26-MCUP-0007

Board of Zoning Adjustment
Staff Report
July 20, 2026

Fern Creek Pet Resort

Location:	5221 & 5225 Bardstown Road
Applicant:	Kentucky Humane Society Animal Rescue
Representative:	Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Sydney Fawcett, AICP, Planner I

REQUESTS & RECOMMENDED ACTIONS

1. **26-VARIANCE-0061:** Variance from Land Development Code Table 5.3.2 to allow the proposed buildings to exceed the maximum front yard setback of 80 feet (Proposed Front Yard Setback of 367 feet, for a Variance of 287 feet)
   - Staff finds the justification for the request is adequate and recommends the Board of Zoning Adjustment **APPROVE** the Variance

2. **Modified Conditional Use Permit** for a commercial kennel in a residential (R-4) zoning district (LDC 4.2.17)
   - Staff finds the request is adequate and recommends the Board of Zoning Adjustment **APPROVE** the Modified Conditional Use Permit

CASE SUMMARY

The subject site is approximately 4.88 acres zoned R-4 Single-Family Residential and OR Office/Residential in the Neighborhood form district. The subject site is located near the intersection of Bardstown Road and S Hurstbourne Parkway. The site is currently developed with a 4,037 square foot commercial kennel with several accessory structures and associated parking.

The applicant is requesting to modify the existing conditional use permit to construct an 896 square foot accessory structure to house their grooming services, a 400 square foot canopy, and a 1,750 square foot addition on an existing building. The applicant will also be providing 14 additional parking spaces to serve the development. With the proposed modifications, the development exceeds the maximum front yard setback. Therefore, a variance is being requested as well.

Case History

- **09-50-00:** Change in Zoning from R-4 Single-Family Residential to R-4 Single-Family Residential and OR Office/Residential with a Detailed District Development Plan; a Conditional Use Permit for a commercial kennel and a Conditional Use Permit for off-street parking within the R-4 Single-Family Residential zoning district

TECHNICAL REVIEW

- Land Development Code (Louisville Metro 2025)
- Plan 2040
- MSD has provided preliminary approval.
- Transportation Planning has provided preliminary approval.

STANDARD FOR REVIEW AND STAFF ANALYSIS FOR 26-VARIANCE-0061

1. *The requested variance will not adversely affect public health, safety, or welfare, and will not cause a hazard or nuisance to the public.*

   STAFF FINDING: The requested variance will not adversely affect public health, safety, or welfare, and will not cause a hazard or nuisance to the public as developments along Bardstown Road have varying front yard setbacks with several exceeding the maximum setback of 80 feet.

2. *The requested variance will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations.*

   STAFF FINDING: The requested variance will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations as properties in the surrounding area are developed well beyond the maximum setback. Additionally, most of the structures on site are an existing condition of the site and the proposed accessory structure and addition will be in line with the existing structures.

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

   STAFF FINDING: The requested variance does arise from circumstances which do not generally apply to land in the general vicinity, or in the same zone. The commercial kennel is located within the R-4 Single-Family Residential portion of the site. Typically, the Neighborhood form district does not have a maximum setback for development within the R-4 Single-Family zoning district. However, since the property is developed for non-residential use, the maximum setback applies.

4. *The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.*

STAFF FINDING: The strict application of the provision of the regulation would create an unnecessary hardship on the applicant as it would require the applicant to reconfigure the entire site to be within the maximum 80-foot front yard setback. The southern portion of the site is being used for tree preservation, roughly 34,000 square feet. Requiring the applicant to construct within the front yard setback would eliminate a significant portion of the existing tree canopy. The applicant wants to preserve the existing tree canopy to provide screening for the adjacent properties as well as screen the commercial kennel from Bardstown Road.

