

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

**APPLICATION OF
JEMAL'S HECHT'S LLC AND
PETCO ANIMAL SUPPLIES STORES, INC.**

**BZA APPLICATION NO. 18821
HEARING DATE: SEPT. 23, 2014**

STATEMENT OF THE APPLICANT

This is the statement of Jemal's Hecht's LLC and Petco Animal Supplies Stores, Inc. ("Petco") (collectively, the "Applicant")¹ in support of its application pursuant to 11 DCMR § 3104.1 for a special exception pursuant to sections 802.21, 802.25, and 802.26 of the Zoning Regulations to permit animal boarding, pet grooming, and pet shop uses in the C-M-3 District at 1401 New York Avenue, N.E. (Lot 804 in Square 4037) (the "Property") in the Hecht Warehouse District. This statement supersedes the preliminary application statement originally filed with the Board.

**I.
JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the relief requested pursuant to Section 3104.1 of the Zoning Regulations (11 DCMR § 3104.1).

**II.
EXHIBITS IN SUPPORT OF THE APPLICATION**

Exhibit A: Colored Zoning Map
Exhibit B: Building Plat
Exhibit C: Architectural Plans
Exhibit D: Floor Plans of Retail Space
Exhibit E: ANC 5D Letter of Support
Exhibit F: Photos of Subject Property

¹ Originally, Jemal's Hecht's LLC was the sole applicant.

III.

BACKGROUND AND PROJECT DESCRIPTION

A. Overview of Subject Property and Surrounding Area

The Property is located in Lot 804 in Square 4037 on the south side of New York Avenue, N.E., between Fenwick Street and 16th Street in the Hecht Warehouse District. The Property is currently under construction with a structure that will have ground floor retail and six levels of parking above. Each level of the structure will consist of approximately 62,800 square feet. The Applicant seeks special exception approval to utilize approximately 12,437 square feet of the ground floor retail space for animal boarding (§ 802.21), pet grooming (§ 802.25) and pet shop (§ 802.26) uses in order to permit a Petco store to operate at the premises. The Property is within the boundaries of ANC 5D, which voted unanimously to support this application at its regularly scheduled public meeting on June 10, 2014. A copy of the letter is attached hereto as Exhibit E.

Square 4037 is a rectangular block bounded by New York Avenue to the north, Fenwick Street to the west, Okie Street to the south, and 16th Street to the east, all within the northeast quadrant of Washington, D.C. Situated along the busy industrial section of New York Avenue, the Property is surrounded by production, distribution and repair uses. The CSX railroad and Metrorail tracks are located across New York Avenue to the north. Other one- and two-story industrial buildings dating from the early twentieth century predominate the surrounding area.

B. Background on Petco

The store will be operated by Petco, a leading pet specialty retailer that provides products, services, and advice for pet owners. Petco operates more than 1,150 stores nationwide, including more than 50 Unleashed by Petco locations, a smaller format neighborhood shop, and

www.petco.com. There is currently only one Petco in the District of Columbia, located at 3100 14th Street, N.W. in Columbia Heights, which was approved pursuant to BZA Order No. 18490 on January 29, 2014. The Petco Foundation, an independent nonprofit organization, has raised more than \$100 million since it was created in 1999 to help promote and improve the welfare of companion animals. In conjunction with the foundation, Petco works with and supports approximately 8,000 local animal welfare groups across the country to help find homes for more than 250,000 animals through in-store adoptions every year.

C. Project Description

1. Store Operations

Petco proposes to lease approximately 12,437 square feet of ground floor retail space for a store that provides pet shop and pet grooming uses. Petco's primary operation will be the sale of pet supplies, such as food, toys, and accessories. Pet sales will be limited to small animals (e.g. birds, fish, gerbils, guinea pigs, hamsters, mice); no dogs or cats will be sold at the store. The pet grooming facility will service approximately 15 pets per day. Before and after grooming, pets will be temporarily kept in cages with food and water until they are picked up by their owners. Generally, pets in the grooming facility are picked up within one hour of the service, and the overall stay for a pet is rarely more than a few hours. Overnight boarding or daycare will not occur at the store.

The Petco store will provide occasional basic veterinary services as an accessory use. Approximately twice per month (every other Saturday), a veterinarian will visit the store to provide basic check-ups and vaccinations at a discounted rate to walk-up customers. The veterinarian will not have an office or any facilities at the store, and these veterinary services will not be part of the store's daily operations.

