have to use a lot water; this is a big concern even with a recovery system.

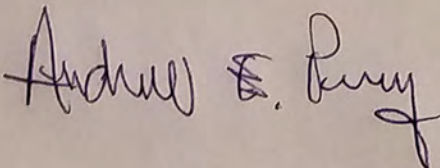
Animal smell will also be concern along with animal waste. Surely there must be a more suitable location for a commercial business. Quality of the community will greatly be impacted by the presence of this facility

Please take into consideration the negative impact this will have on all of the homes & owners in the community.

Thank you.

Respectfully,

Andrew E, Perry

A handwritten signature in cursive script that reads "Andrew E. Perry". The signature is written in dark ink and is positioned below the typed name.

26212 Rudale Drive, Clarksburg, MD

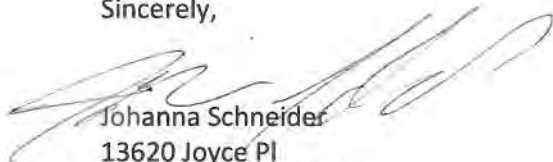
September 6, 2018

Ms. Robeson,

I'm writing in support of Clarksburg Animal Hospital's petition to build a new hospital on Prescott Road in Clarksburg, MD. I've used the services of Clarksburg Animal Hospital and Dr. Greta Stamberg for the past ten years. I find her and her staff to be consistently caring and the practice well run. I appreciate that Dr. Greta and her associate vets always take the time to thoroughly explain all the treatment options. The practice is tidy and well run.

The qualities Dr. Greta displays in running her current practice are those that I look for not only in a vet, but in a neighbor. As a resident of the neighborhood immediately adjacent to the proposed location to the facility I'm very interested in any development around me. When my husband and I found our house on Joyce Place in 2014 we couldn't believe such a quiet, wooded location existed in Montgomery County. Add in great, social neighbors and we believe we found the best neighborhood in the county. I believe Dr. Greta will be good addition to the neighborhood. And I believe she will be respectful of the local landscape and the zoning requirements in the agricultural zone. I think she will be a great neighbor and an asset to the neighborhood.

Sincerely,



Johanna Schneider
13620 Joyce Pl
Clarksburg, MD 20871

September 7, 2018

Lynn Robeson, Esquire
Hearing Examiner
Office of Zoning and Administrative Hearings
County Council Office Building
100 Maryland Avenue, Room 200
Rockville, MD 20850

Dear Ms. Robeson:

I am writing to express my excitement about Clarksburg Animal Hospital's new location. We moved to Clarksburg in 2003 and loved the small town feel. We started going to Clarksburg Animal Hospital not long after Dr. Greta opened her doors in Clarksburg. After all the residential building started, Clarksburg Animal Hospital still represents historic Clarksburg and has the small town feel.

Clarksburg Animal Hospital feels like a country home – clean, quiet, personal, welcoming, and friendly (both inside and out). Usually as businesses expand, certain features are lost – not with Clarksburg Animal Hospital. It has been such a great welcoming atmosphere since the beginning, and it is still the same way. I am so excited to hear about her decision to move her location. This is just what Clarksburg needs – a vet that is compassionate for her patients and who loves her community.

Dr. Greta has been taking care of my dogs since they were both puppies. I lost my Golden Retriever in the spring of this year, and Greta was with us from start to finish with him. Her compassion, knowledge, and empathy is like no other. They had a red royal carpet out for my boy when he came in to say goodbye – literally. Dr. Greta always provides care as if we are the most important patient she has.

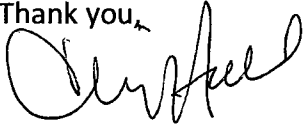
Dr. Greta has been nicknamed "The Great Doctor" by us because she is spot on with her diagnosis even before diagnostic confirmation has been in. She has diagnosed my dogs with rare conditions and is honest with her evaluations and what prognosis looks like. She is so trustworthy. I think the Great Doctor will be even greater in her new location. With room to expand, and a mind like hers, I can't even imagine what lies ahead for her patients. Bigger and better exciting times ahead for her and all her clients and the community. I can't wait for her to have more exam rooms, a safer and bigger parking lot, and other features that she couldn't fit at the Post Office location.

Dr. Greta not only provides excellent care for my animals, but she is a huge part of the Clarksburg community. Greta has been a guest speaker at our 4H Club which inspired the kids and taught all the ins and outs of being a vet. Clarksburg Animal Hospital participates in the local events, too. Clarksburg Animal Hospital has always kept the feel of historical Clarksburg while being in the Post Office.

