

# Board of Zoning Adjustment Staff Report

March 7, 2016



<b>Case No:</b>	15DCUP1049
<b>Project Name:</b>	Norton Hospital – Audubon Expansion
<b>Location:</b>	One Audubon Plaza Drive
<b>Owners:</b>	HCP Louisville, Inc.
<b>Applicant:</b>	Norton Hospitals, Inc.
<b>Representative(s):</b>	Michael F. Tigue
<b>Project Area/Size:</b>	34.97 Acres
<b>Existing Zoning District:</b>	OTF, Office Transportation Facility
<b>Existing Form District:</b>	N, Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Jon E. Crumbie, Planning & Design Coordinator

## REQUESTS

- Modified Conditional Use Permit for proposed hospital expansion.
- Variance to allow the proposed structure to encroach into the required Popular Level Road street side yard.

Location	Requirement	Request	Variance
Popular Level Road	10'	0	10'

- Variance to allow a proposed structure to exceed the maximum height requirement

Location	Requirement	Request	Variance
New Addition	35'	69'	34'

- Variance to allow proposed off-street parking to encroach into the required side yards abutting Lot 1 and Lot 2

Location	Requirement	Request	Variance
Property Line	6'	0	6'

- Landscape waiver to reduce the required LBA along Popular Level Road to between 0 and 5 feet.

Location	Requirement	Request	Waiver
Property Line	15'	0- 5'	10' – 15'

## CASE SUMMARY/SITE CONTEXT

Norton's Hospitals Inc. and HCP Louisville, Inc. more commonly known as the Norton Audubon Hospital complex proposed to renovate the primary hospital facility on Lot 3 in order to convert its semi-private patient rooms into fully private rooms. Norton owns lots 2 and 3 while HCP owns lots 1, 4, and 5. Norton intends to do so in order to meet current patient needs and expectations for quality patient care. In order to accommodate the patients displaced by converting semi-private rooms into private rooms, Norton needs to add additional private rooms to accommodate displaced patients. The new private rooms will be located in a two-story addition erected along the southern façade of the primary hospital facilities located adjacent to Poplar Level Road. The two-story addition will be erected on top of a one level elevated parking garage.

Norton also intends to improve its primary hospital facilities by enclosing certain perimeter areas located around the first floor in order to reconfigure, modernize and otherwise improve its emergency services as well. In order to accommodate the foregoing improvements, Norton also intends to remove and reconstruct the

existing parking garage located along Poplar Level Road. Displaced parking during construction will be located to new surface parking areas to be located on lots 1, 2, and 3.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Hospital	OTF	N
<b>Proposed</b>	Hospital	OTF	N
<b>Surrounding Properties</b>			
<b>North</b>	St. Xavier	R-1, R-5	N
<b>South</b>	Hospital, Office	OR-3	N
<b>East</b>	WPA	R-1, R-5, R-7	N
<b>West</b>	Park	R-1	N

### PREVIOUS AND ASSOCIATED CASES ON SITE

- 15DEVPLAN1204** An application for a Revised Detailed district Development Plan to allow a hospital expansion. This request will be heard by the DRC on March 2.
- MP 150-03** A request for a Minor subdivision Plat to create Lot 1 and 2. This request was approved on August 7, 2003.
- 9-38-76** Request to allow the subdivision of lot 3 to form lot 5. This request was approved on March 13, 2003.
- B-31-03** An application for variances from the Zoning district Regulations to allow a proposed building and off-street parking to encroach into the required yards. This request was approved on April 7, 2003.
- B-02-03** An application for a modification of an approved Conditional Use Permit to increase the size of an office building. This request was approved on April 7, 2003.
- B-41-76** An application for a modification of the existing Conditional Use Permit to allow the expansion of an office and allow a slight adjustment in the orientation of the structure and boiling area that has been a portion of the parking lot. This request was approved on April 7, 2003.
- B-41-76** An application for a modification of the existing Conditional Use Permit as a result of the creation of the new parking lot for an office building. This request was approved on February 18, 2003
- B-252-02** An application for a variance to allow the existing 4 story garage and medical office to encroach into the required yards. This request was approved on December 2, 2002.
- B-252-02** An application for a Conditional Use Permit to allow off-street parking in an OTF zoning district. This request was approved on December 2, 2002.

