

**MEMORANDUM**

DATE: September 2, 2004
TO: Montgomery County Planning Board
VIA: Richard Hawthorne, Acting Chief ~~OK~~
 Development Review
 John Carter, Chief, Community-Based Planning
 Carlton Gilbert, Zoning Supervisor

FROM: Margaret K. Rifkin, RLA, AICP, Planner Coordinator *MKR*
 Community-Based Planning (301-495-4583)

REVIEW TYPE: Special Exception

APPLYING FOR: Pet Shop, Animal Boarding Place, Veterinary Hospital
APPLICANT: PetsMart, Inc.
CASE NUMBERS: S-2610, S-2611, S-2612
REVIEW BASIS: Chapter 59, Zoning Ordinance
ZONE: CBD-1 – Optional Method
LOCATION: 4605 Bradley Boulevard, Bethesda
MASTER PLAN: Bethesda CBD Sector Plan

FILING DATE: March 8, 2004
PLANNING BOARD: September 9, 2004
PUBLIC HEARING: September 27, 2004

STAFF RECOMMENDATION: Approval with conditions.

1. All evidence, testimony and exhibits of record shall bind the petitioner.
2. All conditions of approval of project plan, site plan and preliminary plan shall remain in effect.
3. Any pet waste or litter placed in the dumpster shall be sealed in bags or other containers.

4. Provide signs saying when the parking lot is full and where there are nearby public parking facilities. Provide four rezoned spaces near an entrance.
5. Any new exterior exhaust vents and fans shall be located on the roof along Wisconsin Avenue away from the Bethesda View and Strathmore multi-family residences.
6. Additional features for ventilation for the enclosed adoption area shall be provided. Locate ceiling vents providing air circulation within 10 feet of the top of the adoption enclosure. Provide an open wire grid or similarly open top, for the plexiglass "cat play habitat".

PROJECT SUMMARY

The Planning Board is asked to approve these three special exception uses within an existing building. The existing building will become part of a new development recently approved by the Planning Board, Bethesda View. The Planning Board's approval of the new development included a project plan #9-04001, preliminary plan #1-04017 and site plan #8-04024.

Neighborhood Description - Most of the neighborhood is within the Bethesda Central Business District (CBD). The neighborhood is bounded on three sides by existing streets: Nottingham Drive to the south, Leland Street to the north and Strathmore Street on the west. To the east, on the opposite side of Wisconsin Avenue the neighborhood includes the area within the CBD-1 Zone comprised of the uses facing Wisconsin Avenue. The uses in the neighborhood are primarily mixed (commercial and multi-family residential), and institutional.

(Attachment 2)

Adjacent Land Uses and Zones -To the north Bethesda View, a new high rise building has been approved in the CBD-1 zone. It will be residential with retail on the ground level along Wisconsin Avenue. It will be on an existing surface parking lot and incorporate a portion of the building where the PetsMart proposes to locate. To the northwest are apartments in the R-10 zone. To the east, across Wisconsin Avenue and in the CBD-1 zone are a mix of office, specialty retail and parking and a church. Diagonally across from this site is a country club golf course in the R-60 zone. Across Bradley Boulevard to the south, are a firehouse and The Barkley Apartments in the R-10 zone. **(Attachment 3)**

Other Approved Special Exceptions in One-family Residential Areas: The neighborhood includes no one-family residential areas. The neighborhood is mixed use, multi family residential and public and private institutional uses.

Site Description

The PetsMart is proposed for a space within an existing commercial building at the southern tip of the Bethesda CBD. It is at the corner of Wisconsin Avenue and Bradley Boulevard. Pedestrian access is from both streets. The site slopes away from Wisconsin Avenue. Street-level at Bradley Boulevard is one level below Wisconsin Avenue. The PetsMart is proposed for a space facing Bradley Boulevard. There is a loading area and ramp to underground parking accessed from Bradley Boulevard and an alley. There is also a "lay-by" area along Bradley Boulevard for dropping off passengers. The approved development for this site will include a public use space at the Bradley Boulevard entrance.

