

August 29, 2022

**Via Site Upload**

Scott Reale, AICP  
Senior Planner  
City of Pompano Beach  
Department of Development Services  
Planning and Zoning Division  
100 W. Atlantic Boulevard  
Pompano Beach, FL 33060

Re: 3-Acre Lot Size Variance for Specialty Hospital  
2200 N Federal Highway

Dear Mr. Reale:

R I P Holdings LLC owns the approximately 1.63-acre parcel located at 2200 N Federal Highway (“Property”) in the City of Pompano Beach (“City”). The Property is identified by folio #484330150230 and is zoned General Business (“B-3”). The Property is split in two lots by NE 24<sup>th</sup> Avenue. The west lot is developed with a bowling alley that ceased operations in late 2021, while the east lot is developed with a parking lot that is used as overflow parking by customers from the Chick-Fil-A to the north.

HCA Florida Northwest Hospital is the contract purchaser of the Property and the applicant (“Applicant”). The Applicant is proposing to develop the west lot with a free-standing emergency room (FSER) approximately 10,860 square feet in size. The City has determined this facility is classified as “Specialty Hospital” under the City’s Code.<sup>1</sup> The east lot would become open space, although the Applicant is also open to continuing its current use as overflow parking.

The proposed FSER is a hospital-owned and operated facility that would be open 24 hours a day, 7 days a week. The facility is anticipated to provide a mix of services commonly classified as ‘urgent care’, where the patient would either walk in, drive themselves, or have themselves driven to the facility; as well as services typically classified as ‘emergency care’. The local EMS authority dictates which facilities patients are transported to based on a variety of factors that the FSER operator does not control. The Applicant would work very closely with EMS to help direct patients to where they will be best served. As standard practice with all HCA hospitals and FSERs, the Applicant’s emergency department leaders will meet quarterly with the relevant

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<sup>1</sup> The term ‘specialty hospital’ refers to this use classification in the City of Pompano Beach City Code, Section 155.4209.D. It does not refer to the term ‘specialty hospital’ as defined by the Agency for Health Care Administration (AHCA). All references to ‘specialty hospital’ in this application and all associated documents are to be interpreted strictly as pertaining to the definition used by the City of Pompano Beach Zoning Code.

EMS agencies to determine the types of patients and services that can be routed to the proposed FSER.

Pursuant to City Code (“Code”) Section 155.4209.D.3.d, “The specialty hospital shall be located on a site that has an area of at least three acres and front on or has direct access to and from an arterial or collector street.” The Property meets the arterial/collector street requirement, but does not meet the 3-acre lot size requirement as it is 1.63 acres in size.

The Applicant is requesting a variance from Code Section 155.4209.D.3.d. This request meets the criteria for granting the variance as documented below.

**Variance Review Standards pursuant to Code Section 155.2420.D.1**

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;**

The variance is being requested due to the unusual and exceptional nature of the proposed use, which was not contemplated in the City’s Zoning Code. A free-standing emergency room does not neatly fit under any of the ‘Health Care’ uses listed in the Code. The FSER was initially contemplated as being an ‘Urgent care facility, 24-hours’ but was deemed unsuitable for this use category because it would provide emergency care in addition to urgent care.

Subsequently, it was classified as a Specialty Hospital. However, it is not a typical ‘Specialty Hospital’ use – examples given in the Code definition include specialty medical hospital, specialty rehabilitation hospital, specialty psychiatric hospital, and specialty substance abuse hospital. The free-standing emergency room would be approximately 10,860 square feet in size and would have a Floor Area Ratio (FAR) of 0.15 on the 1.63-acre Property. Because it is a standalone department of a hospital, it does not require the amount of land that a full hospital would.

- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;**

The condition referenced above is not the result of the actions of the landowner. This condition is due to the changing nature of medical practices and the emergence of new facility types designed to better address service gaps, together with the relatively more static nature of City zoning codes.

- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;**

Not allowing the proposed use on the Property would impede the provision of critical medical services to the surrounding neighborhoods. The *raison d'être* for a free-standing emergency room is to fill gaps in service provision given that response time is a critical factor in emergency care. As such, FSERs are located on smaller “infill” sites that may not warrant a full-scale hospital but also are far enough away from an existing hospital that emergency care may be compromised. It would be inappropriate to a site a 10,860-square-foot infill emergency room-only facility on a 3-acre lot.

**d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.**

The requested variance does not confer special privilege that is denied to the other lands because any other property owner negatively impacted by this requirement is also afforded the ability to request a variance. An FSER is a special type of use that is not typically contemplated under the ‘Specialty Hospital’ classification and most uses proposed under this classification would be able to comply with the 3-acre requirement.

**e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;**

Because the size of the Property is fixed, by its very nature the extent of this Variance is the minimum necessary to allow the Specialty hospital use on this Property.

**f. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;**

The intent of the 3-acre requirement is to ensure that the typical Specialty hospital use is appropriately sited on a lot large enough to fit the use without externalizing negative impacts onto surrounding properties. As noted previously, the proposed FSER is not a typical Specialty hospital use. The FSER is a standalone hospital department operating on an outpatient basis that would not have any beds. This would reduce the size requirement for the building to only approximately 10,860 square feet. The FSER would be appropriately sited on a 1.63-acre lot and the variance would be in harmony with the general purpose and intent of this Code.

**g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and**

Please see response to Criterion f above. The variance would not adversely affect the health or safety of persons in the neighborhoods or otherwise be detrimental to the public welfare. To the contrary, the FSER would provide life-saving services to the nearby residents, as the nearest existing emergency room is 8 to 13 minutes away.

**h. The Variance is consistent with the comprehensive plan.**

The requested variance will allow for an unused property to be developed with a crucial medical service use permitted in the B-3 zoning district and Commercial land use designation. Therefore, the proposed use is consistent with the purpose of the zoning and land use designations on the Property. Specifically, the requested variance and resulting development are consistent with the following policies of the City's Comprehensive Plan, as follows:

***Future Land Use Element Policy 01.01.12***

*The City's Future Land Use Map will be in conformance with the County's Land Use Plan and will implement the County's regional vision including provision of essential public services and facilities, enhanced sustainability and livability and give priority to protecting public beach access sites.*

The FSER is an essential public service that is being proposed for a site that is not in close proximity to existing emergency medical services.

***Future Land Use Element Policy 01.04.03***

*Except for schools, regional and community facilities shall be located close to major traffic corridors and mass transit routes adequate to carry the volume of traffic generated by such facilities.*

The FSER would fall under the category of a community facility and would be located on a major traffic corridor (N Federal Highway). Although the FSER is not anticipated to generate a substantial amount of trips—only 271 daily trips, 90 percent less than equivalent commercial uses as described under Criterion f—it is important for these emergency services to be located on a site with easy vehicular access.

***Future Land Use Element Policy 01.03.08***

*Establish criteria to protect residential areas and other land uses that are adjacent to industrial and commercial areas from excessive, odors, traffic and parking impacts.*

The FSER would generate 90 percent less traffic than equivalent commercial uses and is not anticipated to generate any odors.

The Applicant's request is compatible with the objectives of the Comprehensive Plan and the City's criteria for granting variances.

Sincerely,  
GREENSPOON MARDER LLP



Julian Bobilev, AICP