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FILE NO: 49658.000004

July 31, 2006

By Hand Delivery

Zoning Commission of the District of Columbia
Suite 210
441 Fourth Street, N.W.
Washington, DC 20001
ATTN: Sharon Schellin

**ZONING COMMISSION
District of Columbia**

CASE NO. 05-21A
EXHIBIT NO. 18

Re: Z.C. Case No. 05-21A
(Proposed Text Amendments Regarding inter alia Veterinary Hospitals)

Dear Commission Members:

The Commission left the record open in this case for further submissions until July 31, 2006. Enclosed please find the following in opposition to the proposed text amendments insofar as they require a special exception for a veterinary hospital, whether a general practice or specialty emergency practice:

1. The written testimony of Dr. Bruce Herwald, in opposition to the requirement of a special exception for the establishment of a veterinary clinic in the District of Columbia. This is the revised version of the written testimony he provided at the Commission's June 29, 2006 hearing in this case.¹

2. New testimony from Dr. Herwald, Dr. Steven Rosenthal, and Dr. Matthew Antkowiak which relates specifically to the need for a specialty emergency veterinary practice in the District of Columbia without the requirement of a special exception. There is currently no such practice in the District of Columbia which is not associated with a general practice.

¹ The revised testimony indicates that Dr. Herwald has been a licensed and federally accredited veterinarian in the District of Columbia for over 20 years and that the emergency vet hospital in Friendship Heights is not a dedicated facility for veterinary specialties.



Zoning Commission of the District of Columbia
July 31, 2006
Page 2

3. A letter from the American Veterinary Medical Association ("AVMA"), national chapter, in opposition to the requirement of a special exception for veterinary hospitals/clinics in the District of Columbia is enclosed. This is in addition to the letter in opposition to the same requirement submitted by the District of Columbia Veterinary Medical Association, which is the local chapter of the AVMA.

Thank you for the opportunity to present this additional information.

Sincerely,

A handwritten signature in cursive script that reads "Richard L. Aguglia".

Richard L. Aguglia

cc: Dr. Bruce Herwald
Dr. Steven Rosenthal
Dr. Matthew Antkowiak
Jennifer Steingasser/Office of Planning
Steve Mordfin/Office of Planning

**TESTIMONY OF DR. BRUCE HERWALD BEFORE
THE ZONING COMMISSION OF THE DISTRICT OF COLUMBIA
ON CASE NO. 05-21A PROPOSED TEXT AMENDMENTS
INVOLVING VETERINARY HOSPITALS**

Dear Commission Members:

My name is Dr. Bruce Herwald and I have been a licensed and federally accredited veterinarian in the District of Columbia for over 20 years with hospitals/clinics on Capitol Hill, Dupont Circle and MacArthur Boulevard. I am a graduate of the University of Pennsylvania School of Veterinary Medicine. I appear before you today in opposition to those portions of the proposed text amendments that affect veterinarians. The Commission will appreciate that as more people flock to live in the District, the District must provide certain services to retain them, such as veterinary hospitals and clinics. While I agree from a neighborly perspective that such hospitals and clinics should not board dogs because of the noise and waste products associated with them, that limitation should not apply to “pocket” animals such as gerbils and hamsters, nor cats, ferrets, birds, and rabbits. None of these animals pose noise or pollution problems to neighbors; and are not allowed outside the hospital premises.

Accordingly, I suggest that the definition of “Veterinary Hospital” be revised as follows:

“An establishment used by a licensed veterinarian for the practice of veterinary medicine, as well as boarding of animals but not as a primary boarding establishment for dogs, which may also provide overnight care for animals including dogs as part of their medical care. The boarding of animals other than dogs must be an accessory use not in excess of 50% of the useable space of the building where boarded.”

However, the larger problem with the proposed regulations is to remove veterinary hospitals as a matter of right in the C-2 through C-4 zones and requiring that they be permitted only as a special exception in those zones as well as the industrial zones. This “draconian” approach is a throwback to the early 1900s when veterinarians were not considered real doctors

and appears to be related to the “doggy day care” problems experienced in some residential zones, and goes too far. The Commission should note that there have not been such occurrences reported for current District of Colombia veterinary facilities to my knowledge. As I mentioned before, veterinary hospitals would not be allowed to board dogs under my proposed definition unless such “boarding” was for hospitalization for a short period related solely to medical care; and under such circumstances should be allowed as a matter of right in the C-2, C-3, C-4, CM and M zones. The Commission needs to keep in mind that pets come from peoples’ homes and not office buildings; and that veterinary services need to be in close proximity to residential neighborhoods.

