

Board of Zoning Adjustment
Staff Report
June 1, 2020



Case No:	19-VARIANCE-0076
Project Name:	FKC Dialysis Center
Location:	4730 Champions Trace Lane
Owner(s):	Mahesh Kumar Jindal, Two Beans Properties, LLC
Applicant:	Mahesh Kumar Jindal, Two Beans Properties, LLC
Jurisdiction:	West Buechel
Council District:	10 – Stuart Benson
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Variance** of Land Development Code 4.8 to allow encroachment of the proposed pavement into the middle and outer portions of the 100 foot stream buffer

CASE SUMMARY/BACKGROUND

The subject site is zoned C-2 Commercial in the Neighborhood form district. It is located on the south side of Champions Trace Lane, north of Fountain Drive. The subject site is bordered on the west by a C-2 zoned parcel, to the south by an R-7 Residential Multi-Family parcel, and on the opposite side of Champions Trace Lane by a C-2 and OR-1 zoned parcels.

The applicant is proposing to construct a 7,435 square foot medical office building to be used primarily for dialysis. After discussions with the applicant, staff has determined that the proposal is for a medical office and not a medical clinic, so a Conditional Use Permit is not required.

There is an associated Development Plan, 19-DDP-0077, which was heard by the Planning Commission on May 7, 2020 and continued to the June 4, 2020 Planning Commission hearing. The Board of Zoning Adjustment does not act on this case.

STAFF FINDINGS

The district development plan is adequately justified and meets the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE SECTION 4.8.5 TO ALLOW A PROPOSED DRIVE LANE AND PORTION OF BUILDING 5 TO ENCROACH INTO THE 25 FOOT WETLAND BUFFER

- (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 access road to the neighboring property (which will also serve the subject site) already encroaches into the wetland buffer.

- (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 access road already encroaches into the wetland buffer closer than the proposed development on the subject 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 since the existing access road already encroaches into the wetland buffer more than the proposed pavement on the subject site would. The proposed pavement does not appear to pose a hazard or nuisance.

- (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 there is already an existing encroachment into the wetland buffer, so the proposed encroachment is relatively minimal in comparison.

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 access easement between the subject site and the stream was constructed in order to provide access to the neighboring property and the subject site. The paved access easement encroaches further into the buffer than the subject site is proposing.

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 regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the applicant would not be able to extend the pavement on the subject site to reach the existing access road.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, since the wetland regulations were already existing when the current development was proposed.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**

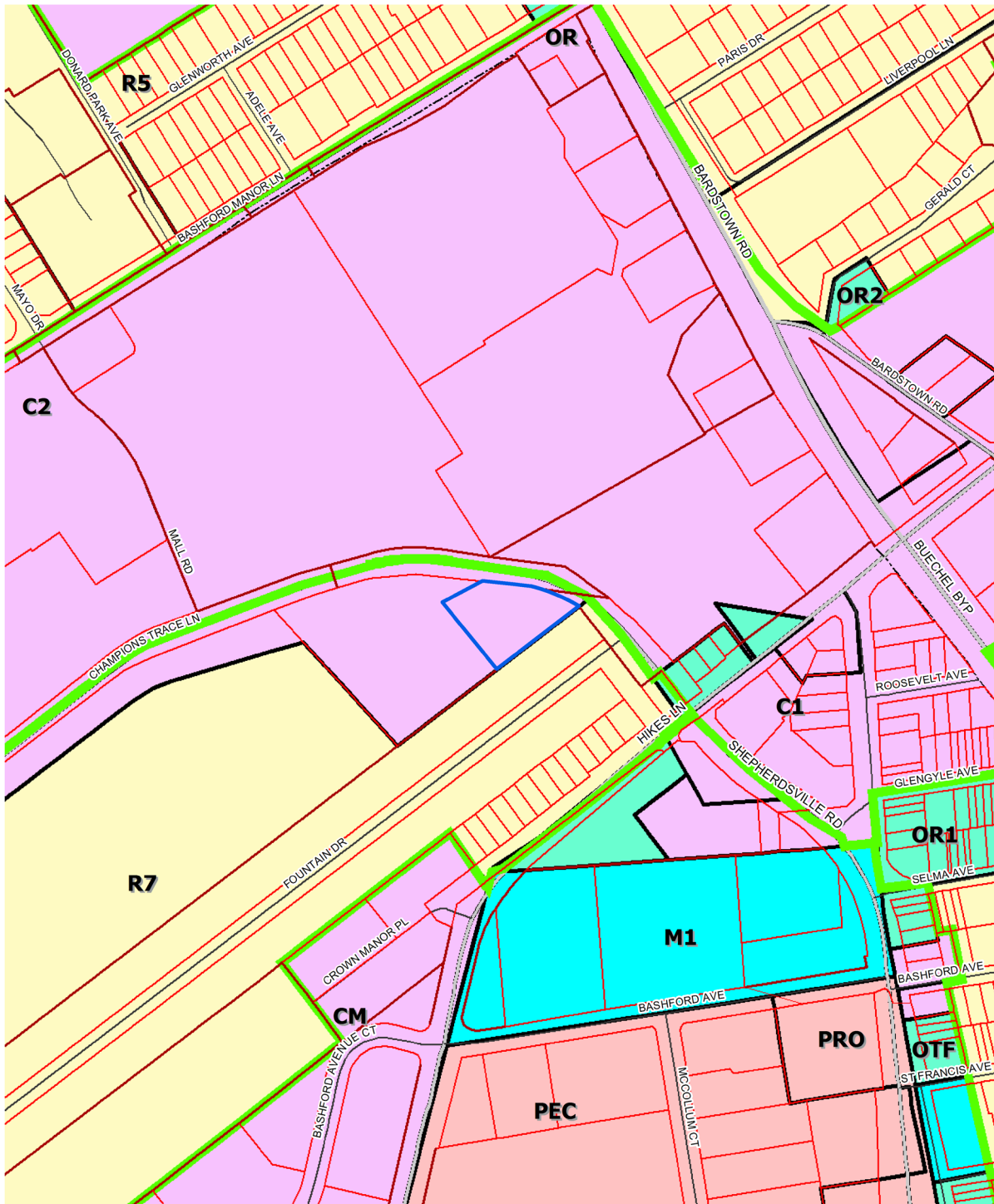
NOTIFICATION

Date	Purpose of Notice	Recipients
6-1-2020	Hearing before BOZA	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 10

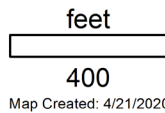
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



4730 CHAMPIONS TRACE LANE



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2. **Aerial Photograph**



NEIGHBORHOOD

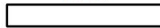
SUBURBAN MARKETPLACE CORRIDOR

SUBURBAN WORKPLACE

4730 CHAMPIONS TRACE LANE



feet



320

Map Created: 4/21/2020



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