5. The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF FINDING: The circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as work has not begun on the proposed development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR MODIFIED CONDITIONAL USE PERMIT

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

STAFF FINDING: The proposal is consistent with applicable policies of the Comprehensive Plan. Community Form Goal 1 Policy 4 suggests ensuring new development and redevelopment is compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1 Policy 9 calls 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. Community Form Goal 1 Policy 11 promotes setbacks, lot dimensions and building heights to be compatible with those of nearby developments. Community Form Goal 1 Policy 12 suggests designing parking, loading, and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking areas shall be screened and buffered and should use landscaping, trees, walls, or other design features. The proposal is compatible with the scale and site design of nearby developments as there are a range of commercial and residential uses in the general vicinity. The applicant will be utilizing the existing tree canopy and fencing to provide a transition from the commercial kennel to the surrounding single-family uses to mitigate potential impacts from the kennel operations and parking lot.

b. *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 FINDING: The proposal is 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.

c. *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 FINDING: All 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 or will be provided. MSD and Transportation Planning have preliminarily approved the proposal.

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

4.2.17 Commercial Kennels. *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 waste.

STAFF FINDING: The applicant is requesting to modify the existing conditional use permit to construct an 896 square foot accessory structure to house their grooming services, a 400 square foot canopy, and a 1,750 square foot addition on an existing building. The applicant will be preserving existing tree canopy along Bardstown Road and the north property as well as the existing fencing to

further screen the adjacent properties from kennel operations. The applicant will be required to comply with each of the lettered standards of the conditional use permit.