An unfortunate, unintended outcome of the proposed regulations if passed as currently written is that there will be no new veterinary hospitals in the District if a special exception is required. Landowners and landlords will be loath to tie up their properties for six months to a year based on a contingency that the prospective buyer or tenant obtain the special exception as a condition to closing. So the Commission should view this proposal as one that does not serve the interests of the District’s burgeoning and pet-loving population.

Finally, I request that the Commission allow specialty and emergency veterinary hospitals to be located in the C-2, C-3, C-4, CM and M zones in the District as a matter of right with the limitation that there be no animal boarding of any kind other than that related to medical care. Currently, there is only one such facility in the District in Friendship Heights, however, it is not a dedicated facility for specialty care, but a general practice. These types of facilities are utilized for pets in either non-emergency specialties, such as ophthalmology and dermatology, or emergency life threatening situations, such as hit-by-cars or bowel obstructions.

I thank the Commission for this opportunity to speak and am open to any questions it may have.

cc: Office of Planning
Jennifer Steingasser
Steve Mordfin

Supplemental Written Testimony of
Dr. Bruce Herwald In Opposition To
The Proposed Text Amendments
in Z.C. Case No. 05-21A
As They Relate to Vet Hospitals

Dear Commission Members:

In supplement to my written and oral testimony before this Commission on June 29, 2006, please be advised of the following:

1. The District currently has no dedicated specialty/emergency veterinary hospital for small animals, noting that the emergency veterinary clinic in Friendship Heights is part of a general practice and is not composed of the various specialties in a state-of-the-art veterinary practice, such as:

- ophthalmology
- cardiology
- dermatology
- oncology
- neurology
- orthopedics
- advanced soft tissue surgery
- emergency medicine/critical care
- internal medicine.

2. I hope to establish such a specialty practice in the District of Columbia on a referral basis in conjunction with other veterinarians from the area. If the Commission makes the establishment of such a facility subject to a special exception process, there is little hope of placing one in the District, as landlords or sellers will be reticent to accept a contingency lease or contract subject to zoning approval that takes their property off of the open market for an extended period of time, i.e., at least six (6) months. Given the size, considerable expense and central commercial location needed for such a project, the extra burden of obtaining a special exception would effectively eliminate any realistic ability to ever have such a desirable institution within the District of Colombia.

3. I envision that the specialty/emergency hospital will be staffed with some 20 to 25 veterinarians with sufficient support staff -- in short, a first class operation offering the best doctors for small animal medicine/surgery in the region, generating new jobs and revenues within the District proper.

4. There are to be no pets electively boarded at this special purpose veterinary hospital (as opposed to sick, hospitalized patients); and it will be located as such within a commercial zone according to current zoning regulations, unlike the existing Friendship Heights facility which was "grandfathered" in a mixed residential/commercial location.

5. As the District's population enlarges, so too will its pets with an accompanying need for a veterinary center in an accessible central location. To the best of my knowledge, every other major U.S. city (e.g. Boston, New York City, Philadelphia) has an emergency/specialty veterinary institution for small animals within its city boundaries.

I suggest that the Commission not lose this opportunity for the District to the suburbs and permit this specialty practice as a matter of right in the commercial (C-2; C-3 and C-4) and industrial (CM&M) zones.

Dr. Bruce Herwald

Written Testimony of
Dr. Steven Rosenthal in Opposition To
The Proposed Text Amendments
in Z.C. Case No. 05-21A
As They Relate to Vet Hospitals

Dear Commission Members:

My name is Dr. Steven Rosenthal and I am a practicing veterinary cardiologist in the DC metropolitan area. In addition to the remarks of my colleagues, Drs. Herwald and Antkowiak, I draw to the Commission's attention that the Friendship Animal Hospital has no full-time specialists in surgery, ophthalmology, cardiology, or dentistry for small animals. There is no full-time specialty group of veterinarians practicing in the District of Columbia in a single location.

If the Commission makes the establishment of such a practice a special exception requirement, there is little likelihood that this much needed special practice will evolve in the District of Columbia, but will be lost to the suburbs.

Dr. Steven Rosenthal

Supplemental Written Testimony of
Dr. Matthew Antkowiak In Opposition To
The Proposed Text Amendments
in Z.C. Case No. 05-21A
As They Relate to Vet Hospitals

Dear Commission Members:

In supplement to Dr. Herwald's written and oral testimony before this Commission on June 29, 2006, please be advised of the following:

The District's population is blossoming. As a proud District resident for 8 years, I see the overall quality of my life and others in the District improving. In general, there is a direct positive correlation between pet ownership and improving quality of life. As people increase their discretionary income, they are more able to afford pets and caring for them. I do not want to see current and future pet owners and their growing pet population need to leave the District to find advanced or emergency care for their pets.

