

IN THE MATTER OF : BEFORE THE
S&C REALTY, LLC and : HOWARD COUNTY
ANIMAL HOSPITAL AT : HEARING EXAMINER
GLENWOOD, INC.
Petitioners : Case No. BA No. 17-009C

.....

ORDER

The undersigned, serving as the Howard County Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure and the Howard County Zoning Regulations, considered a request from Petitioner and owner of the property, S&C REALTY, LLC, dated July 25, 2022, in Board of Appeals Case No. BA No. 17-009C, for a second extension of the time period to obtain building permits and substantially complete all required improvements in connection with a conditional use to expand an approved animal hospital, dog kennel and pet grooming facility, which was granted by the Hearing Examiner in a Decision and Order dated August 2, 2017. (There was no opposition at the hearing in the matter and no one other than Stuart Scheinberg and Charles Crovo testified at the hearing.)

Under Section 130.0.I.3.a. of the Howard County Zoning Regulations, “a Decision and Order approving a Conditional Use shall become void unless a building permit conforming to the plans for which the approval was granted is obtained within two years, and substantial construction in accordance therewith is completed within three years from the date of the decision.” Under Section 130.0.I.3.b., the “Hearing Authority may approve a phasing plan, in which only the first phase of a Conditional Use plan is subject to the time limits given above. The approval for future phases shall become void unless such phases are

completed within a time period specified in the Hearing Authority's Decision and Order.”

Under Section 130.0.I.3.c. of the Howard County Zoning Regulations, “[t]he Hearing Authority may grant as many as two extensions of the time limits given above. The extensions shall be for a period of time not to exceed three years each, and may be granted in accordance with the following procedures:

- (1) A request for an extension shall be submitted by the property owner prior to the expiration of the Conditional Use approval, explaining in detail the steps that have been taken to establish the use.
- (2) The property owner shall certify that a copy of the request for an extension has been sent by certified mail to adjoining property owners and to the addresses given in the official record of the Conditional Use case for all persons who testified at the public hearing on the petition.
- (3) The Hearing Authority shall provide opportunity for oral argument on the request at a work session if requested by any person receiving notice of the request. If no response is received within 15 days of the date of the written notification, a decision on the request may be made by the Hearing Authority without hearing oral argument.
- (4) The Hearing Authority may grant the request if it finds that establishment of the use in accordance with the approved Conditional Use plan has been diligently pursued. If oral argument is presented on the request, the Hearing Authority may deny the request if any of the oral arguments allege that changes have taken place in the circumstances which led to the original decision to approve the Conditional Use.”

In the August 2, 2017, Order, the hearing authority effectively approved a phasing plan and stated: “Petitioner shall obtain a building permit for the construction of either Building 1 or the Building 2 addition within two years of the date of this Decision and Order [August 2, 2019]. Petitioner shall obtain all building permits within four years of the date of this decision and order. [August 2, 2021]”

Prior to August 2, 2019, and in accordance with Section 131.0.1.3.c. of the Howard County Zoning Regulations, the petitioner requested a first extension to obtain building

permits for the construction of either Building 1 or the Building 2 addition within 2 years and to obtain all buildings permits within four years of the Decision and Order dated August 2, 2017, and substantially complete all required improvements. That request was granted in an August 2, 2019, Order which allowed the time for obtaining building permits and the time period for the completion of substantial construction to be EXTENDED until August 2, 2022, to obtain building permits for the construction of either Building 1 or the Building 2 addition, and until August 2, 2024, to obtain all building permits and substantially complete all required improvements.

In its July 25, 2022 extension request, Petitioners request that the “foregoing deadlines for obtaining building permit be extended by three (3) years such that the Petitioner shall be required to obtain a building permit for the construction of either Building 1 or the Building 2 addition within eight (8) years of the date of the Decision and Order (August 2nd, 2025); and the Petitioner shall further obtain all building permits within ten (10) years of the date of the Decision and Order (August 2nd, 2027).”

The Petitioner stated in its request that it has (1) diligently pursued the establishment of the use in accordance with the approved Conditional Use plan; and (2) engaged in ongoing efforts to secure a lease with a specialized veterinary practice to occupy leased space within the expanded building once constructed. Petitioners state that due to the Covid 19 Pandemic and economic uncertainty those negotiations fell short but that there is more stability within the business of veterinary medicine and the plans for expansion are more feasible. Further, the Petitioners state that “Petitioner has met with representatives of the Health Department regarding the additional septic area easement requirements necessary

to support the new building and the building expansion. The Health Department requested that a water meter be installed within the existing building to facilitate the evaluation of the water demand and usage within the Petitioner's veterinary hospital. The Petitioner has installed the water meter as requested and can actively monitor water usage as needed. Finally, the Petitioner obtained budgetary estimates to construct the new building and addition.”

Based upon the foregoing, I find the following.

- (1) The request for an extension was submitted by the property owner on July 26, 2022, prior to the expiration of the first extension of the Conditional Use approval.
- (2) The request explained in detail the steps that have been taken to establish the use.
- (3) The property owner certified that a copy of the request for an extension was sent by certified mail to adjoining property owners and to the addresses given in the official record of the Conditional Use case for all persons who testified at the public hearing on the petition.
- (4) I need not provide opportunity for oral argument on the request as no response has been received within 15 days of the date of the written notification and thus a decision on the request may be made without hearing oral argument.
- (5) Establishment of the use in accordance with the approved Conditional Use plan has been diligently pursued.

WHEREFORE, it is this 24th day of August 2022, by the Howard County Hearing Examiner, ORDERED:

- A. that the request from Petitioner and owner S&C REALTY, LLC dated July 25, 2022, in Board of Appeals Case No. BA No. 17-009C, for a SECOND extension of the time period to obtain building permits for a conditional use to expand an approved animal hospital, dog kennel and pet grooming facility, and to substantially complete all required improvements, which was granted by the Hearing Examiner in a Decision and Order dated August 2, 2017, shall be and hereby is **GRANTED**;
- B. That the time period for obtaining building permits and the time period for the completion of substantial construction as required by Section 131.0.1.3.c. of the Howard County Zoning Regulations be, and the same is hereby **EXTENDED** until **August 2, 2025** to obtain building permits for the construction of either Building 1 or the Building 2 addition and until **August 2, 2027** to obtain all building permits and substantially complete all required improvements, which were approved as part of the Conditional Use.

HOWARD COUNTY HEARING EXAMINER

Katherine L. Taylor

Date Mailed: _____