I know Clarksburg Animal Hospital will be a beautiful, quiet, cozy, country environment at its new location. I know Dr. Greta will continue to dedicate herself to her patients and the community just as she does and has done with Clarksburg Animal Hospital with over the years. I would love to have Clarksburg Animal Hospital in my back yard!

I give my full support to her and Clarksburg Animal Hospital's new location.

Thank you,

A handwritten signature in black ink, appearing to read "Claire Hall". The signature is fluid and cursive, with a large initial "C" and "H".

Claire Hall

Kelly K. Forster
24018 Burnt Hill Road
Clarksburg, Maryland

Lynn A. Robeson, Esquire
Hearing Examiner
Office of Zoning and Administrative Hearings

Dear Ms. Robeson,

I am writing in support of the new location of Clarksburg Animal Hospital on Prescott Road in Clarksburg, MD.

I am a long time client of Greta Stamburg, DVM, and Clarksburg Animal Hospital. My dog, Jack, has been seeing Dr. Greta since he was a puppy ten years ago. My other dog, Cassie, has been seeing her for the past six years.

Clarksburg Animal Hospital has consistently provided excellent care to both my pets. I would not hesitate to recommend them to anyone. There is never a parking lot full of cars, or a waiting room crowded with pets. We are always greeted warmly, and promptly ushered in to an exam room. The facility is always clean, and rarely do I hear any noises from pre and post op animals that might be kennel inside the back area of the hospital. Maybe a little yip or two. Never have those sounds been audible from outside the building.

Greta Stamburg is a local woman who grew up in Barnesville. Her practice has been in the old Clarksburg Post Office building on Frederick Road for more than ten years. As I'm sure you know, Clarksburg's population has exploded in recent years. This is great for Montgomery County and its residents, with the exception of the increase in traffic due to all the commuters. At certain times of the day, turning in and out of the parking lot of Clarksburg Animal Hospital can be dicey. The new location on Prescott Road is much quieter and thus safer for clients, staff, and local residents. The new location is also a five acre site.

I hope that you and the Office of Zoning and Administrative Hearings can appreciate what an asset Greta Stamburg and Clarksburg Animal Hospital is to the Clarksburg community, and approve the new location of this wonderful local business.

Thank you for your time and consideration of this important matter.

Sincerely,



Kelly K. Forster

301-972-4709

kellyforster@rocketmail.com

From: [Marty Reese](#)
To: [Johnson, Nana](#)
Cc: [Robeson, Lynn](#); ljsousa@verizon.net; [Cirner, Casey L.](#); [Greta Stamberg](#); [Pratt, Jamey](#)
Subject: Re: FW: Clarksburg Animal Hospital
Date: Sunday, September 09, 2018 5:02:40 PM

TO: Lynn Robeson, Hearing Examiner case# CU 18-07
This is in response to the applicants proposed additional lighting request

The request by the applicant for additional lighting helps support the position that the lot that she proposes to develop is not an appropriate place for a business. The area is rural and "dark" by its very nature.

In the letter describing the lighting desired for CAH with regards to parking lot lighting, it is stated that "this proposed lighting is less than would be allowed and more controlled than a typical residential use". According to the applicants bio which she distributed to residents, Greta Stamberg (the applicant) grew up in rural areas. With this background in mind it is hard to understand how a parking lot for 28 and accompanying light poles for lighting the area from 7AM to 8PM as requested by the applicant is considered typical for a single family home. There is no "typical residential use" in this area that resembles, in the slightest, her lighting request.

As for the proposed business sign lighting at the street corner, the applicant sights the Golf Course sign as being lit by the street light with no additional lighting. Apparently no additional lighting is necessary. This is not a competitive business district where business signs need to compete for advertisement. Having a sign lit every day of the year advertising a business is not complimentary to the neighborhood.

In regards to the building lighting, the applicants repeated concerns about security and safety for the building and her clients furthers the argument that this is an inappropriate site for her business. On one hand the quiet rural setting attracts the applicant, on the other it is the same setting that requires manipulation (and degradation) to suit her business. Our neighborhood and the AR should not bare the brunt of a private business and its accompanying demands.

Thank you for your consideration, Karon deSilva

Sent: Friday, September 07, 2018 at 12:38 PM
From: "Johnson, Nana" <Nana.Johnson@montgomerycountymd.gov>
To: "Robeson, Lynn" <Lynn.Robeson@montgomerycountymd.gov>, "ljsousa@verizon.net" <ljsousa@verizon.net>, "Cirner, Casey L." <ccirner@milesstockbridge.com>, "martyreese@mail.com" <martyreese@mail.com>
Cc: "Greta Stamberg" <drgregta1998@yahoo.com>, "Pratt, Jamey" <jamey.pratt@montgomeryplanning.org>
Subject: FW: Clarksburg Animal Hospital

Good Afternoon:

Please see Attached.

