

Board of Zoning Adjustment

Staff Report

September 23, 2024



Case No:	24-MCUP-0007
Project Name:	Pet Station Country Club
Location:	14310 & 14314 Old Henry Road
Applicant:	Pet Station Holdings, LLC.
Representatives:	Wyatt, Tarrant & Combs, LLP. Heritage Engineering, LLC.
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Jeremy Chesler, Planner I

REQUESTS

- **Modified Conditional Use Permit** for a commercial kennel (Land Development Code, Section 4.2.17).
- **Waiver** of Land Development Code (LDC) Section 5.6.1.C, to allow a building façade to have less than the required 50% of the wall surface consisting of clear windows and doors (24-WAIVER-0120).
- **Variance** from LDC Section 5.3.1, to allow a proposed structure to exceed the maximum front yard setback (24-VARIANCE-0085).

Location	Requirement	Request	Variance
Front Yard Setback	115'	140'	25'

CASE SUMMARY

The request is for a Modified Conditional Use Permit for a proposed commercial kennel. The subject site is located on the west side of Old Henry Road, between Old Henry Trail and Factory Lane, within the R-4, single-family residential zoning district and Neighborhood form district. The applicant is proposing a 20,300 SF structure with enclosed outdoor play areas for animals to use. The original Conditional Use Permit, 23-CUP-0238, for the site was approved by the Board of Zoning Adjustment in September 2023.

Related Cases:

23-CUP-0238: Conditional use permit for a commercial kennel, approved by the Board of Zoning Adjustment, September 25, 2023.

23-VARIANCE-0126: Variance to allow structures to exceed the maximum front setback, approved by the Board of Zoning Adjustment, September 25, 2023.

STAFF FINDING

The modified conditional use permit is adequately justified for approval and appears to meet all other standards of the conditional use permit. The waiver and the variance are adequately justified for approval based on staff’s analysis contained in the standard of review.

TECHNICAL REVIEW

MSD and Transportation Planning have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

- All comments received have been placed in the record and made available to the Board in advance of the public hearing.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR MODIFIED CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposed improvements are compatible with surrounding development and land uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: Necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education, and recreation adequate to serve the proposed use are available. Transportation Planning and MSD have preliminarily approved the proposal.

4. Does the proposal comply with the specific standards required to obtain the requested conditional use permit?

Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C-M, M-1, M-2 and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.

B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.

C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.

D. Screening – Any outdoor animal facilities shall be screened from view.

E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.

- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

STAFF: The proposal is meeting all the standards or will have conditions of approval to ensure that standards are met. The conditions of approval include hours of operation as well as a timeframe where dogs are and are not allowed outside to mitigate noise issues. The applicant has submitted plans on how the facility handles animal waste, all outdoor areas will be secured and fenced in, and signage will follow the requirements set forth in the parkway buffer requirements in chapter 10 of the LDC.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR THE WAIVER

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners, as the requirement to provide glazing on commercial building facades facing the public street would further distinguish the proposed structure from the residential character of the surrounding area.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Although the applicant is seeking relief to allow a street facing façade of a non-residential structure to have less than 50% clear glazing, the relief would improve the transition between the proposed commercial kennel and the adjacent residential properties.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The waiver is needed to allow the facility to locate some of the secured outdoor dog areas along the façade facing Old Henry Road. Requiring 50% windows along this façade would not allow for the desired disbursement of the outdoor dog areas.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived. The proposal will provide sufficient animating features such as variations in roof line and façade materials, as well as landscaping along the façades where relief is requested. Additionally, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. With the proposed use being a non-residential use, omitting the standard commercial storefront glazing would allow for greater compatibility with the residential uses and structures in the surrounding area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR THE VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the building will be located approximately 16' above the elevation of the adjacent right-of-way and will not impede the safe movement of pedestrians or motorists.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed structures will look residential in nature and will be consistent with other structures in the immediate neighborhood. The change in grade that naturally exists on the site limits the view of the structure from the right-of-way. There will be landscaping provided within the area where the setback will be increased, further reducing the visual impact of the structure.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the increase setback does not impede the safe movement of pedestrians or vehicles.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as it presents no adverse impacts to public safety, does not alter the essential character of the general vicinity, and does not cause a hazard or nuisance to the public.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because this is a commercial use proposed on a residentially zoned property surrounded by other residentially zoned/used properties. Additionally, the existing conditions and contours of the property contributed to the developer needing to seek alternate locations from the original proposal.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant, as locating the structure within the allowed setback range would require additional sitework, such as regrading.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not begun construction.

