

Board of Zoning Adjustment
Staff Report
February 6, 2023



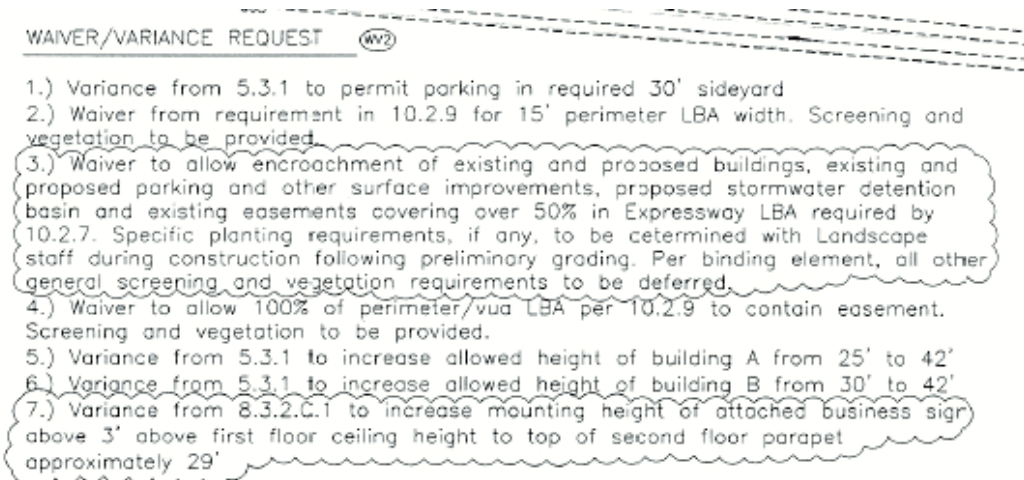
Case No:	22-CUP-0390/22-VARIANCE-0159
Project Name:	Hosparus
Location:	2900, 2902, 2903, 2904, 2905 Stonehaven Ct; 3522, 3524, 3526, 3528, 3532 Ephraim McDowell Dr; 2917 Abigail Dr
Owner(s):	Hosparus, Inc.
Applicant:	Hosparus, Inc.
Jurisdiction:	Louisville Metro
Council District:	8– Cassie Chambers Armstrong
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- **Variance** from Land Development Code Table 5.3.2 to permit a maintenance building and dumpster enclosure to encroach into the 30-foot non-residential to residential setback by up to 20 feet as shown on the development plan.
- **Conditional Use Permit** per Land Development Code section 4.2.29 to permit a hospital/medical clinic with **relief** from Condition of Approval (B) in order to permit buildings to be closer to the property line than 30 feet as shown on the development plan.

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a hospice care hospital and medical office facility with associated accessory structures and parking on approximately 4.16 acres. The site is zoned OR-3 in the Neighborhood form district. A portion of the site was rezoned from R-7 to OR-3 under docket 9-82-00. The remainder of the site was rezoned to OR-3 under docket 12796. That case included a number of variances and waivers granted to the applicant. This included height variances, as well as a variance to allow parking to encroach into the 30' side yard setback. Per the 2009 approved development plan:



The applicant is requesting relief from Condition of Approval (B) in the listed standards found within Land Development Code section 4.2.29 to permit multiple encroachments into the 30-foot setback requirement. A portion of the main facility encroaches into this area along the southern end of the site, as does a small portion of the proposed Grief Counseling Center. A maintenance building along the northeastern end of the site also encroaches into this setback by up to 20 feet. That maintenance facility and the abutting dumpster enclosure are also the subject of the variance request for this proposal.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The proposal complies with all the listed requirements for the Hospitals and Medical Clinics conditional use permit under section 4.2.29 of the Land Development Code, except where relief has been requested. The relief requested is the minimum necessary to construct the proposed facility. The variance request is in an area where similar encroachments for parking were previously approved by the Board of Zoning Adjustment. The applicant will provide adequate screening and buffering adjacent to the residential use.

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

RELATED CASES

This case is associated with a Revised Detailed District Development Plan under docket 22-DDP-0115. That plan was approved by the Development Review Committee on January 18, 2023 and includes binding elements related to the site development.

TECHNICAL REVIEW

The preliminary plan has been approved by Public Works and the Metropolitan Sewer District.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held December 5, 2022 where 3 people attended. No interested party has submitted comments to staff regarding this proposal.

REQUIRED ACTIONS

- **APPROVE of DENY the Variance** from Land Development Code Table 5.3.2 to permit a maintenance building and dumpster enclosure to encroach into the 30-foot non-residential to residential setback by up to 20 feet as shown on the development plan.
- **APPROVE or DENY the Conditional Use Permit** per Land Development Code section 4.2.29 to permit a hospital/medical clinic with relief from Condition of Approval (B) in order to permit buildings to be closer to the property line than 30 feet as shown on the development plan.