Nana Yaa A. Johnson

Administrative Specialist I

Office of Zoning and Administrative Hearings

100 Maryland Avenue, Suite 200

Rockville, MD 20850

(240) 777-6663

nana.johnson@montgomerycountymd.gov

From: [Pratt, Jamey](#)
To: [Pratt, Jamey](#)
Subject: FW: FW: Clarksburg Animal Hospital
Date: Wednesday, October 10, 2018 5:10:37 PM

From: Marty Reese <martyreese@mail.com>
Sent: Monday, September 10, 2018 2:44 PM
To: Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>
Cc: Cirner, Casey L. <ccirner@milesstockbridge.com>; ljsousa@verizon.net; Robeson, Lynn <Lynn.Robeson@montgomerycountymd.gov>; Pratt, Jamey <jamey.pratt@montgomeryplanning.org>; Greta Stamberg <drgreta1998@yahoo.com>
Subject: Re: FW: Clarksburg Animal Hospital

TO: Lynn Robeson Hearing Examiner case #CU 18-07
From: Karon deSilva

These comments are presented with the intention of clearing up some possibly misleading descriptions of the current location of CAH used as reasons for a move to Lewisdale and Prescott roads.

While there is no question that the current clients of CAH admire and respect their veterinarian these opinions are not in question nor are they pertinent to the issue. However traffic concerns are. I would like to point out that the current location of CAH on state road 355 is situated between two traffic lights. There is one to the right (north) at the intersection of Clarksburg road and rt. 355 and there is one to the left (south) at the intersection of Stringtown road and rt. 355. Each is at most 1/4 of a mile from CAH's entrance. These signals help to control the traffic passing CAH's present location. As was mentioned by a client of CAH the speed limit on rt.355 at that location is 30 MPH. Contrast that with the speed limit on Lewisdale road of 40 MPH plus the fact that there is nothing to disrupt north/south traffic along the road (except someone trying to access Lewisdale ie: coming out of Prescott road) and it becomes obvious that the current location (or perhaps another commercial area) is safer for CAH's clients and the people on Lewisdale road.

Continuing with the traffic issue I would also like to address some statements made by the applicant. To quote Greta Stamberg from her letter introducing herself; "The Golf Course already generates significant traffic on Lewisdale and Prescott...another reason for choosing this particular lot." There feels like a "catch-22" when mentioning traffic. If we say we don't have a traffic problem it is said that the area can handle more traffic. If we say we already have traffic it is said that more will not hurt. To continue Greta Stambergs quote: "We will not generate enough traffic to profoundly affect the normal traffic patterns which currently exist." This statement is false. There is not currently in existence a commercial enterprise that requires a steady stream of traffic all day every day all year long on Lewisdale and/or Prescott road. This is not a traffic pattern that currently exists. Nor is it a desirable one. This is a rural area. More traffic is detrimental to the rural way of life which is to be protected in the AR. Farmers and their equipment use Lewisdale and Prescott roads when it is appropriate to the farming task. Horses are pastured next to the road during the day. Chickens and barn cats occasionally wander near and/or across the roads. Additional traffic not "only" presents danger and inconvenience to people and animals it also introduces more noise and there is nothing that can be done by the applicant to counteract that. Traffic noise was apparently overlooked in any attempt to discuss noise abatement, most likely because there is no way to control it. The necessary delivery trucks, as well as creating their own truck noise, all have back-up bells that will be heard with every pick up and delivery. Cars of any variety create noise; road noise, motor noise, doors opening and closing . If this sounds insignificant please remember the setting in which this is happening. And as a resident on Lewisdale road I can attest to the fact that road and motor noise is not insignificant. When speaking of noise it is not necessarily decibels that matter most. We are not worried about going deaf. No matter the decibels, sound travels. It is nuisance noise; irritating and disruptive to the rural way of life. To anyone's life.

The guaranteed traffic that this business will generate is an annoying, dangerous, quality-of-life degrading aspect of CAH that cannot be ameliorated. This alone is reason enough it should not be allowed at the corner of Lewisdale and Prescott roads but instead should remain in a commercial area closer to main roads and clientele, where businesses are appreciated and accommodated.