Proposal Description And Elements Of Proposal

The proposal is for the reuse of an existing commercial space as a pet shop, animal boarding place, and veterinary hospital. The requested uses total 32,921 square feet and include:

Use	Area	Percent
Pet Shop	21,436 SF	65%
Veterinary Hospital	2,053 SF	6%
Animal Boarding Place	9,432 SF	29%
TOTAL PetsMart	32,921 SF	100%

The existing building is part of an approved project "Bethesda View." Bethesda View has received Planning Board approval as Project Plan # 9-04001, Preliminary Plan # 1-04017 and Site Plan #-8-04024 . It includes both residential and retail. The retail includes the existing space where PetsMart proposes to locate and totals 125,383 square feet. PetsMart proposed to occupy 26% of that total retail space. Bethesda View will provide 92 new apartments and 386 garage parking spaces to support both the residential and commercial uses. This is reflected in the Planning Board's opinion. **(Attachment 7)**

The PetsMart Store includes a sales area and accessory services: a grooming area, training area, and adoption area in addition to the animal boarding (PetsHotel) and veterinary clinic. **(Attachment 6)** PetsMart does not generally provide overnight hospital services. Surgeries requiring overnight stays are typically referred outside of the PetsMart veterinary clinic.

The PetsMart allows non-profit animal rescue agencies to come in and use space that is typically reserved for retail purposes. The area for cats is a fixed location. Cats may remain overnight. The dog training area is located within the animal boarding area of the store. At full capacity, PetsMart can accommodate over 200 guest cats and dogs. How many can be accommodated for each use is shown in the following table.

Use	Pet Capacity
Boarding (PetsHotel)	39 cats & 153 dogs
Veterinary Clinic	8
Grooming	8
Adoption	~8 cats
Training Classes	8 dogs
Total	200+

The hours that each of the uses will be open to the public are exactly the same. They are:

Monday-Saturday	7:00 A.M. – 9:00 P.M.
Sunday	7:00 A.M. – 7:00 P.M.

There would be one employee on-site 24-hours a day for the animal boarding place. In an emergency a staff person for the veterinary clinic may need to stay on the premises overnight. The animal boarding place provides both overnight and daycare. PetsMart employs 23-32 employees with 11-15 working within the pet shop area. Up to two thirds of the employees may be working at one time.

Parking will be provided per the approved site plan. 250 on-site spaces are provided for shared use by all the retail uses on the site. The property owner has agreed to contribute to the parking district in accordance with the Parking Lot District Policy 59-E-5.2. An analysis of the parking from the site plan review is provided. (Attachment 8)

ADDITIONAL REVIEW REQUIREMENTS

There are no additional review requirements by other agencies associated with this special exception. The Planning Board has already reviewed and approved Project Plan # 9-04001, Preliminary Plan # 1-04017 and Site Plan #-8-04024 for the Bethesda View project, in which this use is proposed.

ISSUES

Issues concern adequacy of on-site parking for transfer of pets, ensuring that any pet waste or litter placed in the dumpster is fully sealed, noise mitigation through the appropriate location of air handling systems on the roof and adequate ventilation for the cat adoption area. These are addresses in the recommend conditions of approval.

ANALYSIS

Master Plan

The proposed uses are consistent with the land use objectives in the Bethesda CBD Sector Plan for this area: "support a diverse specialty and community-serving retail environment". (Page 124 The Wisconsin South Corridor). The pet

shop is the primary use and provides community-serving retail. The animal boarding place and veterinary hospital are uses logically associated with full-service pet care centers. They provide services to the downtown Bethesda residential community.

There are two pet shops in the Bethesda CBD at this time and there are three veterinary hospitals/clinics. At least one of them also provides boarding services. **(Attachment 2)** There are no other full-service pet shops within the Bethesda CBD that include boarding, grooming and a veterinary clinic on the same premises. In addition, PetsMart offers each of its services seven days a week starting at 7:00 A.M. The proposed pet shop will contribute to, rather than detract from the diversity of services in the neighborhood.

Development Standards

The application conforms to the Development Standards in the Zoning Ordinance. This finding was made for Site Plan #-8-04024 by the Planning Board. The proposed uses are permissible special exception uses in the CBD-1 zone under the optional method of development. The *"Analysis of Conformance to Development Standards"*, from the site plan staff report and the site plan opinion are still applicable. **(Attachment 7)** The analysis of conformance to the development standards as required in sections 59-G-2.02, 59-G-2.32 and 59-G-2.41 of the Zoning Ordinance for these three special exception uses are included in this report. **(Attachment 1)**

The development standards for Pet Shops (59-G-2.41) requires *"...that all animal pens have glass enclosed fronts and each pen or cage shall be connected to an outside ventilating system or other appropriate air filtration system...."*

Ventilation provisions for the enclosed cat adoption area include wire-backed cat "cottages." If a roof, or top, for the adoption area is necessary, it should allow generous air flow. An "egg crate light diffuser" is shown and is adequate. To ensure good air flow within the adoption area, the vents providing air circulation for the retail area of the store, should be located within 10 feet of the top of the adoption enclosure. The top of the "cat play habitat" should be an open wire grid or comparable design to allow good air flow.

