

**Board of Zoning Adjustment**  
**Staff Report**  
July 12, 2021



<b>Case No:</b>	21-CUP-0063, 21-WAIVER-0069, 21-VARIANCE-0072
<b>Project Name:</b>	ImmunoTek Bio Center
<b>Location:</b>	8209 Preston Highway
<b>Owner(s):</b>	8209 Preston, LLC
<b>Applicant:</b>	ImmunoTek Bio Centers, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24 – Madonna Flood
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

**REQUEST(S)**

Conditional Use Permit to allow a blood plasma center

- **Waiver** from Land Development Code (LDC) Section 10.2.4.B.1 to allow vehicle parking and maneuvering to encroach into the required 25-foot landscape buffer area.

Location	Requirement	Request	Waiver
Rear of property	25ft.	0	25ft.

- **Variances** from Land Development Code (LDC) Section 4.8.3.A.1 to allow encroachment of parking area into the 100 foot stream buffer and 5.3.2.b to allow vehicle parking and maneuvering to encroach into the required rear yard

Location	Requirement	Request	Variance
100-foot stream buffer at rear of property	100ft.	65ft.	35ft.
Vehicle parking and maneuvering at rear of property	25ft.	0	25ft.

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to use the repurpose the existing structure to allow for the collection of plasma from donors to use in the treatment of COVID-19 patients, burn victims, hemophiliacs, biologic products, albumin and specialty drugs.

### **STAFF FINDING / RECOMMENDATION**

There are two listed standards, and the applicant will need relief from item A. 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**

- 21-DDP-0053** A request for a revised detailed district development plan to allow a blood plasma center. This request was approved with by the Development Review Committee on June 30, 2021.
- 12017** An application for a revised detailed district development plan to allow construction of new sidewalks and parking areas and binding element additions. This proposal was approved by DRC on February 4, 2009.
- B-12068-08** A variance request to allow proposed parking to encroach into the required stream buffer. This request was approved by the Board of Zoning Adjustment on December 15, 2008.
- B-09-04** A hearing for a Notice of Zoning Violation concerning the operation of adult entertainment activities in a C-2 zoning district. The Board found that there were no nonconforming rights for adult entertainment on March 1, 2004.
- 9-036-83** A proposal for a change in zoning from C-1 to C-2 to allow auto repair and retail auto parts sales. This proposal was approved by the Planning Commission on August 4, 1983.

### **TECHNICAL REVIEW**

None

### **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on April 26, 2021 and on one attended except the applicants.

### **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 and approved the proposal.

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

#### 4.2.10 Blood/Plasma Collection Center

A Blood/Plasma Collection Center may be allowed within the C-2, C-3, C-M and all form districts except the Neighborhood, Village and Traditional Neighborhood Form Districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. The property proposed for a blood/plasma collection center shall be at least 1,000 feet from a property zoned residential. ***The property abuts residentially zoned property to the east and south. Part of the property to the east and south is undeveloped and heavily wooded. The front portion of the adjacent property to the south is a commercial use (Auto Zone).***

B. One parking space per 300 square feet of gross floor area shall be provided. ***The proposal will meet or exceed the minimum requirement for parking.***

#### 21-WAIVER-0069

##### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 10.2.4.B.1.

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The waiver will not adversely affect adjacent property owners, as there is no development at the rear of the site, but the maneuvering area will take up most of the rear yard.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the comprehensive plan, the area on the abutting property is heavily wooded and serves as a buffer to the nearest residential units.

- c. The extent of 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. All other requirements of the Land Development Code will be met except the variances requested.

- d. Either: 1. 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 2. 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 not deprive the applicant of the reasonable use of the land. The applicant would have to reconfigure the site to take up less of the required buffer area.

## **21-VARIANCE-0072**

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.8.3.A.1**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variances will not adversely affect the public health, safety or welfare as the parking and maneuvering are located away from single family residential units.

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

STAFF: The requested variances will not alter the essential character of the general vicinity as the variances are part of an existing development and a similar variance was approved in a prior case.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variances will not cause a hazard or nuisance to the public as the encroachments will be situated away from single family residential units.

- (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 encroachments will be behind the existing structure on 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: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site has been developed before the request.

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 not deprive the applicant of the reasonable use of the land. The applicant would have to reconfigure the site to take up less of the required buffer area.