Montgomery County
RECEIVED

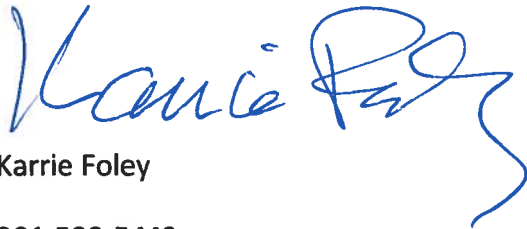
SEP 10 2018

To whom it may concern:

I am writing in support of the move of the Clarksburg Animal Hospital to the new proposed Prescott location (Conditional Use application number **CU 18-07**). I have been taking my 5 dogs and 2 cats to Dr. Greta ever since she opened. Dr. Greta gives my animals such good care that I would not think of taking them anywhere else. The staff is always friendly, the building is clean, and quiet. I use the online portal for heartworm and flea meds and it is a great convenience.

Dr. Greta takes the time with each of my dogs/cats whether it is a routine visit or a sick/hurt pet. I have border collies and aussies so they are high energy and have had hurt pets more times than I like to count. But in the end Dr. Greta has resolved all my hurt and sick pets 100% to my satisfaction.

Clarksburg Animal Hospital is part of our community. They are involved in local projects. At Christmas I always include CAH as my card is a pic of my 5 pups. The move out to a more rural area will be a huge improvement as traffic on Rt. 355 can get very busy. You have my full support on the proposed move. Feel free to reach out to me if you have any questions.



Karrie Foley

301-509-5442

foleykarrie@yahoo.com

26116 Rudale Drive
Clarksburg MD 20871
September 10, 2018

Lynn Robeson
Hearing Officer
Office of Zoning and Administrative Hearings

I wish to comment on Case # CU 18-07.

One of my concerns is the affect of having so many dogs being brought into our neighborhood. My understanding expectations are there will be 5 and 15 employees working at the subject site. If each vet sees 20 dogs a day that would be about 100 dogs. Our neighborhood has a lot of houses on half acres lots. That means there are a lot of houses close to the subject property. The properties on Rudale Drive back up to properties on Prescott Road. I believe there are at least 30 dogs that live on Rudale Drive alone. They react to activities they see or hear. There would a tremendous amount of additional barking if an animal hospital is constructed. Once one neighborhood dog starts barking there is a chain reaction with a lot of other dogs barking. An extra 100 dogs visiting the neighborhood would create a lot of additional barking. A single family house would add a lot fewer dogs than an animal hospital.

As far as enforcement by the Animal Services Division there is very poor follow through. I had a continuous problem with a neighbor's dog. They told me to keep track of the incidents and they would handle all the incidents together. They misfiled my case in Court. I had over 80 incidents. They never reviewed the incidents. In the end they said I was the only one complaining so they weren't going to do anything about it. I don't feel we can enforce any noise problems resulting from the Animal hospital.

One more concern is about the groundwater. The Zoning code says:

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 adversely effect groundwater or septic systems.

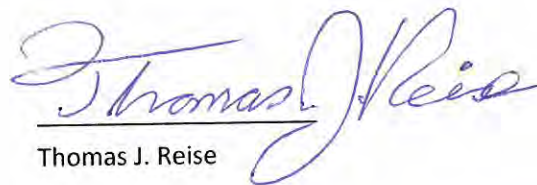
My understanding was the applicant claimed the Hospital would use no more water than the residents of a 4 bedroom house. How is that possible? I understand the applicant said she uses paper towels so that she doesn't have to wash towels. I am sure 15 people and quests flush more toilets than residents in a 4 bedroom house. Also what happens if someone new takes over the business are they required to use paper towels?

Currently houses on Rudale Drive run out of water during dry periods. Several people have hired tanker trucks to pour water down their wells during dry periods. My household use to run out of water during dry periods. My plumber lowered the pump further down the well. My recollection it was moved about 30 feet down in a 400 foot well. It is almost at bottom now.

My understanding is the well is for the Hospital is 500 feet down. Their property is also at a lower elevation than my property and other properties. I suspect they will be using enough water to lower the groundwater level. Everyone that has problems now will have worse problems if the Animal Hospital goes in.

I believe they are required to prove we wouldn't have any ground water problems. It seems they only addressed that they could get all the water they need.

My last concern is concerning the wildlife in the area. Right now I see a lot of deer and fox travelling along the joint backlot lines of Prescott Road and Rudale Drive. All the dogs going to the Animal Hospital would disturb and scare these animals off. This is how many of the animals access Little Bennett Regional Park from the other side of Lewisdale Road.



Thomas J. Reise

Katie McDonald

13605 Lewisdale Rd.

Clarksburg, MD 20871

September 7th, 2018

Lynn Robeson

100 Maryland Ave., Room 200

Rockville, MD 20850

Dear Lynn Roberson,

I would first like to take this opportunity to thank you for your attentiveness and thoroughness of this issue. I know that I am incredibly fortunate to live in a country, state and county that allows its citizens to have the right to voice opinions and I have chosen to not take this right for granted.