- B-41-76** An application for a modification of the existing Conditional Use Permit to allow the construction of a storage building at the northeast corner of Illinois Avenue and Poplar Level Road. This request was approved on June 5, 1995.
- B-41-76** An application for a modification of the existing Conditional Use Permit to allow the expansion of a portion of the hospital. This request was approved on January 4, 1993.
- B-41-76** An application for a modification of the existing Conditional Use Permit to allow the addition of the hospital. This request was approved on October 19, 1992.
- B-146-77** An application for a modification of the existing Conditional Use Permit to allow one additional floor to the hospital. This request was approved on October 19, 1992.
- B-41-76** An application for a modification of the existing Conditional Use Permit to allow the expansion of a portion of the hospital. This request was approved on June 4, 1990.
- B-41-76** An application for a modification of the existing Conditional Use Permit to allow a 4-story addition the existing parking garage. This request was approved on June 16, 1986.
- B-41-76** An application for a modification of the existing Conditional Use Permit to allow an addition to the existing hospital. This request was approved on September 16, 1985.
- B-41-76** An application for a Conditional Use Permit for a hospital, landscape plan, parking area, access points part of the binding elements. This application was approved on June 21, 1976.

#### **INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments.

#### **APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code (revised December 2015)

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (Popular Level Road Street Side Yard)**

(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 proposed structure will be matching the current condition on 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 because the proposed structure will be compatible with the existing structure and match the existing building alignment.

(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 because the proposed encroachment will not be noticeable from the street.

(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 because the encroachment has been in existence for several years.

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 existing parking garage was developed before the current regulations and was allowed to be on or near the property line.

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 the proposed structure could not be built as shown and would need to be modified.

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 applicant is trying to conform to the existing conditions on site.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE  
(Height)**

(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 proposed structure will not be taller than the existing hospital.

(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 because the proposed structure will be compatible with the existing hospital.

(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 because the proposed structure will be an improvement over the existing sight line.

(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 because the new structure and improvements will allow the hospital to better serve its patients.

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 existing hospital was developed and built before the current regulations and was allowed to be at its current height.

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 the proposed structure could not be built as shown and would need to be modified.

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 owner is trying to conform to the existing conditions on site.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE  
(Lot 1 & Lot 2 – Side Yard)**

(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 proposed parking will be located behind an existing parking garage.

(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 because the proposed parking will be compatible with the existing parking on site.

(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 because the proposed parking will not be noticeable from One Audubon Plaza Drive or Popular Level Road.

(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 because there are similar encroachments of this type throughout the entire site.

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: There are no special circumstances on site other than to need to add additional parking for the existing medical office on lot 1.

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 the proposed parking could not be built as shown and would need to be modified.

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 owner is trying to conform to the existing conditions on site.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER  
(LBA along Popular Level Road)**

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

STAFF: The waiver will not adversely affect adjacent property owners since the hospital or other related entity own the property to the north and east. A park is located across Popular Level Road to the west.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants.

- (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 because the required landscaping will 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 strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the drive isle and proposed structure would need to be relocated.

**TECHNICAL REVIEW**

There are no outstanding technical review items.

**STAFF CONCLUSIONS**

The modified Conditional Use Permit, variances and landscape waiver appears to be adequately justified and meets the standard of review based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for approving a Revised Detailed District Development Plan.

