



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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October 30, 2017

TECHNICAL STAFF REPORT

Hearing Examiner hearing of November 13, 2017

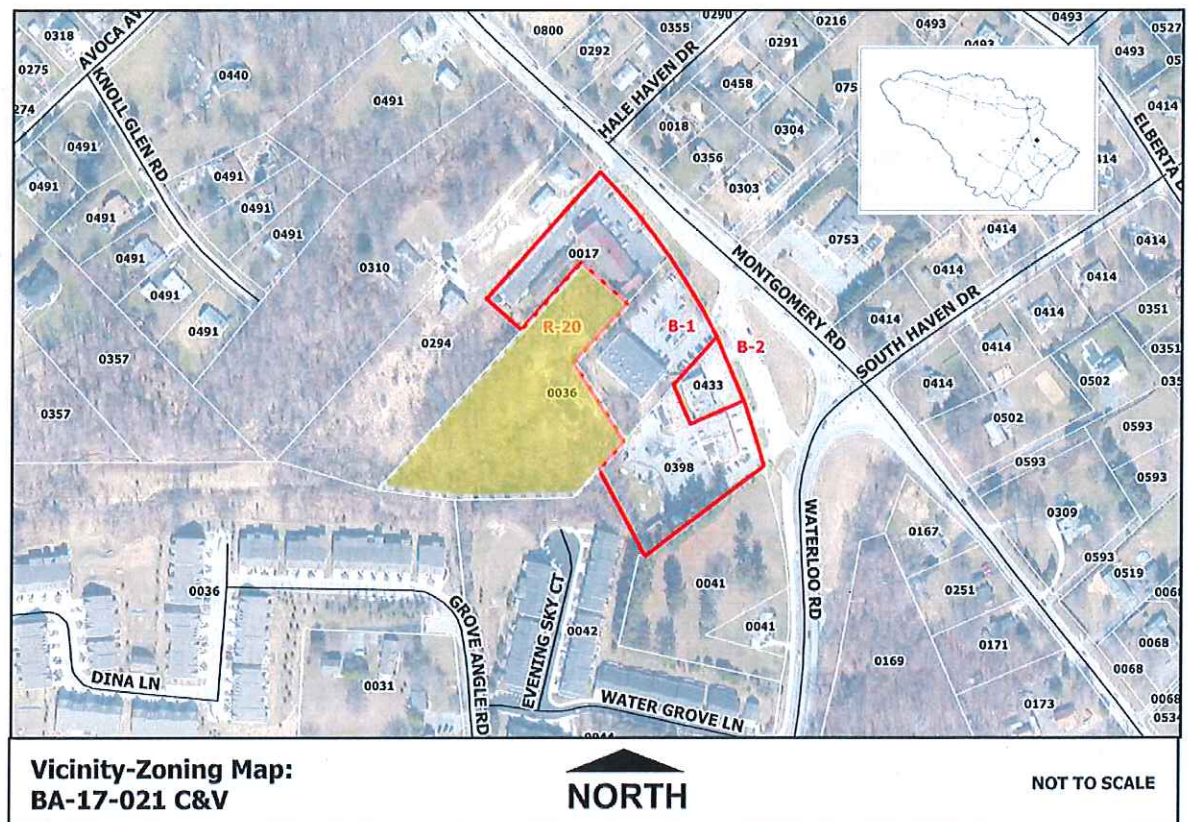
Case No./Petitioner: BA-17-021-C&V – Countryside Doggy DayCare LLC

Request: Conditional Use for a Pet Day Care Facility (Section 131.0.N.39) and Variances to: 1) reduce 30-foot principal structure rear setback to 10 foot (Section 108.0.D.4.c.1.c.i); 2) reduce 20-foot use setback to 0 feet (Section 108.0.D.4.c.2); 3) and reduce the B-1 zoning district 30 foot setback from of a residential district (118.0.D.2.b).

