

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

**Application for 1700 Columbia Road, NW
(Square 2565, Lot 52)**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by MR 1700 Columbia Retail LLC (the “Applicant”) in support of its application pursuant to 11-C DCMR §513.1(I), for special exception relief to allow a veterinary hospital on the property located in the MU-5A zone district at 1700 Columbia Road, NW (Square 2565, Lot 52) (the “Property”).

Pursuant to 11-Y § 300.15 of the Zoning Regulations, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or the “Board”) no fewer than 21 days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested special exception relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

I. Background

A. The Site and Surrounding Property

The Property is an irregularly shaped lot at the intersection of Columbia Road and 17th Street, NW, with frontage along both streets. It is improved with a six-story mixed use building with 9,160 square feet of retail at the ground level and an apartment house with 80 units above. The existing retail uses include an ACE Hardware store and Solidcore fitness studio, both of which are accessed from Columbia Road. There is a vacant retail space with approximately 2,545 square feet of floor area, at the corner of Columbia Road and 17th Street, which is the proposed location of the veterinary hospital that is the subject of this application.

The Property is located among a number of retail uses that line Columbia Road and across the street from residential buildings that vary from three to seven stories in height. The parcels located to the south of the Property in Square 2565 are comprised primarily of medium density apartment houses and row dwellings. H.D. Cooke Elementary School is also located just south of the Property at 2525 17th Street, NW.

B. Proposed Veterinary Hospital Use

The floor plan for the proposed veterinary hospital is attached as Exhibit A. The veterinary hospital will occupy approximately 2,545 square feet of floor area. The main entrance to the facility will be on 17th Street, and leads into a spacious lobby/reception area. The veterinary

hospital will include four exam rooms, a surgery room, separate canine and feline wards, an x-ray area and laboratory areas.

II. Special Exception Relief

A. Standard of Review

Pursuant to D.C. Code § 6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant special exceptions where it finds the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and will meet such special conditions as may be specified in 11-Z DCMR, Chapter 9. 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 requested relief 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 regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. 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.*

B. Special Exception Standards for Veterinary Hospital Use

On April 12, 2018, the Zoning Commission approved, on an emergency basis, text amendments set forth in Zoning Commission Case No. 18-02, which amended Subtitle U, Chapter 5, Use Groups C, D, and E to permit veterinary hospitals and veterinary boarding hospitals as special exception uses when located within mixed use buildings that include residential uses. The amendments included Subtitle U, Section 513.1(1), which now reads as follows:

(1) Veterinary office or hospital, or veterinary boarding hospital subject to the following conditions:

- (1) A veterinary hospital or veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(j)(1);*
- (2) No more than fifty percent (50%) of the gross floor area of the veterinary hospital may be devoted to the boarding of animals subject to the spacing requirements of Subtitle U § 513.2(a);*
- (3) The veterinary hospital or veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;*
- (4) The veterinary hospital or veterinary boarding hospital shall not about an existing residential use or a residential zone; unless the existing residential use is in a mixed use building and the Applicant demonstrates that:*

- (A) *The building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;*
- (B) *The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use shall be solid core;*
- (C) *Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least twice weekly;*
- (D) *Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and*
- (E) *Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable; and*
- (5) *External yards or other external facilities for the keeping of animals shall not be permitted; and*
- (6) *Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and*
- (7) *The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.*

The Applicant meets the foregoing special exception criteria as follows:

- (1) A veterinary hospital or veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(j)(1).

The proposed veterinary hospital will only board animals permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code §8-1808(j)(1).

- (2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals subject to the spacing requirements of Subtitle U § 513.2(a).

The proposed veterinary hospital intends to have incidental boarding of animals as necessary for convalescence. In the event that the veterinary hospital provides boarding in the future, as an independent line of business (veterinary boarding hospital), no more than 50% of the gross floor area of the operation will be devoted to the boarding of animals.

(3) The veterinary hospital or veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste.

The proposed veterinary hospital will be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor or waste. The hospital will be situated at the corner of the Property, at the intersection of Columbia Road and 17th Street. There are no other properties adjacent to this section of the building.

As it relates to the other uses within the building, the veterinary hospital will include sound dampening walls from the finished floor to the floor deck above, in order to mitigate any noise from the veterinary hospital on the adjacent hardware store and the lobby area to the apartment building. The ceiling for the veterinary hospital will be insulated with 6" thick R-19 fiberglass batt insulation. The veterinary hospital is not expected to generate a significant amount of animal waste. Animal waste and other waste generated by the veterinary hospital will be placed in enclosed containers in a trash room in a service and loading area at the rear of the property.