**REQUIRED ACTIONS**

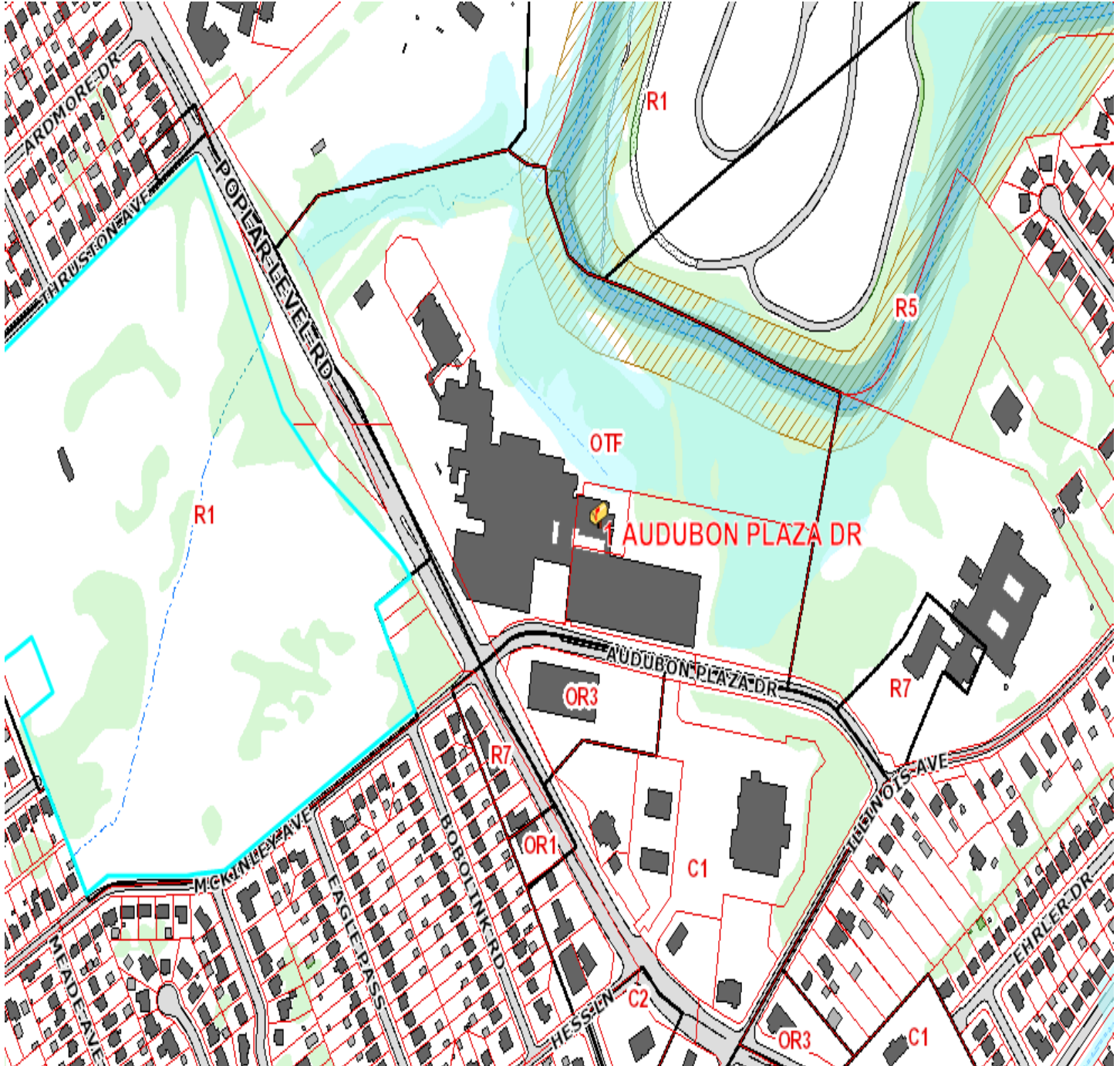
- **APPROVE** or **DENY** the modified Conditional Use Permit, variances, and landscape waiver.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
2/19/16	BOZA	Notices to adjoining property owners
2/22/16	Sign Posting	Site

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Justification Statement
4. Elevations
5. Site Plan



2. Aerial Photograph



3. Justification Statement



Michel F. Tigie  
LAW OFFICE OF MICHAEL TIGUE, PLLC  
P.O. Box 729  
LaGrange, Kentucky 40031

**RECEIVED**  
FFR 09 2016  
PLANNING &  
DESIGN SERVICES

February 8, 2016

Louisville Metro Planning and Design Services  
c/o Jon Crumbie  
444 S. 5<sup>th</sup> Street  
Louisville, Kentucky 40202

Re: Norton Hospitals, Inc./HCP Louisville, Inc. Amended Letter of Explanation and Justification for Modified Conditional Use Permit, Revised Detailed District Development Plan, Variance and Waiver Applications in Case Nos. 15CUP1049/15DEVPLAN1204

To Whom It May Concern:

Norton Hospitals Inc. ("Norton") and HCP Louisville, Inc. ("HCP") are the owners of certain properties located on One Plaza Drive, Louisville, Kentucky that are more commonly known as the Norton Audubon Hospital complex ("Audubon Hospital"). Norton owns Lots 2 and 3. HCP owns Lots 1, 4 and 5. The primary hospital facilities are located on Lot 3 and two medical office buildings are on Lots 1 and 4. Norton and HCP's properties are shown in more detail on the enclosed revised detailed district development plan (the "Plan").