Location: 2nd Election District Southside of Montgomery Road approximately 275 feet Southeast of Hale Haven Drive Currently 4882 Montgomery Road
Tax Map 31, Grid 7, Parcel 36, Lot PAR B
(the "Property")

Conditional Use Area: 1.108 acres

Zoning B-1 (Business: Local) / R-20 (Residential: Single)



**Vicinity-Zoning Map:
BA-17-021 C&V**

NORTH

NOT TO SCALE

I. CONDITIONAL USE PROPOSAL

The Petitioner proposes a Pet Day Care Facility with capacity for 45 dogs within a new 6,525-square foot building consisting of indoor recreation spaces, ancillary office space, and a 10-foot by 160-foot outdoor exercise area. The Pet Day Care Facility will be operated by the owner of the adjacent Countryside Veterinary Clinic. The facility will be staffed with four to six employees and operate 7 am to 7 pm Monday through Friday; 9 am to 2 pm on Saturday and will be closed on Sunday.

The Pet Day Care Facility is depicted on a future one acre lot that will be subdivided from the overall 4.4-acre parcel. Additionally, 0.108 acre of the conditional use area will be located on the remainder of the lot to provide a connection to Parcel 17 (4872 Montgomery Rd) for an access drive/easement to Montgomery Road.

The Petitioner proposes the following variances:

1. Reduce the 30-foot principal structure rear yard setback to 10 feet for a Pet Day Care Facility building.
2. Reduce the 20-foot use setback to 0 feet for a parking lot and driveway.
3. Reduce the 30-foot use setback from a residential district to 29.10 feet for a new driveway connection to Parcel 17.

II. BACKGROUND INFORMATION

A. Site Description

The Property is irregularly-shaped, vacant, and predominantly wooded. The low point is approximately 460 feet at the south property line. The site rises to the north to an elevation of approximately 476 feet. The western portion of the site is predominantly steep slopes associated with stormwater management facilities for the commercial building originally developed on the lot.

The Property does not have direct frontage/access to Montgomery Road, however, access is proposed through the remainder of the lot and a shopping center parking lot on Parcel 17.

B. Vicinal Properties

Direction	Zoning	Land Use
North	B-1 (Business: Local)	Commercial
South	R-20 (Residential: Single)	Forest Conservation / Stream
East	B-1	Commercial
West	B-1 / R-20	Commercial / Single Family Detached

C. Roads

Montgomery Road has two travel lanes and a variable pavement width within a proposed 100 -foot right-of-way. It has a posted speed limit of 40 miles per hour.

Waterloo Road has two travel lanes and a variable pavement width within a proposed 100 -foot right-of-way. It has a posted speed limit of 45 miles per hour.

The sight distance to the east from the existing driveway is about 250 feet due to the curve of the road and the sight distance to the west is approximately 220 feet. Precise sight distance measurements can only be determined by a detailed sight distance analysis.

According to State Highway Administration data, the traffic volume on Montgomery Road was 28,680 ADT (average daily trips) as of 2016.

D. Water and Sewer Service

The Property is in the Metropolitan District and is within the Existing Service Area of Howard County Water and Sewerage Master Plan. The property is served by public water and sewer.

E. General Plan

The Property is designated Established Communities on the Designated Place Types Map of

Montgomery Road and Waterloo Road are Minor Collectors.

F. Agency Comments

Agency comments are attached.

G. Adequate Public Facilities Ordinance

The pet daycare is subject to the Adequate Public Facilities Ordinance if a Site Development Plan is required.

III. ZONING HISTORY

There is no record of a Board of Appeals, Zoning Board, or Department of Planning and Zoning case for the Property.

IV. EVALUATION AND CONCLUSIONS

A. Evaluation of petition according to Section 131.0.B of the Zoning Regulations (general criteria for Conditional Uses):

1. *The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.*

While Howard County General Plan policies are not directly related to Conditional Use requests for pet day care facilities, properly sited pet daycare facilities can be considered compatible with residential and commercial land uses. The proposed pet daycare facility is adjacent to commercial uses within the B-1 zoning district to the north, west and east, and buffered by forest conservation to the south.