My husband and I moved to 13605 Lewisdale Rd. in April 2013. Before then, we had lived in the basement of a townhouse located in the heart of Gaithersburg that we rented from a friend. After 5 years we had grown tired of the constant hustle and noise of our over populated city. Everything felt like a competition to be on top, and life was moving at the speed of light. My husband (then-boyfriend) and I wanted to start the next chapter in our lives; to get

married and have children and we knew that North Montgomery County was where we needed to be. It gives us the privileges of better communities and some of the top schools in our country, while still allowing us a peaceful life in the country. This peaceful life, surrounded in nature, this life that my Husband and I worked so hard for is now in jeopardy with the potential development of the neighboring property on which it is proposed to convert agricultural preserve land to commercial land.

As mentioned, I live at 13605 Lewisdale Rd; directly across from the proposed commercial veterinary business. The proposed property will be in direct eyesight from my front door, master bedroom, and my pride and joy of my house: my bay window in the living room. I invite you to come and visit our house just to take it all in! I wake up every morning, make a cup of coffee and walk over to that window and watch the lot directly in front of me. If you sit still, you would be amazed at what unfolds! The trees and the forest floor moves, not from wind but from the life that has chosen that lot as its home. I've seen countless fawns taking their first steps, and beautiful, large pileated wood peckers scrounging the trees. I've seen red-tailed hawks, foxes, racoons, opossums and on separate occasions I've seen coyotes. I have even helped a few precious box-turtles cross the road in the direction they were facing, which is that lot. I should mention that I worked as a wildlife rehabilitator for 3 years with Second Chance Wildlife Center (under the center's license & licensed veterinarian) and have had experience up close with all of our native, local wildlife. Rezoning the lot for commercial use, and with the oversized proposed building and concrete footprint would greatly affect the flourishing ecosystem of that lot and of all adjacent lots.

A small side note about the box turtles.... if you remember the building of the ICC caused huge problems for our local box turtle population among many other species' populations. A large effort was made to relocate box turtles from the locations impacted by the ICC to other areas in the county, one of which is Little Bennet Park.... including the proposed lot. Once again, these creatures will be ripped from their homes, and rehomed. While I'm on the topic of animals, as I mentioned before I've worked with wildlife and have owned countless pets over the years (my mother and I are crazy cat lovers!). With that being said, I'm a huge supporter of animal welfare efforts, however, this proposed animal clinic is strictly for cats & dogs but does not help large animals which is what makes up the majority of our rural community.

Another important item to note, there are no other commercial facilities located on our strip of Lewisdale Rd. The only exception to this is the lovely Little Bennett Golf Course. There are huge differences between these types of properties: the golf course has structures, but they are tucked away off of the road and out of sight, and golf courses are naturally quiet and have shorter operating hours. The biggest difference is that residential neighborhoods are developed around golf courses, unlike a single large animal hospital.

Some final questions based on the information discussed above:

1. What kind of efforts will be made to rehome the local wildlife in the event that this proposed lot is given the green light?
2. What funds/manpower in the budget have been allocated for this effort?

3. When was an environmental study conducted to research the impact of this proposed lot? Please make this information available if it was done, and if not, when will it be done? I among others will be requesting this.
4. Why is the proposed lot's sewer system rated as a 4-person household? This information is wildly incorrect and should be remedied. That system will absolutely fail under the legally demanding water usage needed for such a large-scale veterinary clinic. Every patient room is required to have a sink, along with all surgical rooms, restrooms, lab rooms and kennel rooms. Kennels, patient rooms & lab rooms require diligent cleaning daily, which equals more water usage. I don't know of a single 4-person dwelling that would use as much water/have as much waste as a large veterinary clinic. In fact, Second Chance Wildlife center is located in a farm house with a septic system that is rated for a 4-person dwelling, and the water frequently would dry, and the septic fields were constantly overflowing. This is a tremendous public health hazard, that type of system for this much usage will fail. I will mention that the Fire Chief of the Hyattstown Volunteer Fire Department was incredibly upset at the placement of wells/tanks for the new housing development at the end of our road. He has serious concerns about their systems failing due to placement and usage.
5. Is this current business sustainable? Are finances managed properly, are staff members veterans of her facility? I only ask because what a horrible waste it would be to kill everything on that plot of land, only for her business to fail.

