

# Board of Zoning Adjustment

## Staff Report

December 19, 2022



<b>Case No:</b>	22-CUP-0347
<b>Project Name:</b>	Norton Hospital
<b>Location:</b>	2820 W Broadway
<b>Owner(s):</b>	Norton Hospitals Inc.
<b>Applicant:</b>	Norton Hospital
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4-Jecorey Arthur
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

### REQUEST(S)

- Conditional Use Permit for a Hospital
- Variance from Chapter 5.5.1.A.2 to permit the building to exceed the maximum 5' setback along 28<sup>th</sup> Street (approximately 132.36' and 169.7') and Garland (approximately 238' and 249.20')- 22-VARIANCE-0153
- Waivers:
  1. Waiver from Chapter 5.6.1.A.1 to not provide animating features along no less than 50% of the length of the façade (22-WAIVER-0205)
  2. Waiver from Chapter 10.2.10 to reduce the required 10' VUA LBA to approximately 7.5' along 28<sup>th</sup> Street and to between 10' and 4' along Garland Avenue, as shown on the development plan (22-WAIVER-0206)
  3. Waiver from Chapter 5.5.1.A.3.a to permit parking in front of the primary structure along both 28<sup>th</sup> Street and Garland Ave (22-WAIVER-0207)
- Category 3 Development Plan

### CASE SUMMARY/BACKGROUND

The proposal is for a 2-story hospital with a 53,250 SF footprint located at a vacant lot on the corner of 28<sup>th</sup> Street and Garland Avenue. Two access points are proposed along 28<sup>th</sup> Street, one that leads to the emergency area and the other leading to the front of the structure. One access point is proposed along Garland Avenue that generally leads to the service area behind the structure. 305 parking spaces are proposed around the structure. A pergola is proposed at the corner of 28<sup>th</sup> and Garland to address the corner.

### STAFF FINDING

Staff finds that the proposal generally meets the requirements of the Land Development Code. The Board should discuss whether the pergola at the corner is sufficient enough of mitigation to justify the variance. The Board should also discuss whether meeting the minimum planting and screening requirements along 28<sup>th</sup> and Garland is sufficient to mitigate the LBA waiver as well as the parking in front of the structure waiver.

## **TECHNICAL REVIEW**

Technical review comments have been addressed.

## **INTERESTED PARTY COMMENTS**

None received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

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

STAFF: The proposal is consistent with the policies of the Comprehensive Plan because the proposed site redevelopment is compatible with the surrounding non-residential uses and nearby residential. The plan is not a non-residential expansion into a residential area. The proposal does not replace existing housing but is for the redevelopment of a former industrial site. The site can be accessed safely by all modes of transportation. Transit is provided for with two shelters along 28<sup>th</sup> Street.

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

STAFF: The proposed hospital is compatible with the surrounding institutional, residential, and commercial uses in the area. The proposal meets the Land Development Code requirements for height and do not have any adverse effects on noise, odor, drainage, etc.

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

STAFF: Improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use.

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

A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs.

B. All buildings and structures shall be at least 30 feet from any property line.

C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services.

D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time.

E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation. Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

STAFF: The proposal meets the standards to obtain a conditional use permit. The proposal is located along a local and collector level road and the structure is located 30 feet from the property lines. Signs will be reviewed through a separate permit process but there is no indication that the signs will not meet the requirement.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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 since the site can be accessed by all forms of transportation with several pedestrian ways into the site.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since the area has a mix of traditional development and suburban development.

- (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 since the site will be able to be accessed on both street frontages with added transit amenities and pedestrian connections and walks.

- (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 since the hospital requires access to all sides of the structure due to the different hospital uses with the structure such as the emergency, service, and patient drop off areas.

### **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 variance arises from the hospitals need to have vehicular access all around the structure which is specific to the requested use.

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 proposed building could not function with the interior uses without access all around the building.

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

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.6.1**

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

STAFF: The requested waiver will not adversely affect adjacent property owners as the building sits back from the road and is not abutting residential. Plantings within the VUA LBA will meet code requirements and will help screen the building from the road.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are 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. This is met because the main entrance to the structure along 28<sup>th</sup> street has sufficient articulation to meet the requirement. The south side of the building adjacent to the Garland frontage requires a service area where a screen wall is provided to screen the service area.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the hospital requires access to all sides of the structure due to the different hospital uses with the structure such as the emergency, service, and patient drop off areas. The service area is being screened and is located off the road. The VUA LBA will provide trees from the public sidewalk to reduce the look of the screen wall from the public ROW.

- (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 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 because the land use requires access to all sides of the building, including service, where the service area will be screened with a wall.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.10**

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

STAFF: The waiver will not adversely affect adjacent property owners since the planting and screening requirements will still be met.

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

STAFF: Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and

convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The comprehensive plan is being met since the planting and screening requirements will still be met.

- (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 since the planting and screening requirements will still be met.