2. *The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.*

The pet day care services will occur primarily inside the building except for a small outdoor exercise area behind the building. The exercise area is located adjacent to an existing veterinary clinic to limit the impact of noise on surrounding properties. The 1.108-acre conditional use area exceeds the 1-acre minimum lot size requirement for pet daycare facilities. The building does not comply with the 30-foot rear yard setback and the parking lot encroaches into the 20-foot use setback. However, setbacks are not typically required between commercial uses in the B-1 and B-2 zoning districts, thus the variances will not create additional impacts on the three abutting commercial properties.

The proposed access to Montgomery Road is through an existing shopping center on Parcel 17. The Functional Road Classification Map of Plan Howard 2030 depicts Montgomery Road as a Minor Collector, which is an appropriate classification for the types and number of vehicles associated with the proposed use.

The nature and intensity of the use, the size of the Property in relation to the use, and the location of the site, with respect to streets that provide access, are such that the overall intensity and scale of the use are appropriate.

3. *The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning district.*

The pet day care services will be conducted primarily inside the building except for an outdoor exercise area for walking dogs where noise associated with barking dogs is likely to occur. However, the exercise area is proposed adjacent to an existing veterinary clinic. Additionally, the Petitioner states that the noise generated will be confined within the property and will be within the allowable noise level of Howard County. The Petitioner proposes a chain link fence around the exercise area, however DPZ recommends a 6-foot privacy fence around the exercise area and along the north property line between the shopping center. The 6-foot privacy fence, landscaping and existing vegetation should mitigate the impact of noise on adjacent properties.

There is potential for odor generation from pet wastes. The Petitioner states that the facility will contain the odor by double bagging the animal waste and disposing of it in the dumpster on the property, which may help attenuate odors from enclosed trash receptacles.

The proposed use is not likely to generate dust or intense lighting, as the driveway surfaces will be paved and the proposed lighting and fixtures comply with the outdoor lighting regulations.

Any potential adverse impacts will be less at this location than the typical R-20 zoning district since it is adjacent to commercial uses on three sides and a typical R-20 property would normally be bounded by single family detached dwellings.

4. *The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.*

The proposed building, fences and other structures comply with the height maximums required in the R-20 zoning district and Sec. 128.0. The Property is adjacent to commercial uses in the B-1 zoning district on three sides. Thus, the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the R-20 zoning district, which typically contains single family detached dwellings.

5. *The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.*

The Zoning Regulations do not contain a parking requirement for Pet Day Care Facilities; however, the closest parking use category is the Animal Hospital requirement of four spaces per 1,000 square feet of floor area. Accordingly, the required parking for the proposed 6,525 square foot building is 27 spaces and 53 are provided.

6. *The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.*

The Property does not have direct access to Montgomery Road, however, access is provided through a shopping center on Parcel 17 (4872 Montgomery Road), which was approved under SDP-06-024. It has adequate sight lines at the point of intersection with Montgomery Road. The right turn only lane provides safe access into the property for south bound vehicles and acts as an acceleration lane for vehicles exiting the property.

7. *The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere*

A forest conservation easement and stream are located south of the Property. However, the limit of disturbance does not impact these environmental features. Therefore, the

proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

8. *The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.*

The closest designated historic site is the Marks-Lough house (HO-538), a private residence constructed in 1911, which is located across Montgomery Road approximately 600 feet from the Property. The proposed use is not likely to diminish the character of this historic site. Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

B. Evaluation of petition according to Section 131.0.N.39 (Specific Criteria for Pet Daycare Facilities):

1. *The minimum lot size shall be one acre.*

The Property is 1.0 acre.

2. *All day care business functions must be completely enclosed within a building. Indoor noise must not be perceptible at lot lines.*

The pet daycare services will be conducted primarily inside the building except for an outdoor exercise area allowed in accordance with Sec. 131.0.N.39.7. The Petitioner asserts that all noise will not exceed the level allowed in the Howard County code. The proposed exercise area will generate some additional noise; however, it abuts an existing veterinary clinic operated by the petitioner. Additionally, the privacy fences recommended by DPZ on the north and east property lines will help mitigate noise from the facility.