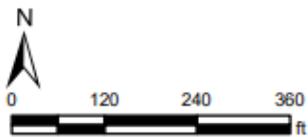
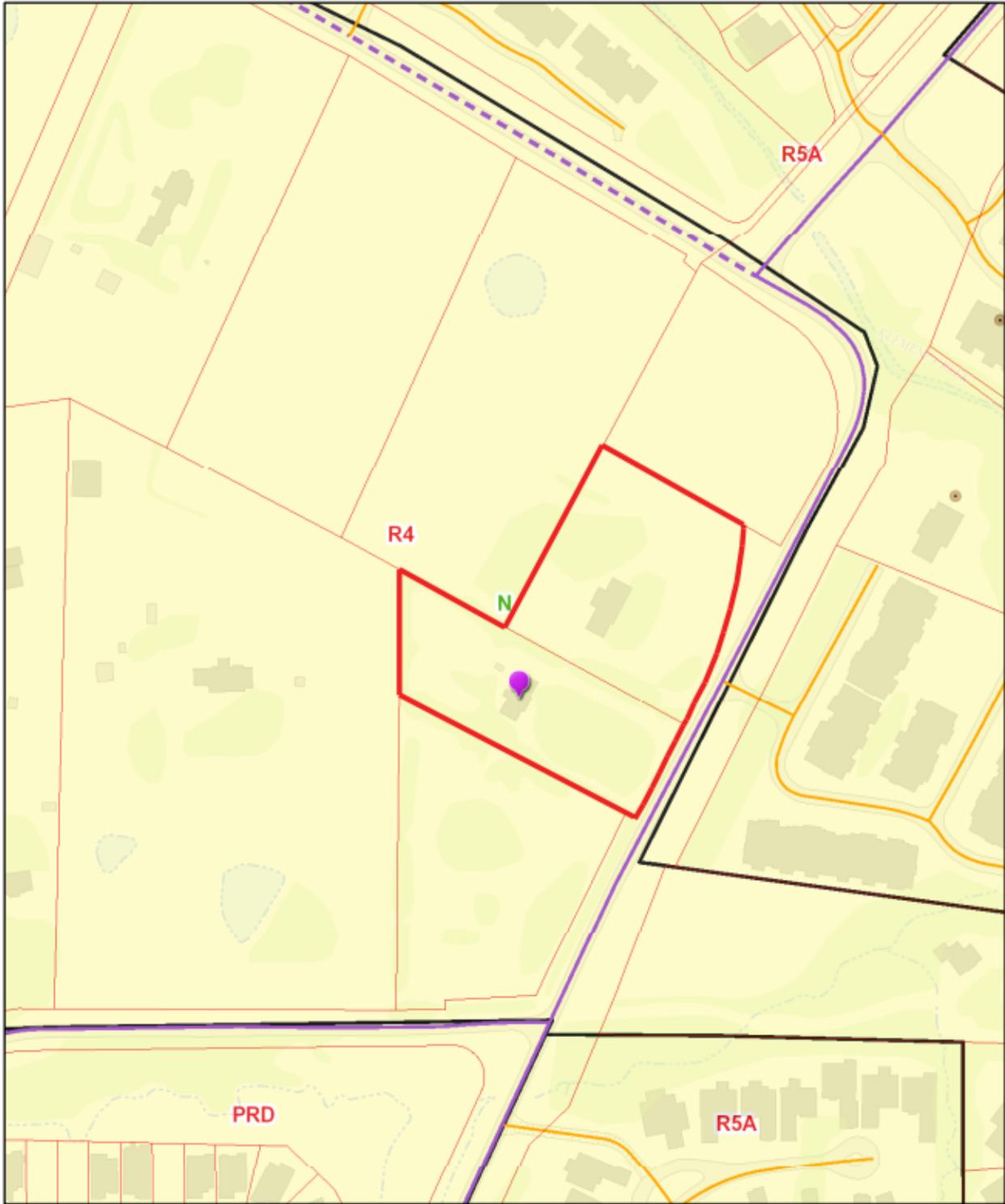
REQUIRED ACTIONS

- **APPROVE** or **DENY** the **MODIFIED CONDITIONAL USE PERMIT** for a commercial kennel (LDC 4.2.17).
- **APPROVE** or **DENY** the **WAIVER** of LDC Section 5.6.1.C, to allow a building façade to have less than the required 50% of the wall surface consisting of clear windows and doors (24-WAIVER-0120).
- **APPROVE** or **DENY** the **VARIANCE** from LDC Section 5.3.1, to allow a proposed structure to exceed the maximum front yard setback (24-VARIANCE-0085).

ATTACHMENTS

1. Zoning Map
2. Aerial Photographs
3. Existing Conditions of Approval
4. Proposed Conditions of Approval

1. **Zoning Map**



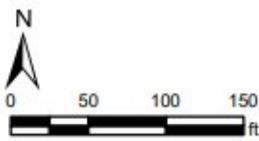
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2. Aerial Photographs



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3. Existing Conditions of Approval

- ~~1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.~~
- ~~2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a Commercial Kennel until further review and approval by the Board.~~
- ~~3. The hours of operation shall be from 7 A.M. to 7 P.M. Monday through Sunday. There shall be no dogs outdoors between the hours of 7 A.M. to 7 P.M.~~
- ~~4. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 25, 2023 Board of Zoning Adjustment. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.~~

4. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a Commercial Kennel until further review and approval by the Board.
3. The hours of operation shall be from 7 A.M. to 7 P.M. Monday through Sunday. There shall be no dogs outdoors between the hours of 7 A.M. to 7 P.M.
4. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 23, 2024 Board of Zoning Adjustment. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.