

Board of Zoning Adjustment

Staff Report

September 25, 2023



Case No:	23-CUP-0238
Project Name:	The Pet Station Country Club
Location:	14310 & 14314 Old Henry Road
Owner(s):	John & Cathy Wilhoit Brent & Cindy Phillips
Applicant:	Wyatt, Tarrant & Combs, LLP. Heritage Engineering The Pet Station Holdings, LLC.
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Molly Clark, Planner II

REQUEST(S)

- **Variance** from the Land Development Code, Section 5.3.1 to allow proposed structures to exceed the maximum 95-foot front yard setback by 20 feet (23-VARIANCE-0126)
- **Conditional Use Permit** to allow a commercial kennel in the R-4 zoning district (LDC 4.2.17).

CASE SUMMARY/BACKGROUND

The subject site is zoned R-4, single family residential zoning in the Neighborhood form district. The overall subject site contains approximately 4.20 acres. The applicant is proposing to construct an 11,500 SF indoor commercial dog kennel and a 8,100 SF indoor dog park along with a secure, fenced outdoor area and proposed surface parking lot. The outdoor area for the dogs will have a pavilion, water feature and open space to allow the dogs to have plenty of room to exercise.

STAFF FINDING

The conditional use permit is adequately justified for approval based on staff's analysis contained in the standard of review. All standards of the conditional use permit are satisfied.

TECHNICAL REVIEW

Transportation Planning and MSD has 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 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 structure must be constructed to comply with all applicable building codes, and it does not impede the safe movement of pedestrians or vehicles.

- (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.

- (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 proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback allows the development enough room to provide the full parkway buffer while accommodating enough parking spaces for the proposal.

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.

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 create an unnecessary hardship on the applicant because bringing the building forward would prevent the applicant from providing an adequate parkway buffer while still providing enough space for parking and outdoor space in the rear for the dogs.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

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: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and 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 wastes, 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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **VARIANCE** from the Land Development Code, section 5.3.1 to allow proposed structures to exceed the maximum 95 foot front yard setback by 20 feet (23-VARIANCE-0126)
- **APPROVE** or **DENY** the **CONDITIONAL USE PERMIT** to allow a commercial kennel in the R-4 zoning district (LDC 4.2.17).

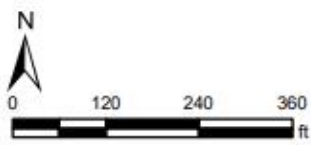
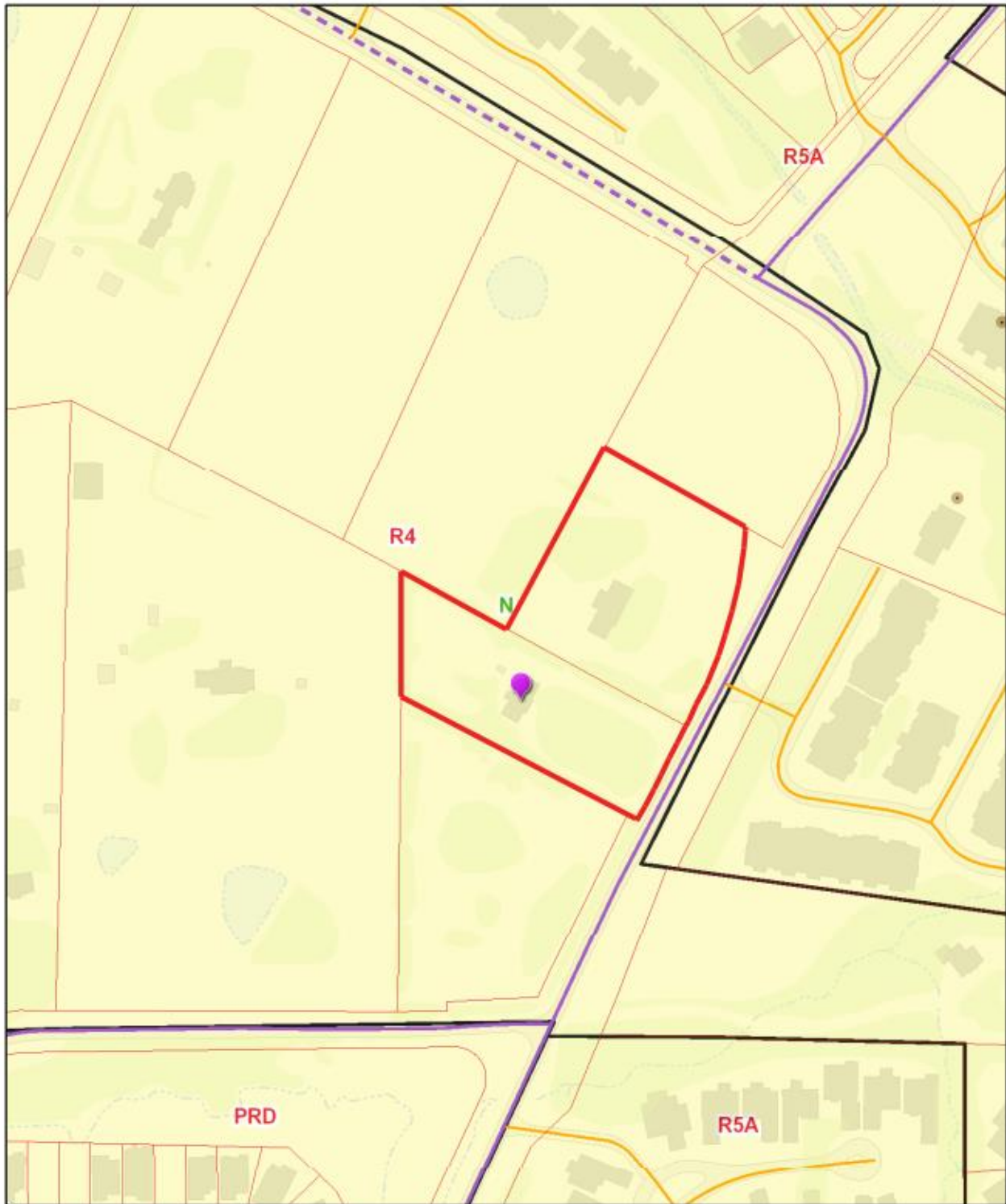
NOTIFICATION

Date	Purpose of Notice	Recipients
09-08-23	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 19
07-25-23	Neighborhood Meeting	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 19
06-12-23	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

1. Zoning Map



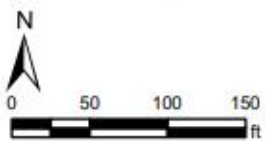
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2. Aerial Photograph



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3. 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 ____am to ____pm Monday through Sunday. There shall be no dogs outdoors between the hours of ____ to ____.
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.