6. What are the lighting limitations for this property? Our community has very limited light pollution and it seems that the proposed property would destroy this. The properties lights would be directly in front of our house and visible at night. We own large telescopes and frequently view the stars & planets at night. One of the benefits of living in the "country" is the stars at night, this property would steal the stars from our sky.
7. I have talked to other residents close to the proposed lot and only a small handful of us received drawings. When can drawings be made available to the general public? Why on the first set of drawings the property was only listed as a one-story building? I should also mention I work in construction and took notice of these changes in addition to the change in angle to make it appear that the structure was smaller and not as close to our houses. I found this as a dirty trick to those residents who are unable to read drawings.
8. Finally, why is this the best area for commercial use? If the land was truly appreciated for what it is worth (untouched nature), then why isn't it being left that way or as untouched as possible? A two-story structure with a whopping 28 parking spots is about as large as a footprint as you could make. This isn't a small-town country clinic, this is a massive operation. With all of the development in South Clarksburg and up in Urbana, why can't commercial stay in the already allocated commercial areas? If we as residents of Lewisdale Rd. wanted to live where we could walk to businesses, wouldn't we have lived there in the first place?

Once I again, I would like a moment to appreciate your time with our efforts on this issue. It is now your time to decide but know that your decision great affects our country community and wildlife financially & environmentally. All we can do as residents of this area is to beg and make our cases to keep our homes how we envisioned and purchased them. You have the power to stand up to unwanted commercial development and the destruction it will cause our community. You have the power to make a stand for our community, to protect land and lives. You have an amazing opportunity to impact many lives and with that, I would like to leave you with a quote from Dr. Seuss' the Lorax that I learned very young that still holds true today:

“Unless someone like you cares a whole awful lot, nothing is going to get better.... it’s not”.

Thank you for your time,

Katie McDonald

A handwritten signature in blue ink, appearing to read 'Katie McDonald', written in a cursive style.

Jeffrey Scott Hazel



23144 Persimmon Ridge Road
Clarksburg, Maryland 20871
240-308-1899
jeffrey.hazel@marriott.com

14th September 2018

Dear Lynn Robeson, Esquire,

I am writing you in support of the proposed move of Clarksburg Animal Hospital.
Application number **CU 18-07**

Dr. Greta and Clarksburg Animal Hospital is an example of a business any community would welcome – and we're glad CHS is close by. Her practice is the most caring and compassionate veterinary office we've ever had. They are open to discussion and work closely with the client to determine the best treatment for the patient! In fact, we had a cat that was misdiagnosed at several other clinics – working on experience and instinct – she said, "if this was a dog, I'd say she has cushing disease." A rarity in felines, she was right. With this knowledge, we could then give our cat the best care possible. Later, we were transferred to England for 5 years – a meticulous governmental process must be followed to avoid quarantine. Her help was instrumental in getting full approval – eliminating any quarantine for our cats – we were so thankful! And finally, their approach to end of life care has been nothing more than compassionate. As you know a very emotional time – her entire office was exceptional.

Dr. Greta and her practice have also been an integral part of Clarksburg – when other businesses looked the other way. Firstly she revitalized Clarksburg by remodeling the former Clarksburg Post Office which I'm sure brought other businesses in. Although we've loved the location – transporting pets and pulling in and out has been a challenge – I'm looking forward to an expanded facility, so they can better continue their great



work in a better setting! The practice has also been a participant and supported of many community activities including Clarksburg days and Kite day! Also, they are one of the few businesses that recognize and know their clients names – I think that's amazing and is the reason I've recommended her to several friends.

For many reason I could go on – we love Dr. Greta and her practice and are so happy they are part of the community. From everything I've read, the proposed practice looks extraordinary and will fit well into the community. Can't wait! I'd be happy to give further recommendation if needed and am looking forward to her new location.

Warm regards,
Jeffrey Scott Hazel

 14. SEP. 18

Hearing Examiner Robeson,

As previously stated in my public testimony at your Aug 14 hearing, my wife Sharon and I own and reside at our residence at 26201 Prescott Road in Clarksburg—the property immediately adjacent to the south of the proposed Clarksburg Animal Hospital. In response to your invitation to reply by Sep 17, below is our response to the Montgomery County Planning Department's CU 18-07 Supplemental Report of Sep 5, 2018.

The Planning Department's report quoted Montgomery County Zoning Ordinance 59.7.3.1.E.g indicating that *"...to approve a conditional use application, the Hearing Examiner must find that the proposed development 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:*

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

Our statement will summarize how we believe the facility could adversely affect the fragile beauty, quiet, and peaceful enjoyment of the neighborhood in which it would be built as well as our potential economic welfare.