(4)(A) The building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation.

The veterinary hospital build out will include a sound mitigation wall in addition to any demising wall adjacent to any other tenant in the building. The sound mitigation wall will be held 1" off of the existing demising wall to trap low and high frequency sound waves. Also, the sound mitigation wall shall be constructed with 3 5/8" metal studs, insulated with 3-1/2" batt insulation and layered with Sound Break XP sheetrock.

(4)(B) The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use shall be solid core.

The windows and doors of the space devoted to the veterinary hospital shall be kept closed, except for the entrance to the veterinary hospital off 17th Street. There will be no doors for the hospital that face a residential use.

(4)(C) Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least twice weekly.

Unlike a boarding use, a veterinary hospital does not generate significant amounts of animal waste. What little animal waste and other waste that is generated by the veterinary hospital will be placed in enclosed containers in an enclosed trash room in a service and loading area at the rear of the property.

(4)(D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system.

The air system for the veterinary hospital will be fitted with carbon filters and/or fans to control odors within the facility.

(4)(E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable.

FRP (fiberglass reinforced plastic) will cover all walls in the wet areas of the lab space, dog runs, maintenance rooms, and treatment area. FRP is the most common material used in commercial construction for designated “wet areas”.

(5) External yards or other external facilities for the keeping of animals shall not be permitted.

The veterinary hospital will not have external yards or other external facilities for the keeping of animals.

C. General Special Exception Standards under 11-C DCMR § 901.2

The Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

This application is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps in that it promotes a neighborhood serving use, which is encouraged in mixed use zone districts. Also, the proposed veterinary hospital is situated in that portion of the building that is located furthest from any neighboring property and, therefore, will not tend to affect adversely the use of those neighboring properties. Finally, as discussed above, the veterinary hospital operation will take appropriate measures to mitigate any potential adverse impacts on the other uses in the building.

III. Affected Advisory Neighborhood Commission

As required under 11-Y § 300.8(1), the Applicant, through communication with the single member district representative for ANC 1C-06, Commissioner Brendan Reardon, has apprised Advisory Neighborhood Commission (“ANC”) 1C of this request for special exception approval. The Applicant will serve ANC 1C a copy of this statement and subsequent filings. The Applicant will also present the application to the ANC 1C Planning, Zoning and Transportation Committee and the full ANC at their next available public meetings.

IV. Additional Requirements of Subtitle Y, Section 300.8 of the Zoning Regulations

A. Floor Plan of the Proposed Use. In accordance with Subtitle Y, § 300.8(c), the floor plan for the proposed veterinary hospital is attached as Exhibit A of this statement.

B. Statement of Existing and Intended Uses. In accordance with Subtitle Y, § 300.8(d), a statement of the existing and intended use of that portion of the Property that is the subject of the application is attached as Exhibit B of this statement.

C. Photos of the Subject Property. In accordance with Subtitle Y, § 300.8(f), photos of the Property are attached as Exhibit C of this statement.

D. Witnesses Prepared to Testify on Behalf of the Applicant. In accordance with Subtitle Y, § 300.8(j), the list of persons who will testify on behalf of the Applicant is attached as Exhibit D of this statement. An outline of the witness' testimony is also attached Exhibit D, in accordance with Subtitle Y, § 300.8(k).

E. Lessee Information. In accordance with Subtitle Y, § 300.8(h), the name and address of the person/entity having a lease with the owner for that part of the property involved in the application will be submitted not less than 21 days prior to the public hearing on the application.

F. Certificates of Occupancy. In accordance with Subtitle Y, § 300.8(i), a copy of the certificate of occupancy for the apartment house and the fitness studio at the Property are attached as Exhibit E of this statement. A copy of the certificate of occupancy for the hardware store use has been requested and will be submitted not less than 21 days prior to the public hearing on the application.

G. List of Maps, Plans or Other Documents Readily Available. In accordance with Subtitle Y § 300.8(m) of the Zoning Regulations, a list of the maps, plans, or other documents that are readily available to the general public and that may be offered into evidence at the public hearing is attached as Exhibit F of this statement.

H. Names and Addresses of Owners of Property Within 200 Feet of the Subject Property. In accordance with Subtitle Y § 300.8(g), a list of the names and addresses of the owners of all of the property located within two hundred feet (200') of the Property is attached as Exhibit G of this statement.