DC is one of the few major metropolitan cities that does not contain a true 24 hour specialty and emergency hospital. New York City, Chicago, LA, Boston, Dallas and many more all contain one or more of these types of facilities within the confines of their city limits.

The District currently houses only one 24 hour veterinary facility. This facility is a combination 24 hour emergency center as well as a general practice, not a true specialty practice. The facility is located deep in northwest, far from the center and eastern portions of the city. Areas that have recently shown the greatest population growth and the greatest property value increase. Many of these District residents are forced to turn to 24 hour, specialty clinics in Maryland and Northern Virginia if they need emergency or specialty care for their pets. The closest of these clinics is 35-60 minutes away. I know this to be true as I currently practice emergency medicine at one of these hospitals (SouthPaws Veterinary Specialists and Emergency Center in Fairfax, VA) and have many clients that come to us from my own neighborhood of Capitol Hill. Their repeated lament is "Why is there nothing like this in a major city like DC?"

It is my dream to someday be able to bring a specialty practice such as this, one that has been shown to thrive in the right environment, to the District of Columbia. This 24 hour, specialty facility would be able to provide top quality veterinary emergency and specialty care to the District's residents and allow them to do so in a location more convenient and accessible than is currently available.

As an aside, DC has many veterinary professionals currently living within the District who must seek employment outside the District as there is currently no true specialty practice/emergency opportunities within the city limits. This proposed clinic would provide numerous job opportunities for veterinary specialists and their support staff.

The District of Columbia needs a true 24 hour emergency and specialty hospital.

I echo the thoughts of my colleague, Dr. Herwald: "If the Commission makes the establishment of such a practice subject to a special exception process, there is little hope of placing one in the District, as landlords or sellers will be reticent to accept a contingency lease or contract subject to zoning approval that takes their property off of the open market for an extended period of time, e.g., at least six (6) months."

I highly recommend that the Commission not continue to give the suburbs of northern Virginia and southern Maryland the upper hand and permit this specialty practice as a matter of right in the commercial (C-2; C-3 and C-4) and industrial (CM&M) zones.

Dr. Matthew Antkowiak
Emergency and Critical Care
1217 Constitution Ave NE
Washington, DC 20002

AVMA



American Veterinary Medical Association

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July 27, 2006

Secretary of the Zoning Commission
Office of Zoning, Suite 210
4th Street, N.W.
Washington, DC 20001

Case No. 05-21A

The American Veterinary Medical Association (AVMA) joins the District of Columbia Veterinary Medical Association in urging the Commission not to adopt the above-referenced amendments to the zoning regulations, as currently proposed. These amendments would require special exception uses for veterinary hospitals within C-2, C-3, C-4, C-M and M Zone Districts.

This unusually burdensome zoning regulation would prevent the development of new veterinary medical facilities that play a vital role in protecting animal and human health in the District of Columbia. As written, even renovations and expansion of current facilities would be affected. As demand for veterinary services is growing, this proposal will adversely impact access to those services, especially in developing areas of the city that are underserved currently.

We understand that the purpose of the proposed zoning regulation is to address inappropriate boarding of dogs. If that's the case, we ask to Commission to craft a regulation that will accomplish that purpose narrowly through public nuisance, noise, or waste removal ordinances. This will avoid placing an undue burden on veterinary hospitals and clinics and the resulting harm to animals, their owners and public health.

The AVMA was established in 1863 and is the largest veterinary medical association in the world. As a not-for-profit association established to advance the science and art of veterinary medicine, AVMA is the recognized national voice for the veterinary profession. The association's more than 73,000 members represent approximately 85% of U.S. veterinarians and are involved in all areas of veterinary medical practice including private, corporate, academic, industrial, governmental, military, and public health services.

Please do not hesitate to contact Dr. Bonnie Buntain, President of the DC Veterinary Medical Association at phone 202-544-5034 or via email: buntain104@verizon.net regarding this matter and Dr. Sal Cirone, D. C. Delegate to the American Veterinary Medical Association via email: SalCirone@comcast.net.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Adrian Hochstadt".

Adrian Hochstadt, JD,
Assistant Director, State Legislative and Regulatory Affairs
American Veterinary Medical Association
Tel: 847-285-6780
Email: ahochstadt@avma.org