Potential Adverse Effect on the Peaceful Enjoyment of the Neighborhood

My wife and I were first attracted to our home on Prescott Road by the privacy and beauty of its location near Little Bennett Regional Park and across the road from the Park's 25-acre Prescott Meadow—one of the most scenic settings in Montgomery County with a panoramic view of Sugarloaf Mountain.

The fact that the adjacent property (i.e., the subject property) contained(s) dozens of mature hardwood trees and thick, green understory that serve as a visual and sound barrier between our property and the sometimes noisy traffic along Lewisdale Road accentuated the neighborhood's attractiveness to us.

The subject property also hosts the pleasing music of nature provided by numerous species of birds as well as cicadas, tree frogs, spring peepers and crickets. In addition we sometimes see human-avoidant red fox, raccoon, opossum, and increasingly rare box turtles emerging from the subject property.

These sights and sounds of nature contribute in a major way to the peaceful enjoyment of our neighborhood and would be adversely affected if the subject property—including its 4050 square foot building, 28 space parking lot, 200-plus foot long asphalt driveway, and 1250 foot long septic trench—were to be approved and built.

Potential Adverse Effect of Pet Noise on the Neighborhood

Dr. Stamburg and her team have been careful to incorporate noise dampening features into the design of their facility so that the BUILDING meets the county noise code. However, noise from barking dogs in the facility's PARKING LOT would still be problematic.

For example, according to the MoCo zoning code, the maximum allowable daytime noise level in county residential neighborhoods is 65 decibels. According to online estimates, a single dog barking can range from about 80-100 decibels.

Over distance, of course, sound levels diminish and foliage and other natural or manmade barriers can further reduce the decibel level.

Using the sound dissipation calculation tool [at the online website NumericalExample.com](http://NumericalExample.com), I found that an 85 decibel dog bark (about average for a single dog) slightly exceeds the county noise code limit at a distance of 500 feet.

Two dogs barking—a common occurrence when dogs meet/greet each other as they would do in the hospital parking lot—create even greater noise and would likely be sufficiently loud in decibels to overcome the noise dampening effects of foliage and modest distance.

This suggests that we—as well as many as 11 other neighborhood families living in residences within 500 feet of the proposed hospital parking lot—could suffer the adverse effect of frequently hearing dogs in the lot barking at levels in excess of county noise code.

We believe that that the Planning Department's Sep 5 supplemental report on inherent/non-inherent effects of the proposed property understated this potential adverse effect. It said that *"While it is true that occasionally dogs will bark at each other in the parking lot, such encounters would be infrequent and brief. The forested area surrounding the facility will help diminish any such noises, and the sound will have mostly dissipated by the time it reaches the ears of anyone in the meadow."*

However, if one assumes that only 10% of arriving/departing pets are barking dogs, this could be as many as 5 or 6 daily barking dogs on a daily basis or more than 25 during a week-long period. If one assumes 10% of dogs bark upon both arriving and departing, this would amount to about 50 barking dogs a week. Such noise could well deter potential buyers of our property seeking refuge from clamorous neighborhoods down-county and in DC. In turn, anything that would deter potential buyers of our house would require us to lower the price of our property in order to attract a buyer and thereby have a direct adverse effect on our economic welfare.

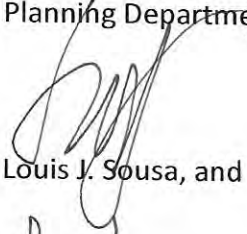
The Added Noise, Disturbance and Adverse Effect of Vehicular Traffic

The animal hospital applicant's Aug 24 submission to the Hearing Examiner for this case identified an INITIAL minimum of 45 to as many as 59 daily pet appointments. Lacking public transportation to the facility, all patients, as well as up to 20 employees, would arrive via vehicle. In addition to all this traffic, numerous delivery trucks as well as suppliers, animal

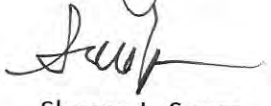
waste and maintenance contractors would routinely visit the hospital in trucks and add to the noise level of our peaceful and quiet neighborhood.

Most of the vehicle, pet and human traffic would be visible to and within earshot of us and several of the adjoining and confronting neighborhood properties—particularly in the roughly six month mostly leafless season between November and April. Comparing all this trafficking and its accompanying noise to the current existing peaceful, natural and heavily wooded setting suggests a looming major increase in and consequent adverse effect on the noise level of the neighborhood.

Finally, on a different subject, we agree with the Planning Department's opposition to illuminating the proposed facility's location sign during non-business hours. The only reason to light the sign during non-business hours would be to advertise the business, and, like the Planning Department staff, we do not feel that this is appropriate in the Agricultural Reserve.