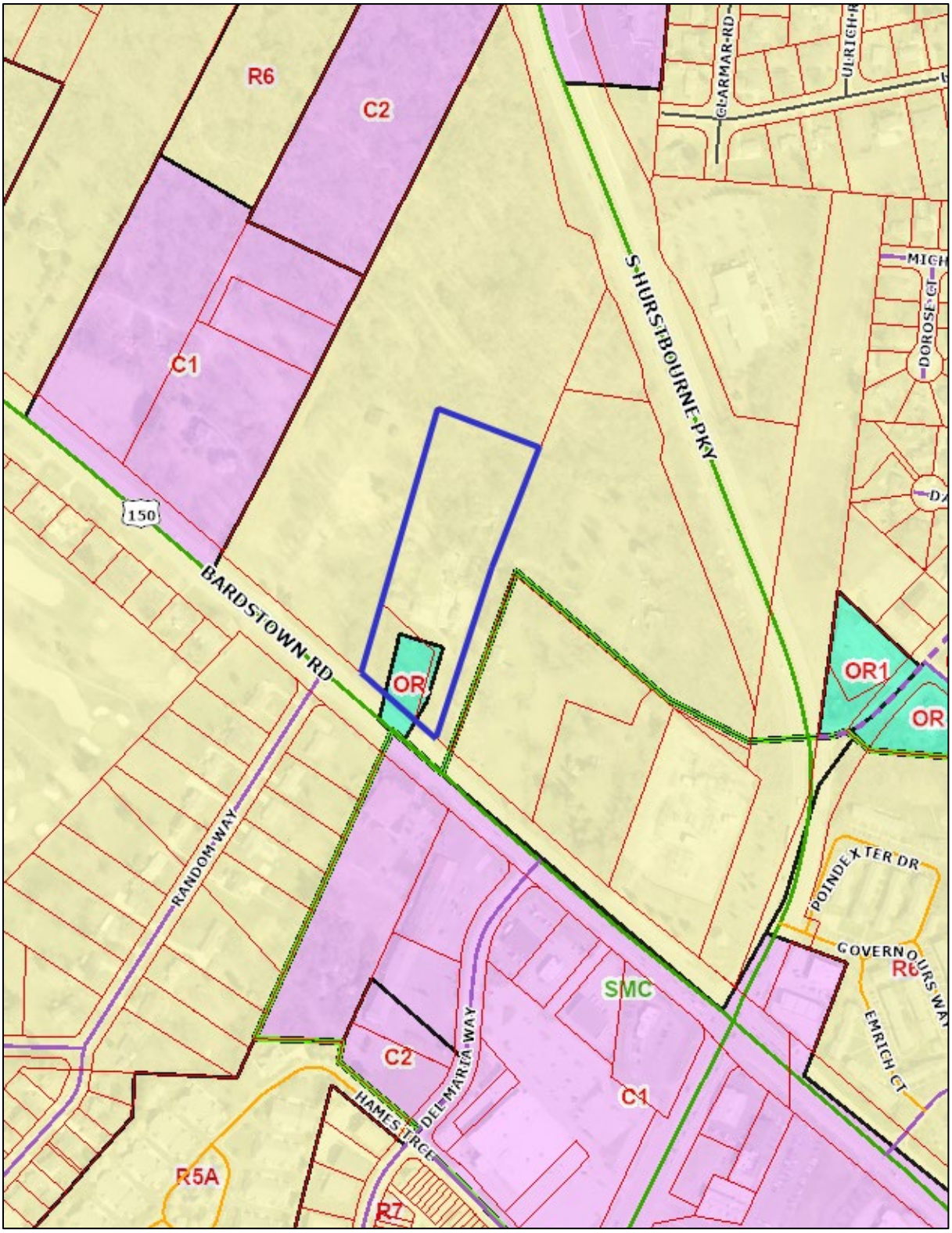
NOTIFICATION

DATE	PURPOSE OF NOTICE	RECIPIENTS
7/1/2026	Board of Zoning Adjustment Public Hearing	1st and 2nd tier adjoining property owners and current residents; Registered Neighborhood Groups in Council District 26
7/10/2026	Board of Zoning Adjustment Public Hearing	Sign Posting on Property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval with Proposed Amendments
4. Proposed Conditions of Approval

1. Zoning Map


R6
C2
C1
S-HURSTBOURNE-PKY
GLARMAR-RD
ULRICH-R
MIGH
DOROSE-CT
150
BARDSTOWN-RD
OR
OR1
OR
RANDOM-WAY
POINDEXTER DR
GOVERNOURS WAY
R6
SMC
C2
DEL-MARIA-WAY
C1
EMRICH CT
HAMES-TRCE
R5A
R7

2. Aerial Photograph

3. Existing Conditions of Approval with Proposed Amendments

~~1. The development plan shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.~~

2. **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.**

~~3. The development shall not exceed 37,247 square feet of gross floor area.~~

~~4. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 12 feet to front property line. The sign shall not exceed 6 square feet in area per side and 6 feet in height. No sign shall have more than two sides.~~

~~5. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.~~

~~6. There shall be no outdoor storage on the site.~~

~~7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.~~

~~8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~

~~a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
~~b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Supplemental plantings may be required by Planning Commission staff to fill in gaps located within existing vegetation. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. The applicant shall hold a meeting with Mr. Charles Bischoff (or subsequent owner of 5215 Bardstown Road) to assist in determining~~

optimal tree planting locations to filter sight line views from the residence at 5215 Bardstown Road to structures to be erected on the subject site. However, all final decisions regarding the detailed plan for screening shall be made by Planning Commission staff.

9. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

10. A certificate of occupancy must be received from the appropriate code enforcement officer prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

11. Except for four days per year (Fridays and Saturdays only), there shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.

12. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

13. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.

14. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

15. The development shall comply with the requirements set out in Section 15.D.9 (Conditional Use: Commercial Kennels) of the Development Code.

16. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire site area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

17. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant

~~may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.~~

~~All plans setting out tree preservation areas must contain the following notes:~~

~~a. Tree preservation area (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.~~
~~b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.~~
~~c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outermost perimeter of that tree mass.~~
~~d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.~~
~~e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.~~

18. **A Landscape and Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.**

~~19. Sewers shall be provided by connection to the proposed Fern Creek/Nottingham Interceptor #6 and Fern Hill Interceptor #8 projects when completed. The Lateral Field and Associated tanks shall be removed and a connection to the interceptors made within 60 days after completion of the above mentioned projects.~~

~~20. A soil erosion and sedimentation control plan meeting the design requirements of the recently adopted Erosion and Sediment Control Ordinance shall be developed and implemented in~~

~~accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.~~

~~21. A six foot tall chain link fence shall be placed along the west property line, continuing along the north (rear) property line, and along the east property line -- all where shown on the approved development plan. A six foot vinyl chain link fence shall be located along the Bardstown Road frontage within the LBA and shall be set back a variable distance to blend with the existing tree line and additional trees and/or plantings to be installed. The proposed soil wood fence shown on the development plan shall not be installed.~~

~~22. Dumpster loading and unloading hours shall be limited to 7 A.M. to 7 P.M.~~

23. 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 without further review and approval by the Board.

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. A Landscape and Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

3. 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 without further review and approval by the Board.