- (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 not 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); nor would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. The request has not been mitigated with additional plantings or any other design idea.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.5.1.A.3.a.**

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

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

STAFF: Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form

District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. While the parking layout does not meet the form district requirements, the hospital use dictates that access be along all building frontages. The hospital use is needed in this area as there are no hospitals west of 9<sup>th</sup> Street. The use mitigates the waiver request.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the hospital use dictates that access be along all building frontages. The hospital use is needed in this area as there are no hospitals west of 9<sup>th</sup> Street. The use mitigates the waiver request

- (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 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 since the hospital use dictates that access be along all building frontages. The hospital use is needed in this area as there are no hospitals west of 9<sup>th</sup> Street. The use mitigates the waiver request

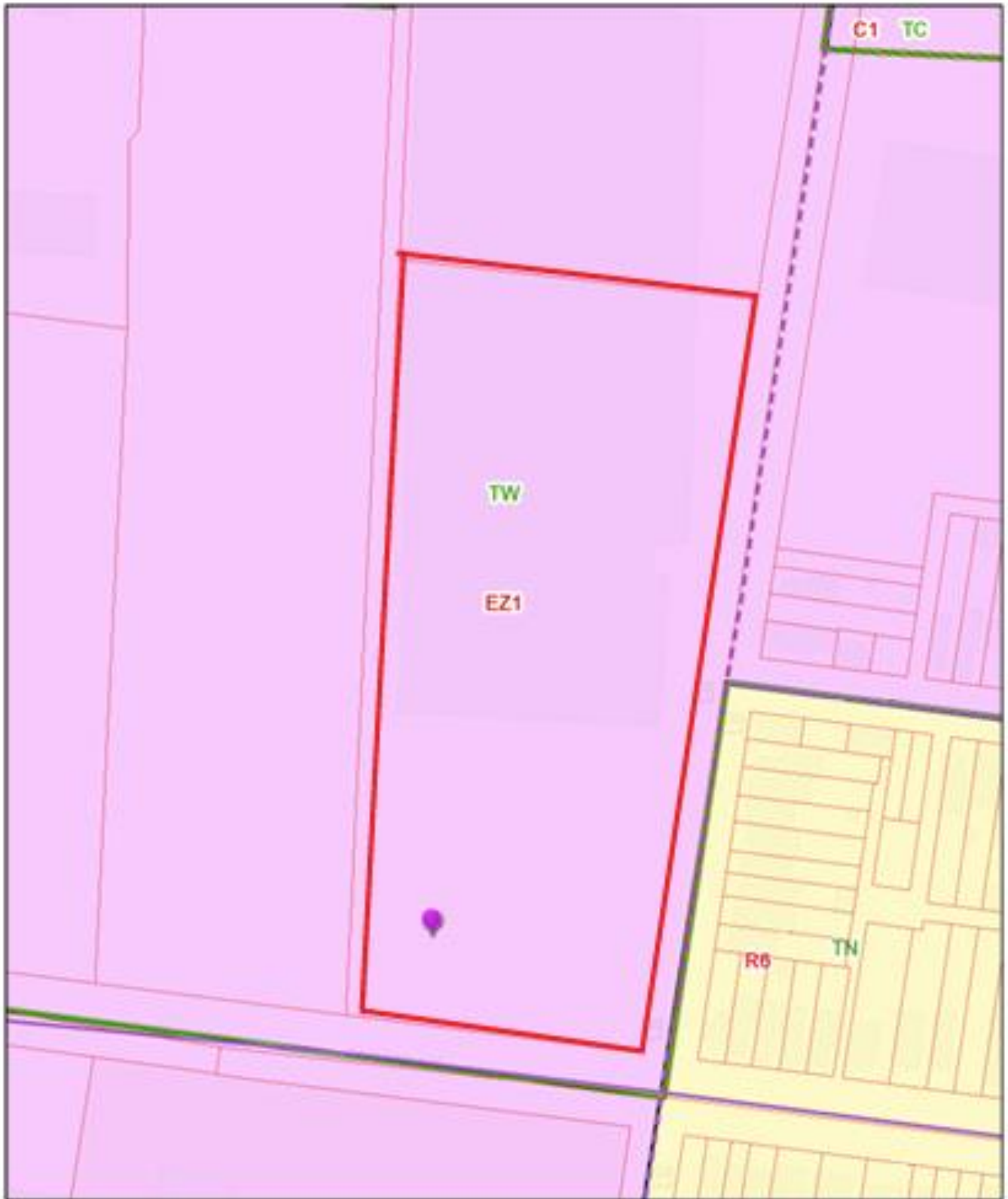
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/29/22	Hearing before BOZA on 12/19/22	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
12/6/22	Hearing before BOZA	Sign Posting on property
	Hearing before BOZA	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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

1. Zoning Map



2. Aerial Photograph





**3. 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 Hospital without further review and approval by the Board.
3. Proposal is subject to full construction plans being submitted to Transportation Planning for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Construction Review for building/parking permits.
4. The applicant will work with TARC on placing 2 transit shelters along the sites 28<sup>th</sup> Street frontage.
5. A pergola shall be constructed on the site at the corner of 28<sup>th</sup> and Garland as shown on the development plan.