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 property was developed before the proposal.

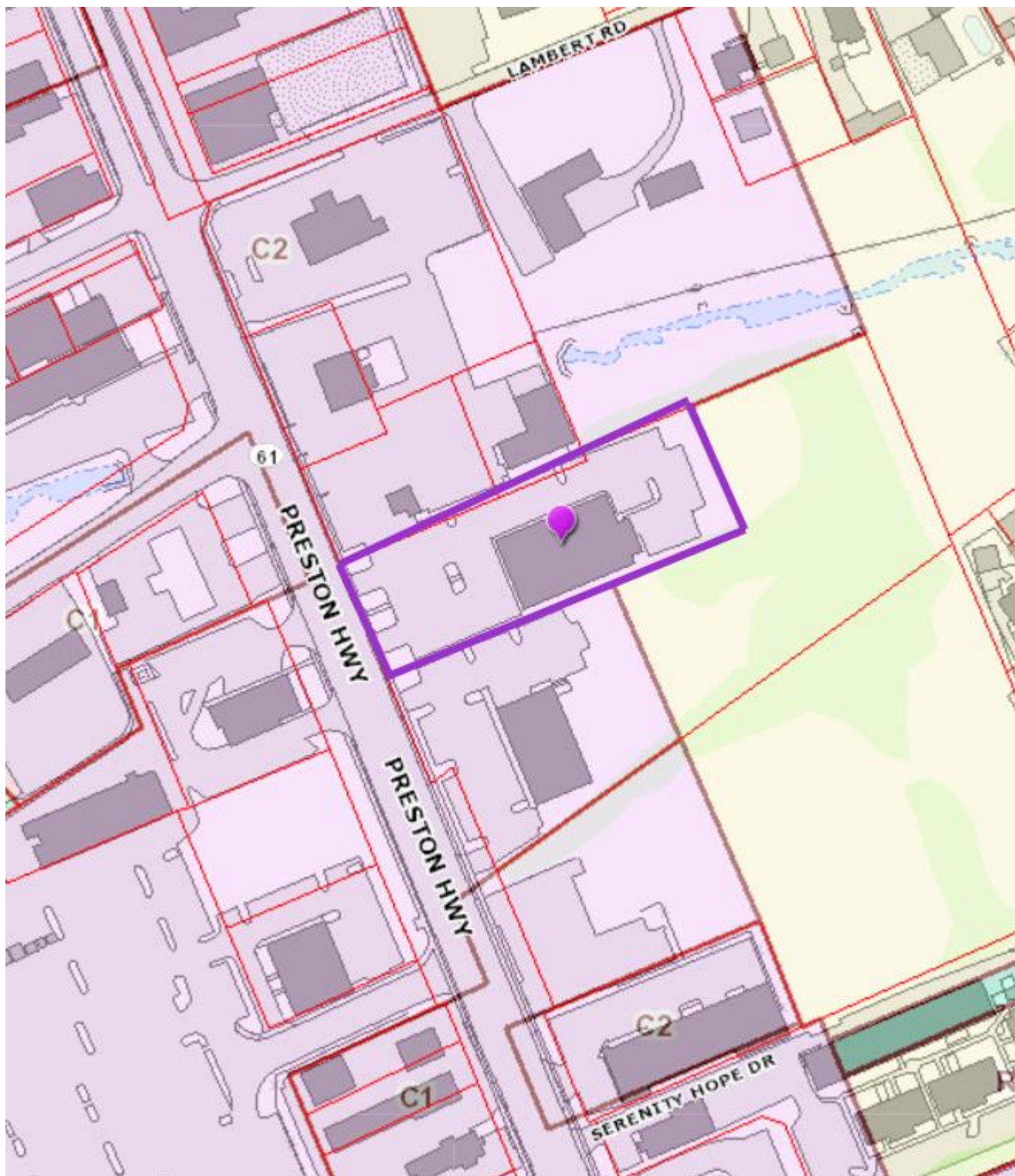
#### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
6/24/2021	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 24
6/25/2021	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 and is located in an existing structure.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The existing setbacks, lot dimensions, and building heights are compatible with nearby development.



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 reviewed the proposal and has no comments.
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).	+	The signage will be Land Development Code compliant.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and approved the proposal.

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 reviewed and approved the proposal.

#### 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 blood plasma center until further review and approval by the Board.