

# **VARIANCE JUSTIFICATION**

**LDC CHAPTER 5, PART 3, SECTION 5.3.1.C.5 - LDC TABLE 5.3.2  
TO ALLOW FOR MAXIMUM BUILDING SETBACK TO 115'  
THE PET STATION COUNTY CLUB  
14310 & 14314 OLD HENRY ROAD  
23-CUP-0203**

**September 6, 2023**

Under Case Number 23-CUP-0203, the Applicant, The Pet Station Holdings, LLC (“Applicant”) is requesting a conditional use permit pursuant to Section 4.2.17 of the Land Development Code for all of Louisville – Jefferson County, Kentucky (“LDC”) to allow the Applicant to build and operate a neighborhood-serving commercial kennel to be known as The Pet Station Country Club on just over 4 acres of land across two parcels of property, both of which are zoned R-4, Single-Family Residential (the “Proposal”) and located at 14310 and 14314 Old Henry Road, Louisville, Kentucky 40245 (the “Property”). The Property is within the Neighborhood Form District positioned to the east of a Suburban Workplace that envelops properties on all quadrants of the Old Henry Road and Gene Snyder Freeway interchange. 14310 Old Henry Road is currently owned by John and Cathy Wilhoit, while 14314 Old Henry Road is currently owned by Brent and Cindy Phillips (each party is an “Owner”, while both owners are “Owners”).

The Property fronts the western/northwestern side of Old Henry Road, a minor arterial roadway, where one access point to Old Henry Road is planned to serve the Proposal. Here, Old Henry Road is a designated parkway; heading north/northwest, Old Henry Road forks into Factory Lane and Old Henry Road and, at the fork, Factory Lane turns west and eventually intersects with the southern frontage of Old La Grange Road, while Old Henry Road branches off at the intersection with Factory Lane and heads north into Oldham County. This section of Old Henry Road is subject to significant improvements planned and currently being undertaken by KYTC, which includes a multi-use pathway that is planned to traverse the Property’s frontage along Old Henry Road. Adjacent to the north of the Property is vacant, unused property owned by KYTC, and property adjacent to the south of the Property is also vacant and currently unused at this time. In conjunction with the CUP and CUP Plan drafted by Heritage Engineering (the “Plan”), the Applicant is requesting a variance of Table 5.3.2 of the Land Development Code (“LDC”) to allow the building on the Property to variably exceed the 95-foot maximum front yard setback along Old Henry Road by twenty feet (20’) at its greatest point, which is at the southern part of the building, thereby permitting the building to have a 115’ maximum front yard setback, as more clearly depicted on the CUP Plan. Correspondingly, at the northern front corner of the proposed building, the maximum front yard setback would be 98’, a three-foot departure from the maximum setback requirement (referring to all relief needed by this variable easement hereinafter as the “Variance”). For the reasons stated herein, the requested Variance meets the criteria for granting variances set forth in KRS 100.243 and, therefore, should be approved.

The proposed Variance will not adversely affect the public health, safety or welfare because the requested dimensional relief is to allow the proposed building to setback a modest amount of space more than required but the building setting back a bit more on the Property will

not interfere with sight lines for motorists or pedestrians traveling Old Henry Road or the multi-use pathway planned for this northern frontage of Old Henry Road.

The proposed variance will not alter the essential character of the general vicinity because the surrounding area contains buildings with various architectural designs and with various setbacks from Old Henry Road. The Property contains a direct curb cut to Old Henry Road, a short driveway to the parking areas, which are located to the left and the right of the driveway, then to a covered drop-off/pick-up area where Pet Station staff comes to the customer's car to either collect or bring back the dog being cared for at Pet Station. This access-vehicular-use-parking area design is to efficiently and safely accommodate cars entering, dropping of pets, and exiting the site. It keeps the traffic moving and dogs are quickly placed in or guided out of their owners' cars, which allows Pet Station to accommodate their customers and keeps the animals outside during this transition for only a limited amount of time. As such, the site design for the proposed Pet Station Country Club requires a moderate amount of additional space within the front yard area of the site to allow for the efficient and safe vehicular maneuvering. In addition, because of the way Old Henry Road goes from a straight direction into a curve along the frontage of the Property, the building setback correspondingly varies with the curve of Old Henry Road and, consequently, the setback of the building is closer to Old Henry Road during the curve as compared to the greater setback when Old Henry Road is straight. To accommodate the curve and the setback requirement, the building would either need to be oriented on the property at a slant or with a jog in the front façade or with a curved front façade, which could sacrifice good site design and particularly how the building relates to Old Henry Road and what that would look like for passerby pedestrians and drivers. The applicant will install enhanced landscaping and tree plantings throughout the site, which will be a great improvement to the aesthetics of the site today.

The variance will not cause a hazard or nuisance to the public because the proposed development will provide for sufficient vehicular use and parking areas while maintaining safe sight lines for motorists and pedestrians driving, walking or running past the property on either Old Henry Road or on the multi-use pathway KYTC will install along the Property's frontage.

The variance will not allow an unreasonable circumvention of the requirements of the LDC because Plan 2040 encourages flexible and creative site design along with a respect for the pattern of development in the surrounding area in order to encourage reinvestment and redevelopment of a property. Today, the existing residential structures on the Property are setback farther from Old Henry Road than from where the proposed building will be setback. The Proposal represents needed residential-supporting uses in an area experiencing rapid growth in residences. Once KYTC's road work is completed along Old Henry Road and Factory Lane, the Property will be adequately served by infrastructure for vehicles and pedestrians, both of which are methods of transportation nearby residents can use to pick-up or drop-off their pets at the Property. Bicycle parking will be provided in accordance with the LDC requirements. Therefore, the proposed development accommodates various modes of transportation.

The variance arises from special circumstances, which do not generally apply to land in the general vicinity, because the Property has a curved frontage along Old Henry Road, which triggers a need for creative site design to accommodate how a proposed building relates to the arc in the roadway's curve. Moreover, the Proposal needs adequate vehicular use area to accommodate safe

and efficient vehicular movements between the proposed building and Old Henry Road and the requested variance provide the ample room to accomplish the same.

The strict application of the maximum setback requirement would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant. The Property has most recently been used residentially and at a setback similar to the one being requested here, if not a larger setback. There are several properties in the area that do not meet the maximum setback requirements, and placing such a burden on the Property, considering it's a rather minor request for relief from the maximum setback, would complicate the redevelopment of the Property because the building would need to be oriented in such a fashion on the Property so that it doesn't awkwardly relate to the Old Henry Road parkway, given how Old Henry Road curves at the Property. When considering that the variance relief does not cause negative impacts on neighboring properties or create unsafe conditions, and how the variance relief varies from 3' to 20', the strict application of the maximum setback requirement would deprive the applicant of the reasonable use of the Property.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the LDC setback regulation as it applies to the Property because no development has yet to occur and the Applicant is hereby requesting relief from the 95' maximum front setback provision. Additionally, KYTC's roadwork along Old Henry Road has created new right-of-way lines that affect the relationship between the Property's frontage and Old Henry Road, implicating the setback requirement after the LDC setback regulation was already in place. The new Old Henry Road cuts more into the Property, effecting a front setback requirement that no longer runs along a straight plane, but, rather, curves. This is a site design circumstance that was not created by the property owner nor by the applicant and, hence, the applicant's request for variance relief.

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