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 public health safety or welfare since adequate buffering and screening will be provided.

- (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 variance request is in an area that is currently parking and previously granted a similar variance.

- (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 MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process.

- (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 zoning regulations since the area of the request is already a parking area. Additional planting and screening will be provided with this request that improve existing conditions along the property edge.

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 not arise from special circumstances which do not generally apply to land in the general vicinity.

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 deprive the applicant of reasonable use of the land since the lot is relatively narrow and irregularly shaped.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, as the site was developed with previously approved variances. The applicant is requesting relief prior to the redevelopment of the site.

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: When appropriately managed, the proposed use is 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 the proposal.

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

4.2.29 Hospitals and Medical Clinics

Hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- 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.

STAFF: The applicant has been informed of this provision.

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

STAFF: The applicant is requesting relief from this part.

- 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.

STAFF: The applicant has been informed of this provision.

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

STAFF: The parking proposed has been approved by the Planning Director.

- E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation.

STAFF: The subject site is approximately 691 feet from the nearest arterial roadway, Dutchmans Ln. Dutchmans Ln has transit service available and there are sidewalks linking it to the subject site.

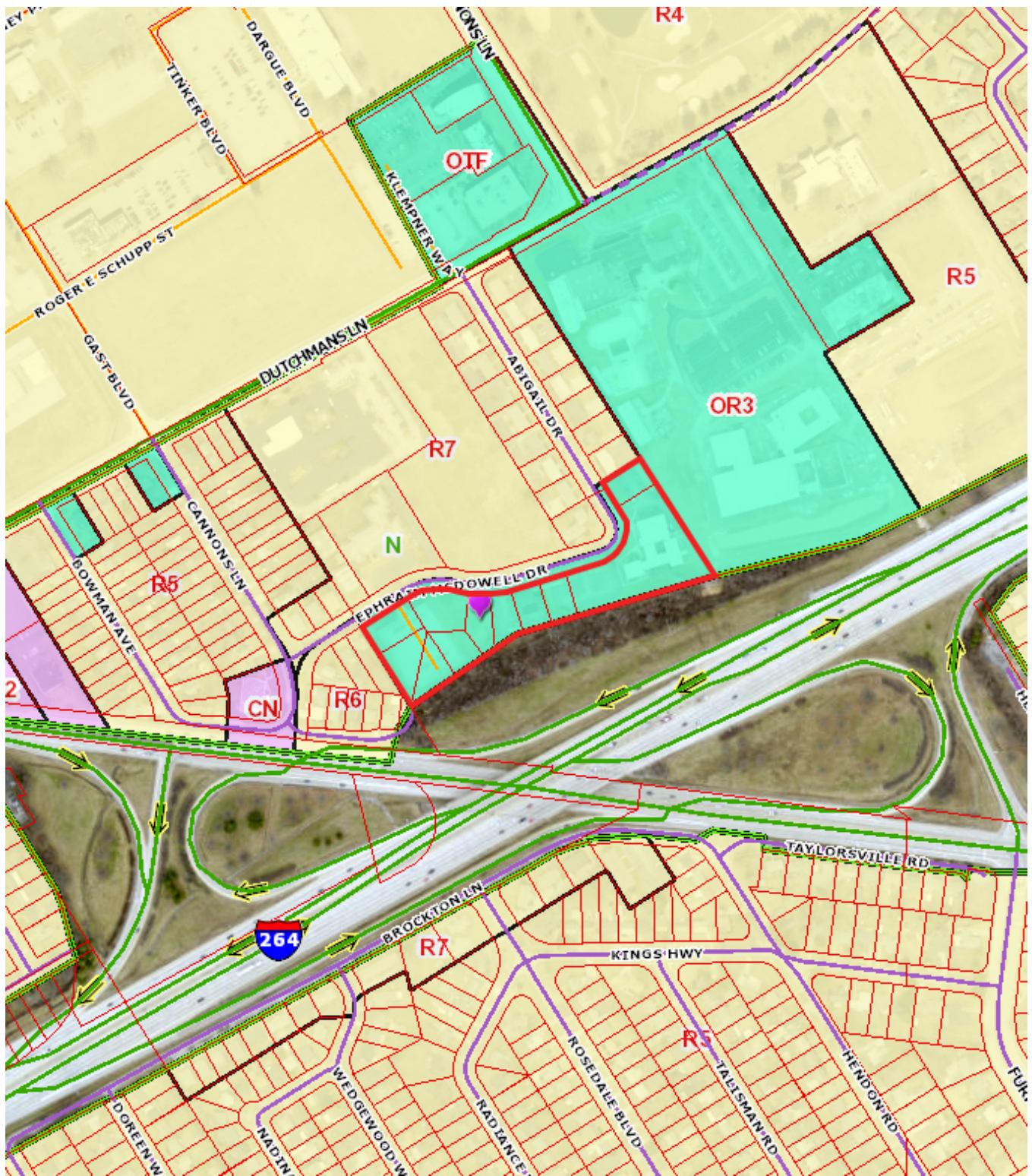
NOTIFICATION

Date	Purpose of Notice	Recipients
1-23-23	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 8
1-23-23	Hearing before BOZA	Sign Posting