3. *The Hearing Authority may set hours of operation and limitations on the number and type of pets cared for.*

The Petitioner proposes the following hours of operation: Monday through Friday 7 am to 7 pm; Saturday 9 am to 2 pm, and closed on Sunday. The proposed drop off times are between 7 am and 9 am with afternoon pick up between 5 pm and 7 pm. The stated capacity the facility is 45 dogs.

4. *The facility shall not be located on a shared driveway.*

DPZ interprets this criterion to apply to a shared driveway with a residential use. The proposed facility is not located on a shared driveway. Access to Montgomery Road is through a drive aisle and parking area shared with the adjacent shopping center. Therefore, this criterion does not apply.

5. *Parking areas shall be located and landscaped to minimize visibility from roads and adjacent residential properties.*

portion for the pet day care use. The steep topography of this 1-acre area forces development into the western portion of the site and results in practical difficulties in complying with the bulk regulations, specifically the 30-foot rear yard setback and 20-foot use setback.

2. *The variances, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.*

The Property is bounded by commercial uses within the B-1 zoning district on three sides and a forest conservation easement/stream on the remaining side. The B-1 zoning district does not require a setback from adjacent non-residential zoning districts. Therefore, the proposed variances will not alter the character or impair the appropriate use of adjacent properties.

3. *That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.*

The practical difficulties related to environmental features and topography were not created by the current owner.

4. *That within the intent and purpose of these Regulations, the variance, if granted, is the minimum variance necessary to afford relief.*

The variances are the minimum necessary to afford relief within the intent and purpose of the Zoning Regulations.

V. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends that the request for a Conditional Use for a Pet Day Care Facility and Variances be **GRANTED**, subject to the following condition:

1. Installation of a 6-foot privacy fence along the north property line between the shopping center and along the entire east property line between the commercial building.

Report Drafted By:



Anthony Obuekwe, Planner II

10-26-17

Date

Approved by:



Valdis Lazdins, Director

10-26-17

Date

NOTE: The file on this case is available for review by appointment at the Public Service Counter in the Department of Planning and Zoning.

The parking lot is not visible from a public road; however, it abuts a residential property along the northwest property line. The Petitioner proposes landscaping along the property line to screen it.

6. *There shall be no overnight boarding of pets.*

The Petitioner does not propose the overnight boarding of pets.

7. *Outdoor areas for walking or exercising pets may be permitted provided that pets shall not be left unattended in such an area. The Hearing Authority may set a limit on the number of pets permitted simultaneously in the outdoor area. The perimeter of this outdoor area shall be fenced and landscaped to ensure that animals are confined to the property and to minimize the visibility of the enclosure. All fencing shall comply with all requirements for fences as noted elsewhere in Section 128.0. The petitioner must clearly delineate the outdoor area on the Conditional Use plan.*

The Petitioner proposes a 10-foot by 160-foot outdoor exercise area surrounded by a chain link fence. DPZ recommends a 6-foot privacy fence to attenuate noise and minimize the visibility of the exercise area. The facility will be staffed by four to six employees who will monitor the outdoor exercise area.

8. *Disposal of wastes must be such that odors or other emissions are not perceptible at lot lines.*

The Petitioner proposes double bagging of dog waste and disposing in a dumpster on the property.

9. *On an ALPP purchased or dedicated easement property, the following additional criteria are required:*
(1) The use shall not interfere with farming operations or limit future farming production.
(2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.

This criterion does not apply as the use is not proposed on an ALPP purchased or dedicated easement property.

C Evaluation of petition according to Section 130.0.B.2.a of the Zoning Regulations (general criteria for evaluating variances):

1. *There are unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography, or other existing features peculiar to the particular lot; and that as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these Regulations.*

The original lot (Parcel 36) contains a forest conservation easement, stream, and steep slopes that limit the developable area. The Petitioner proposes a new 1- acre lot in the northern