Standard for Evaluation: Inherent and Non-inherent Effects

"59-G-1.2 Conditions for Granting a Special Exception

A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general

neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.”

Inherent Effects

Noise, odors and pathogens are inherent effects. Odors and pathogens might result from animal food, waste, litter, remains and medical waste. Aquariums and the moist environments that surround them can also produce such effects. Noise effects include barking and vocalizing of pets both during transport and within the building. Noise and odors can also result from mitigation measures – odors from strong cleaning agents and noise from ventilation systems to remove odors.

In addition, potential inherent effects on pets include stress and discomfort from being transferred to or confined in a strange environment where they are exposed to unfamiliar animals, behaviors, noises and smells.

Non-Inherent Effects

At a large pet facility such as PetsMart, effects of noise, odors and pathogens, in larger amounts can be considered non-inherent, since they are the result of the physical size and scale of operation. Such effects also include potential effects on pets including stress and discomfort due to the scale of the operation.

All interior areas for the keeping of animals are soundproofed. The veterinary area will have noise attenuating insulation. Six inch batt insulation is used for the full height of the interior walls, and 1 1/2 inch rigid insulation is used for the full height of the exterior walls. The sound attenuation is to prevent sounds from emanating into and out of the treatment rooms. Each treatment room is insulated. This is done to maintain tranquility within the treatment areas. This same material and design is used for the animal boarding area within the store, for the grooming area and for the store as a whole.

In the boarding area, sound insulation is used to create a quiet lobby area for the transfer of pets. It is also used to ensure that cats do not hear dogs that are also boarding. The applicant has agreed to provide 6 inch batt insulation in the ceiling as well as special ceiling tiles, to mitigate noise since there are retail uses directly above.

In addition to noise attenuation for the exterior walls, the location of the uses relative to nearby residential uses will limit noise impacts on residents. The Bethesda View mixed-use project will be an adjacent use. The multi-family component is located on top of a new retail space in a separate building. Because of its location above the new retail, the new multi family is located more than two stories above the adjacent PetsMart.

PetsMart has also provided a noise study that shows that exterior noise levels will be acceptable. This noise study is referenced in the Memorandum from the Environmental Planning Section. (**Attachment 10**)

The retail customer space, veterinary services area, boarding area, and grooming areas are individually engineered and separately ventilated. Advance dual charcoal filter ventilation systems are utilized within the veterinary area, grooming area and boarding area, to prevent odors from emanating into other areas of the PetsMart and to the outside. PetsMart regularly changes the filters. The staff will also hose down sidewalks nearby on a daily basis to address any pet accidents near the store. There is also a charcoal filter located in the Roof Top Unit (RTU).

A letter dated July 19, 2004 (**Attachment 11**) describes in detail the filters used and the schedule for replacing them which ranges from weekly for the grooming area to quarterly for the filter in the RTU.

The location of the exhaust/outtake vents has not been finalized. PetsMart is planning on utilizing the existing building ventilation system as much as possible. Because of the complexity of the proposed separate use ventilation systems, significant enhancements to the system will be necessary. Currently the existing exhaust vents are located on the roof of the existing structure toward the intersection of Bradley Boulevard and Wisconsin Avenue. A condition is recommended that any new exhaust vents and equipment continue to be located along Wisconsin Avenue and away from the multi-family residential uses at Bethesda View and The Strathmore.

In the boarding area, to minimize pet stress PetsMart provides separate dog and cat areas and ventilation systems.

PetsMart will contract with a private company to remove medical waste that is a byproduct of the veterinary services. It will be in compliance with EPA regulations and with State requirements.

PetsMart provides a drain system that allows for the disposal of waste directly into the sanitary sewer system. The boarding area and play areas each have contained locations where pets can relieve themselves that also allow waste to be directly disposed into the sanitary sewer system. Staff routinely cleans the boarding area (approximately every 8 hours) and if there are any pet accidents

the staff immediately cleans the area. Any solid pet waste is scooped and placed within sealed, air tight sanitary plastic containers and removed on a daily basis with the regular trash and placed in the dumpster. The dual charcoal air filtrations system purifies air coming into the building as well as that being exhausted outside the store – this prevent any odors moving from one area to the other.