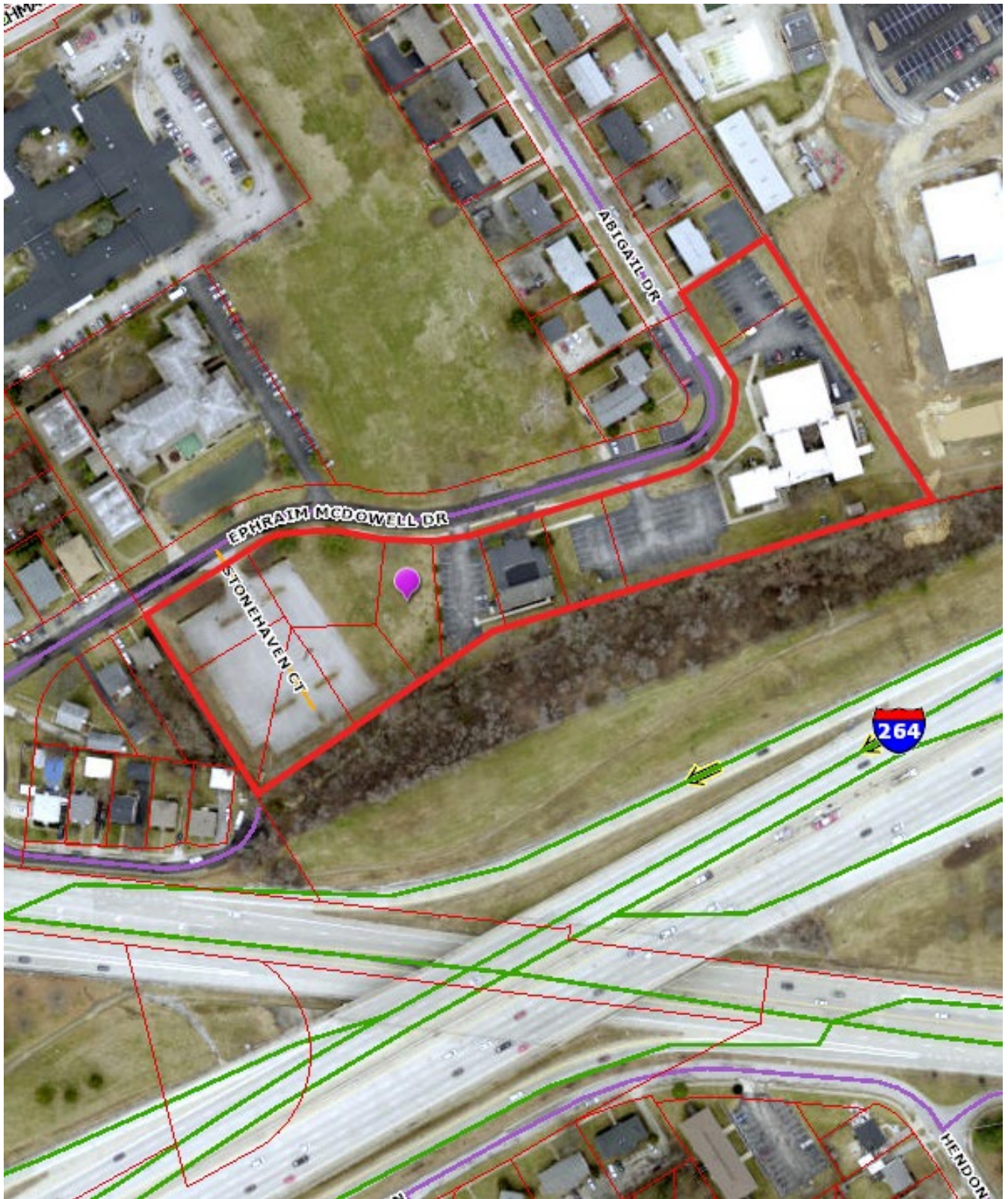
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. 2040 Checklist

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	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.	+	The proposed development will be compatible with the scale and site design of nearby developments.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The proposal complies with all requirements of the Land Development Code except where relief has been sought per this request. The requests are the minimum necessary to provide relief to the applicant.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	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.	+	Transportation Planning has approved the preliminary development plan. The Development Review Committee has reviewed and approved the proposal as accordance with the Comprehensive Plan including binding elements associated with the site zoning.
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot, the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	/	Signage not reviewed as part of this proposal.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has approved the preliminary development plan.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	Noise ordinance will be followed.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	Lighting will be Land Development Code compliant.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD has approved the preliminary development plan.

4. 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 or Medical Clinic until further review and approval by the Board.