

## **WAIVER JUSTIFICATION**

**LDC CHAPTER 5, PART 3, SECTION 5.6.1.C.  
TO ALLOW FOR 50% OF THE WALL SURFACES AT STREET LEVEL TO  
NOT CONSIST OF CLEAR WINDOWS AND DOORS.  
THE PET STATION COUNTY CLUB  
14310 & 14314 OLD HENRY ROAD  
24-MCUP-0007**

**August, 2024**

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Under Case Number 24-MCUP-0007, the Applicant, The Pet Station Holdings, LLC ("Applicant"), is requesting a modification to its conditional use permit ("CUP") the Louisville Metro Board of Zoning Adjustment ("BOZA") recently approved under Case No. 23-CUP-0203, which approval authorized the Applicant to build and operate, pursuant to Section 4.2.17 of the Land Development Code for all of Louisville – Jefferson County, Kentucky ("LDC"), a neighborhood-serving commercial kennel on just over 4 acres of land across two parcels of property, both of which are zoned R-4, Single-Family Residential (the "Initial Proposal"). The properties comprising the site of the Initial Proposal include 14310 and 14314 Old Henry Road, Louisville, Kentucky 40245 (the "Property"). The Property is zoned R-4, Single-Family Residential and is located within the Neighborhood Form District. The Applicant has since applied for a Modified CUP to address site construction and related clearing and grading issues related to discovering significant rock underneath the soil on the Property. The discovered rock occupies portions of the Property whereon some of the facility was to be constructed and has now prompted the Applicant to seek approval from the BOZA to amend its Initial CUP Plan so that the Applicant can construct the Pet Station facility on portions of the Property that are farther back from Old Henry Road, which will not require the Applicant to deploy blasting and more disruptive methods of site clearing and grading ("Modified Proposal"). Rather than cause that type of disruption to the Property and adjoining properties, the Applicant redesigned the Initial Proposal so that the building can better fit the Property without having to significantly disturb the Property just to make the design of the Initial Proposal work.

With the facility being pushed back more into the site under the Modified Proposal, a number of site design components are being amended so that the Applicant could still provide the same level of commercial kennel services the Applicant originally planned to provide on the Property via its Initial Proposal. These changes from the Initial Proposal include making changes – operationally and architecturally – to the proposed building to furnish sufficient space in the facility for dog areas, both outdoor and indoor. The parking

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area and dog drop-off area are also being shifted from the area between the building and Old Henry Road, as depicted on the Initial Proposal, to an area east of the proposed building. Correspondingly, the building design has been modified to incorporate necessary changes to the facility for the Applicant to facilitate the provision of services to their customers while also maintaining sufficient mitigation of any potential disruption that might be caused by a commercial kennel. LDC Section 5.6.1.C.1 requires the proposed building to contain 50% clear windows and doors at street level on the building's street-facing facade along Old Henry Road. The Applicant requests a waiver from LDC Section 5.6.1.C.1 to not provide 50% clear windows and doors at street level on the Pet Station Old Henry Road façade (the "Waiver"). For the justifications stated herein, the requested Waiver complies with the criteria for granting waivers and, therefore, should be approved.

With moving the Pet Station facility farther back into the Property, the rear yard area of the Property will have less room for all the outdoor dog areas needed for the Proposal. Therefore, the Applicant has worked with their site designers and architects to move a couple dog areas to the front of the facility and the architects have employed architectural design solutions to merge those dog areas with the built environment that will be undetectable from the perspective along Old Henry Road. Also, moving the parking area and drop-off area to the side of the building will allow for more green space in the front yard, leaving only the vehicular drive up to the building area and the multi-use path along Old Henry Road as areas not staying green space on the Property. This larger front yard will complement the suburban area and maintain the rolling landscape character of the Old Henry Road corridor. Here, Old Henry Road is a designated parkway and arterial level roadway. The façade facing Old Henry Road will include animating features, including windows, doors, openings to the building wall, variation in building height and materials, and the façade will be complimented by significant plantings.