Norton intends to renovate the primary hospital facilities located on Lot 3 in order to convert its semi-private patient rooms into fully private patient rooms. Norton intends to do so in order to meet current patient needs and expectations for quality patient care. In order to accommodate the patients displaced by converting semi-private rooms into private rooms, Norton needs to add additional private rooms to accommodate the displaced patients. The new private rooms will be located in a two-story addition erected along the southern façade of the primary hospital facilities located adjacent to Poplar Level Road. The two-story addition will be erected on top of a one level elevated parking structure.

Norton also intends to improve its primary hospital facilities by enclosing certain perimeter areas located around the first floor in order to reconfigure, modernize and otherwise improve its emergency services as well. In order to accommodate the foregoing improvements, Norton also intends to remove and reconstruct the existing parking garage located along Poplar Level Road. Displaced parking during construction will be relocated to new surface parking

areas to be located on Lots 1, 2, and Lot 3. The foregoing improvements are depicted in more detail on the enclosed Plan.

In order for Norton and HCP to construct the foregoing improvements, Norton and HCP have filed applications seeking approval of a modified conditional use permit, a revised Plan, two variances and a landscape waiver. With respect to the requested variances, Norton is requesting approval of a variance from Section 5.3.1.5 of the applicable Land Development Code to allow the proposed building to encroach 9' into the required front and side yards and a variance from Section 5.3.1.5 of the applicable Land Development Code to allow the proposed building to exceed the 35' height requirement by 34'. Pursuant to KRS 100.243, Norton states that permitting the requested variances to facilitate the foregoing improvements will not adversely affect the public health, safety or welfare and it will not alter the essential character of the general vicinity surrounding the Property.

In fact, given the existing buildings current and lawful encroachment into the required front yard and its existing height in excess of the current height limitation, Norton submits that the requested variances will not create any additional or otherwise discernible impacts on the surrounding community. Thus, increasing the side and front yard encroachments by the relatively minimal amount requested and permitting the height variance will not be out of character, or otherwise cause negative impacts upon the character of development in the areas surrounding the property. In fact, Norton respectfully submits that the proposed improvements will actually substantially improve the appearance of the existing facilities and improve their utility for the treatment and care of members of the general public.

Norton and HCP are also requesting approval of a waiver from Section of 10.2.10 that will allow a minor corner of parking and vehicle maneuvering area to encroach 5' into the required landscape buffer area. Given the minimal intrusion into the landscape area in relation to the substantial improvements to the existing medical facilities, Norton and HCP submit the requested waiver will not adversely affect adjacent property owners or violate the comprehensive plan and is the minimum required to afford relief to the Applicants to accommodate the proposed improvements.

Moreover, while the subject properties do contain some sensitive natural features, the foregoing improvements are contained largely within the existing built environment. As such, impacts to the properties' natural resources, if any, are expected to be minimal. Moreover, even though the foregoing improvements will increase space available for medical services and patient care, Norton and HCP do not expect a significant increase in patients cared for at Audubon Hospital. In short, the additional private rooms will be off-set by the conversion of two-patient (semi-private) rooms to one-patient (private) rooms. Thus, Norton and HCP believe the foregoing improvements can be accomplished with minimal, if any, additional impacts upon the adjoining communities while creating substantial benefits in patient care at the same time.

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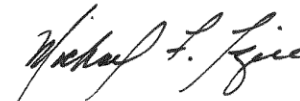
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15 DEVPLAN 1204

Norton in cooperation with HCP and its predecessors have provided vital medical services to our community for many years at Audubon Hospital. Moreover, their services routinely exceed the highest medical standards and patient expectations. However, in order for Norton and HCP to continue to be able to provide exceptional medical care to our community, it is necessary for Norton and HCP to improve Audubon Hospital in the foregoing manner. As such, Norton and HCP respectfully request that its applications for approval of a Modified Conditional Use Permit, a Revised Detailed District Development Plan, variances and landscape waiver be approved to accommodate the foregoing improvements.