The PetsMart and its boarding facility will be near traffic noises on Wisconsin Avenue and a fire station with its alarms and sirens. Sound insulation will mitigate traffic noises as well as those from the Fire Station.

There is also lack of access on-site to the outdoors or a natural environment for dogs who are being boarded. Outdoor facilities for the animals on site, are not permitted in the CBD-1 zone. To address this, Indoor exercise facilities are provided in an indoor play room.

The close confines of this urban site and the fact that the dumpster area is the same area that is used for the residential uses could create some undesirable effects if not managed well. The refuse pick-up schedule proposed by PetsMart is daily except for Sunday. Pet waste from the boarding, exercise, and vet areas is disposed of in the sanitary sewer system in specially designed fixtures. However, some waste will be placed in the dumpster, such as litter and that from accidents within the store. The dumpster is located in an enclosed area within the building. A condition is recommended which requires that pet waste and litter be in sealed bags or containers before disposal in the dumpster.

There are also non-inherent effects related to the fact that parking is shared, and limited in amount due to the CBD location. It may be difficult at times, for some people with their pets to access the veterinary clinic if the animal is in distress and the parking lot is full. The nearest public parking facility is on the opposite side of Wisconsin Avenue and 2 blocks away (**Attachment 2**). PetsMart should provide four reserved spaces for people arriving with pets in distress. PetsMart should also investigate providing call-ahead assistance at the drop-off area.

Another non-inherent effect may occur as the result of the size of the boarding facility. This effect would be a high volume of parking turnover at peak times for pet boarders to arrive and depart . This flow might need to be managed through scheduling or setting aside short term parking particularly during the holidays. At a minimum, when the parking lot is full there should be a sign posted directing patrons to nearby public parking facilities. Such a sign is recommended as a condition.

Noise, odors, pathogens and pet stress have been sufficiently mitigated. In addition possible non-inherent effects related to management of pet transfers can be addressed through sensible management if problems occur. Therefore, these non-inherent adverse effects, alone or in conjunction with inherent adverse

effects, are not a sufficient basis to deny these special exceptions: the pet shop, animal boarding place and veterinary hospital.

Transportation

The proposed application meets the requirements of the Local Area Transportation Review (LATR) and Policy Area Review as part of the approval of Site Plan # 8-04024 for Bethesda View. This proposal if implemented, will have no adverse effect on the area roadway conditions. A memorandum from the Transportation Planning is provided. (**Attachment 9**)

Environmental Analysis

The proposed application meets the requirements of the Forest Conservation Law and complies with all other environmental requirements and guidelines. The project is exempt from Forest Conservation Law because it is entirely within an existing building. The CBD-1 zone does not require a noise study for these special exception uses. The applicant volunteered to conduct the noise study and preliminary results indicate that the potential noise level associated with the use will be lower than the 65dBA limit for residential areas. A memorandum from the Environmental Planning is provided. (**Attachment 10**)

Landscaping and Lighting

The proposed landscape and lighting will be adequate safe and efficient. The Planning Board made this finding as part of the review of Site Plan # 8-04024 for Bethesda View. The approved site plan includes improved public use space along Wisconsin Avenue, including street trees, a widened sidewalk and plantings. Along the Bradley Boulevard frontage, two public urban garden plazas will be provided. One is a pedestrian plaza featuring landscaping and seating at the entrance to the proposed PetsMart on Bradley Boulevard which replaces the existing drop off loop. That loop is replaced by a "lay-by" for drop offs that is part of the design of Bradley Boulevard.

The conditions of site plan approval which are stated in the opinion (**Attachment 7**) include the following which will ensure that the lighting is adequate, safe and efficient:

"6. Lighting....

....Provide specifications for exterior building lighting at garage entrances, loading docks, and building entrances;

- a. Provide lighting distribution plans for the garage prior to building permit;*

- b. Provide documentation on hours of operation of night lighting within the public alley way and public use space; provide photometric lighting plan showing light distribution with max/min. ratios; demonstrate that the lighting provided will not trespass to housing unit above or neighboring residences....”*

CONCLUSION

The proposed pet shop, animal boarding place and veterinary hospital should be approved for this location with the recommended conditions.