The requested waiver to allow less than 50% clear windows and doors at street/pedestrian level will not adversely affect adjacent property owners because the first floor windows and doors on the façade facing Old Henry Road will not be at street level, but rather sixteen feet above pedestrian level along Old Henry Road and setback on the Property over one hundred eighty feet (180') from Old Henry Road, thereby making it difficult to see the entirety of the facility's first floor "street" level. Furthermore, the Applicant will install a number of tree and landscaping plantings in the front yard to further cut up the façade as viewed from Old Henry Road. Therefore, the front façade will contain animating features and green plantings to nicely break up the front and from the pedestrian level of Old Henry Road, pedestrian and drivers will be unable to detect whether the glass on the windows and doors is clear or not. The property to the north is vacant and owned by the Commonwealth of Kentucky Transportation Cabinet. The Falls at Old Henry is a residential condominium community which is heavily screened from Old Henry Road. When the Modified Proposal has all of its plantings installed, the structures



on the Property and the Falls at Old Henry property will be well screened from one another. The property to the south of the Property will be developed into a school. The shared property line with the school property and the Property is also well-screened. Therefore, the Waiver will not adversely affect adjacent property owners.

The requested waiver will not violate Plan 2040 A Comprehensive Plan for Louisville Metro ("Plan 2040") because Plan 2040's Goal 1, Policy 4 encourages new development and redevelopment be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the [Neighborhood] Form District. Plan 2040 also encourages flexible and creative site design. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed design of the Modified Proposal meets Plan 2040 because it will be constructed of quality design deliberately tailored for the Property itself and the building materials and plentiful tree and landscaping plantings onsite will help the Modified Proposal achieve compatibility with its surrounding neighborhood and create visual interest to the drivers and walkers along Old Henry Road. Creative site and architectural design solutions will be worked into the Modified Proposal to allow for it to compatibly fit with the Property and the neighborhood.

The requested waiver is the minimum necessary to afford relief to the Applicant because compliance with this building design requirement will make it infeasible for the Applicant to relocate the needed secured outdoor dog areas to the front of the facility, as depicted in the building renderings submitted to Metro Planning in support of the Modified Proposal. There is no other space on the modified site whereon or wherein the Applicant can relocate these dog areas. As a result, the strict application of the window design regulation would deprive the Applicant of the reasonable use of the land and would create an unnecessary hardship on the Applicant because it would prevent the Applicant from using these two parts of the site despite the Applicant's building and landscaping design mitigation solutions that will properly offset noncompliance with the Waiver of the design regulation and without utilization of these two areas, the Applicant will be unable to operate the Modified Proposal efficiently, to the detriment of clients and their nearby owners. If the Waiver is not approved, the Applicant may have to entertain blasting rock out of the ground to allow the building to be pulled up closer to Old Henry Road so that the outdoor dog area and pavilion can be placed in the rear yard of the Property.

The Applicant has incorporated additional landscaping and tree plantings onsite that will exceed the minimums required by the LDC, which will also help break up the Old Henry Road façade. Additionally, the Applicant will incorporate various animating features and building materials on the first and second story of the Pet Station's front façade, which will provide additional visual interest for drivers and pedestrians passing the site.

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June 14, 2024

Jeremey Chesler  
Metro Louisville  
Planning and Design Services  
444 South 5<sup>th</sup> Street, Suite 300  
Louisville, Kentucky 40202

**Re: Variance Justification  
Pet Station Country Club**

Dear Jeremy:

On behalf of Pet Station Country Club, we are submitting the attached variance request as part of the application for a Modified Conditional Use Permit for a proposed kennel on a 4.02-acre parcel located at 14310 & 14314 Old Henry Road.

Construction of the kennel is subject to approval of a variance from Chapter 5, Part 3, Section 5.3.1.C.5, Table 5.3.2 of the Land Development Code to allow a greater setback (180-ft maximum) than permitted per code. The variance that was previously granted allowed for the building to be 115-ft maximum away from Old Henry Road. The new variance requires an additional amount of 65 feet to allow for the redesign of the parking lot on the side of the building and an access drive that ties into it.

Justifications for the requested variance:

- The requested variance will not adversely affect the public health, safety, or welfare because granting of the variance will allow for a site design that places the building within the maximum setback along Old Henry Road while allowing for the customer parking area to be placed along the side of the proposed building, resulting in a greater than allowed setback. This design is to better serve the neighborhood with convenient parking and provide an access drive to the primary building entrance.
- The variance requested will not alter the essential character of the general vicinity as the proposed building setback will allow for more greenspace and landscape screening between the roadway and the proposed facility.
- Granting the variance will not cause a hazard or a nuisance to the public as the property includes a landscape buffer area that will contain plantings that meet or exceed Land Development Code requirements.

# HERITAGE ENGINEERING, LLC

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- The development as proposed with the requested variance will not allow for an unreasonable circumvention of the zoning regulations, as granting of the variance fulfills other community benefits by providing customer parking for safe access to the building and appropriate greenspace for landscape screening.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,

Evalyn Martin

Encl. Application