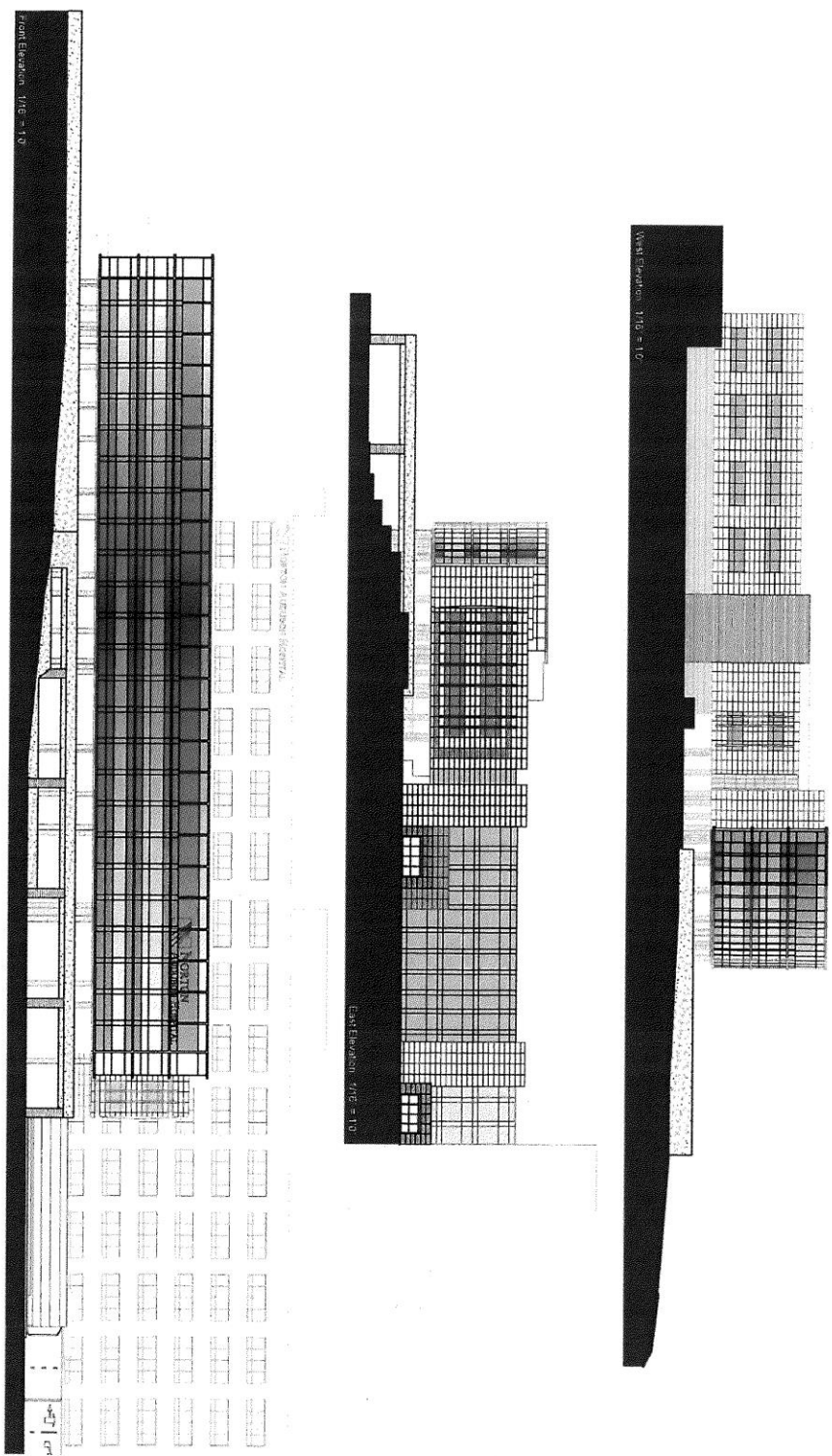
Sincerely,



Michael F. Tighe

Enclosures

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Schematic Design **ELEVATIONS**