In addition, the store will occasionally host pet adoption events sponsored by local shelters and rescue organizations. These separate organizations will bring animals to the store several times per year to adopt out as pets to customers otherwise visiting the store. The adoption events will be accessory to the store and will not be part of its daily operations.

2. Clean-up and Disposal of Pet Waste

Petco will maintain a rigorous routine to remove and clean pet waste as quickly as possible in order to protect the health and safety of humans and animals. Store employees will remove waste from all animal habitats in the morning and evening, at least twice per day. Each habitat will also be deep cleaned twice per week, which includes removing and sanitizing all glass, trays, and dividers. Furthermore, staff members will perform hourly walks 12 times per day to ensure that if waste build-up occurs it is removed immediately. These walks will also allow employees to identify any waste on the store floor in need of clean up. Several waste clean up stations will be provided throughout the store for immediate clean up if a visiting pet creates waste. Furthermore, the Petco District Manager and Regional Animal Care Manager will conduct evaluations of the store's animal care and waste removal standards at a minimum of once per month. Odor will also be controlled by means of an air filtration system such as HEPA filtration or an equivalent by effective odor control system.

Once collected and retained within the store, all pet waste will be transferred in closed bags at least once daily to the trash facility located near the loading area for the building and collected at least once per week by a qualified waste disposal company. Animal waste odor will not be detectable to other nearby properties because only a minimal amount of waste will be generated from the small animals sold at the store and visiting pets and because the trash facility is internal to the project as shown on the floor plan attached as Exhibit D. The trash facility will

have sufficient capacity for the animal waste and will be able to store it without creating any adverse impacts to nearby properties.

IV.
THE APPLICANT MEETS THE BURDEN
OF PROOF FOR SPECIAL EXCEPTION APPROVAL

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

A. Special Exception for Animal Boarding

Pursuant to Section 802.21 of the Zoning Regulations, animal boarding may be permitted as a special exception if approved by the Board under Section 3104.1, subject to the provisions of Sections 802.22 through 802.24. This application complies with the special exception standards as follows:

1. Section 802.22. The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor or waste.

In this case, there will not be any overnight boarding of dogs or cats at the store. However, the store will include a pet grooming area that can accommodate ten or more animals at a time. Under the Definitions Section of the Zoning Regulations, "animal boarding" includes any pet grooming establishment that permits ten or more animals on the premises at a time. The pet grooming facility will service approximately 15 pets per day. Before and after grooming,

pets will be temporarily kept in cages with food and water until they are picked up by their owners. Generally, pets in the grooming facility are picked up within one hour of the service, and the overall stay for a pet is rarely more than a few hours. Pets that are visiting the store for pet grooming will generate a small amount of waste only. The trash facility will have sufficient capacity for the animal waste and will be able to store it without creating any adverse impacts to nearby properties. Based on the foregoing, the animal boarding/pet grooming use will not result in an objectionable condition to adjacent properties resulting from animal noise, odor or waste.

2. Section 802.23 - The animal boarding use shall not abut a Residence District.

The Petco store will not abut a Residence District. The Petco store will abut neighboring retail space within the building on the Property. The Property is surrounded by parcels in the C-M-2, C-M-1, and C-3-C Districts on the south side of New York Avenue; the Property on the north side of New York Avenue is in the M District.

3. Section 802.24 - External yards or other exterior facilities for the keeping of animals shall not be permitted.

There will not be any external yards on the Property, and Petco will not use any exterior facilities on the Property for animal boarding.

B. Special Exception for Pet Grooming

Pursuant to Section 802.25 of the Zoning Regulations, a pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under Section 3104.1, subject to the provisions of Sections 802.25(a) through (d). This application complies with the special exception standards as follows:

1. Section 802.25(a) - The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.

The pet grooming facility will service approximately 15 pets per day. Before and after grooming, pets will be temporarily kept in cages with food and water until they are picked up by their owners. Generally, pets in the grooming facility are picked up within one hour of the service, and the overall stay for a pet is rarely more than a few hours. Pets that are visiting the store for pet grooming will generate a small amount of waste only. The trash facility will have sufficient capacity for the animal waste and will be able to store it without creating any adverse impacts to nearby properties. Based on the foregoing, the animal boarding/pet grooming use will not result in an objectionable condition to adjacent properties resulting from animal noise, odor or waste.