Louis J. Sousa, and



Sharon L. Sousa
26201 Prescott Road
Clarksburg, MD

Email

Proposed Clarksburg A...

Priority	Due	Status Reason	Owner
Normal		Received	Area 3

Email

From ryanwilson.cwc@gmail.com

To <MCP-Chair MCP-Chair>; MCP-Chair #; mcp-chair@mncppc-mc.org; MCP-Chair@mncppc-mc.org

Cc

Subject Proposed Clarksburg Animal Hospital at Lewisdale Rd and Prescott Rf

Date Sent	Direction	Incoming
------------------	------------------	-----------------

Friends, I am wiring to express my concern about the disruption that the above named would cause to my neighborhood. I live at 13501 Lewisdale Rd, Clarksburg, Md, 20871. My house was built in the 1950s and has provided a happy home to several families over the years in the Montgomery County Agricultural Reserve. One thing that has proven to be a delicate balance at my home, is the water supplied by our 125ft deep well. The affect that the proposed would have on the aquifer supplying water to my family (Husband, Wife, four kids 5/4/1/1 month, and dog) would most certainly cause our already short water supply to be further depleted. This is of the utmost concern to me. You see, I am the sole provide for my family, and we are supported by a blue-collar income which has also proven to be quite a delicate balance, and so you see, having to drill a new well is an undertaking that I am not willing to consider because of some veterinary pipe-dream, placed in my residential neighborhood. Not only would this problem, when it arises, be cost-prohibitive, but we would likely have to tear up our yard, which is the main reason my Wife and I fell in love with this property, and would break our kids hearts.

You governing officials are supposed to be the advocate for people like me. I empire you, please, do not approve the new animal hospital to be located near the intersection of Lewisdale Rd and Prescott Rd.

Thank you for your time and respect,

Ryan E Wilson
 13501 Lewisdale Rd,
 Clarksburg, MD, 20871
 2409945366

Regarding [Proposed Clarksburg Animal Hospital at Lewisdale Rd and Prescott Rf](#)

Duration



September 3, 2018

Jamey Pratt
Maryland-National Capital Park and Planning Commission ★
8787 Georgia Avenue
Silver Spring, Maryland 20910



Attn: Jamey Pratt:

It was with great anticipation when I heard of Dr. Greta Stamberg's plans for a new veterinary clinic in Clarksburg.

I must admit the one that is there now is very difficult to get into and out of especially during the high traffic times Clarksburg now has every day. I am a huge animal lover especially dogs and Dr. Greta (as I know her) was trained by one of the best, Dr. Chet Anderson.

Dr. Greta makes what can really be a hard visit to take our beloved dogs to much easier. She and her associate veterinarians and staff treat our animals like they are their own and help us to get through some very difficult situations and sometimes even harder decisions. Her clinic makes Clarksburg a much more caring community and the location she is proposing is in an even better area and much easier to access.

She and her entire staff take the extra few minutes to put both our pets and their frantic family members at ease by explaining things and keeping our pets calm and control during our visits there. We ever feel rushed or the need to rush through an explanation of their illness or needs.

The new building would be great and with more space and more attention paid to dogs who like my own are rowdy and need that extra few minutes to calm down away from the other animals that are there to see her.

I have a few serious back problems and her staff is always there to help me in getting my two rowdy boys into the office and to help handle them since I have great difficulty doing so. Her new office is definitely needed and would be a great addition to the Clarksburg community without having to go to the emergency hospital there near the high school and paying emergency fees.

I hope sincerely you give her permission to build her new clinic.

Sincerely,

A handwritten signature in blue ink that reads "Diane True".

S. Diane True
20920 Clarksburg Road
Boys, MD 20841
(301) 540-0751
ddtrue1@verizon.net

As a client at Clarksburg Animal Hospital for the past 11 years I have had many instances to interact with Dr Greta Stamberg and members of her staff both at regularly scheduled visits and more urgent care appointments. In every instance I have found the entire premise including the parking lot to be very clean and inviting. The appointments are on time and the staff is very efficient with never a backup of patients left waiting.

I have been a resident of Clarksburg for over 30 years so I understand the reluctance that many people have to any development in our town. Yet in this case it is very short sighted. Dr Greta Stamberg has proven her desire to serve our community. Clarksburg Animal Hospital currently is very difficult to access at certain times of day and would benefit from more space to better cater to specific animals. This is a business that needs to stay in Clarksburg!

A handwritten signature in cursive script that reads "Deborah C Copestick". The signature is written in black ink and is positioned above the printed name.

Deborah C Copestick