2. Section 802.25(b) - All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system.

Petco will maintain a rigorous routine to remove and clean pet waste as quickly as possible in order to protect the health and safety of humans and animals. Store employees will remove waste from all animal habitats in the morning and evening, at least twice per day. Each habitat will also be deep cleaned twice per week, which includes removing and sanitizing all glass, trays, and dividers. Furthermore, staff members will perform hourly walks 12 times per day to ensure that if waste build-up occurs it is removed immediately. These walks will also allow employees to identify any waste on the store floor in need of clean up. Several waste cleanup stations will be provided throughout the store for immediate clean up if a visiting pet creates waste. Furthermore, the Petco District Manager and Regional Animal Care Manager will conduct evaluations of the store's animal care and waste removal standards at a minimum of

once per month. Odor will also be controlled by means of an air filtration system such as HEPA filtration or an equivalent by effective odor control system.

Once collected and retained within the store, all pet waste will be transferred in closed bags at least once daily to the trash facility located near the loading area for the building and collected at least once per week by a qualified waste disposal company. Animal waste odor will not be detectable to other nearby properties because only a minimal amount of waste will be generated from the small animals sold at the store and visiting pets and because the trash facility is internal to the project as shown on the floor plan attached as Exhibit D. The trash facility will have sufficient capacity for the animal waste and will be able to store it without creating any adverse impacts to nearby properties.

3. Section 802.25(c) - The pet grooming establishment shall not abut an existing residential use or Residence District.

The proposed Petco store will not abut an existing residential use or Residence District. Further, other than the retail spaces within the building on the Property, the establishment does not abut any other use. The Property is surrounded by properties in the C-M-2, C-M-1, and C-3-C Districts on the south side of New York Avenue. The north side of New York Avenue is in the M District.

4. Section 802.25(d) - External yards or other exterior facilities for the keeping of animals shall not be permitted.

There will not be any external yards on the Property, and Petco will not use any exterior facilities of the Property for pet grooming.

C. Special Exception for Pet Shop

Pursuant to Section 802.26 of the Zoning Regulations, a pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under Section 3104.1, subject

to the provisions of Sections 802.26(a) through 802.26(c). This application complies with the special exception standards as follows:

1. Section 802.26(a) - The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.

The pet sales at the Petco store will be limited to small animals (e.g., birds, fish, gerbils, guinea pigs, hamsters, mice); no dogs or cats will be sold at the store. Only a relatively small amount of waste will be generated by the animals sold at the store. Once collected and retained within the store, all pet waste will be transferred in closed bags at least once daily to the trash facility located near the loading area for the building and collected at least once per week by a qualified waste disposal company. The trash facility will have sufficient capacity for the animal waste and will be able to store it without creating any adverse impacts to nearby properties.

Petco will maintain a rigorous routine to remove and clean pet waste as quickly as possible in order to protect the health and safety of humans and animals. Store employees will remove waste from all animal habitats in the morning and evening, at least twice per day. Each habitat will also be deep cleaned twice per week, which includes removing and sanitizing all glass, trays, and dividers. Furthermore, staff members will perform hourly walks 12 times per day to ensure that if waste build-up occurs it is removed immediately. These walks will also allow employees to identify any waste on the store floor in need of clean up. Several waste cleanup stations will be provided throughout the store for immediate clean up if a visiting pet creates waste. Furthermore, the Petco District Manager and Regional Animal Care Manager will conduct evaluations of the store's animal care and waste removal standards at a minimum of once per month. Odor will also be controlled by means of an air filtration system such as HEPA filtration or an equivalent by effective odor control system.

2. Section 802.26(b) - The pet shop shall not abut an existing residential use or a Residence District.

Petco will not abut an existing residential use or Residence District. Further, other than the retail spaces within the building on the Property, the establishment does not abut any other use. The Property is surrounded by properties in the C-M-2, C-M-1, and C-3-C Districts on the south side of New York Avenue. The north side of New York Avenue is in the M District.

3. Section 802.26(c) - External yards or other external facilities for the keeping of animals shall not be permitted.

There will not be any external yards on the Property, and Petco will not use any other external facilities on the Property for the animal shelter use.

V. COMMUNITY SUPPORT

The Applicant has support for the proposed uses from the surrounding community. At its regularly scheduled, duly noticed public meeting on June 10, 2014, at which a quorum was present, ANC 5D voted 5-0-0 to support the application. A copy of the ANC letter of support is attached as Exhibit B.

VI. WITNESSES

1. Dante Fratarcangelo, Petco, Director of Real Estate, Mid Atlantic

VII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted

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