

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: Distance Separation 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 (“Project Site”). 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

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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.

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 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.a, *Separation from Residential Uses*, "The facility shall be at least 500 feet from a Residential Zoning District." The eastern boundary of the Project Site is approximately 115 feet from the Two-Family Residence (RD-1) district to the southeast and 245 feet from the Single-Family Residence 2 (RS-2) to the northeast, as shown in Exhibit A. The Project Site is separated from the RD-1 district to the southeast by NE 24<sup>th</sup> Avenue and the east lot. The Project Site is separated from the RS-2 district to the northeast by NE 24<sup>th</sup> Avenue, the east lot, and a parcel zoned B-3 that is developed with a multi-family building.

The Applicant is requesting a variance from Code Section 155.4209.D.3.a. 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 lack of other suitable parcels in Pompano Beach which could host a specialty hospital while complying with the 500-foot separation requirement. The 'specialty hospital' use is allowed in the following zoning districts:

- B-3 (General Business)
- B-4 (Heavy Business)
- I-1 (General Industrial)
- OIP (Office Industrial Park)
- CF (Community Facility)
- PCD (Planned Commercial/Industrial)
- LAC (Local Activity Center)

While the 500-foot separation requirement is in place to protect adjacent residential neighborhoods from potential adverse impacts, it is also important for an FSER to be sited close to the residential communities it would serve given that response time and drive times are crucial factors in an emergency. For instance, most of Pompano Beach west of Interstate 95 consists of industrial districts that are not within 500 feet of a residential zoning district; however, this area would be an inappropriate site for an FSER as it would significantly increase drive times for patients who need urgent or emergency care.

The Project Site is midway between Broward Health North (2.6 miles to the northwest) and

Broward Health Imperial Point (3.9 miles south) and thus is exceptionally sited to fill a gap in urgent and emergency care services.

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

The conditions referenced above are not the result of the actions of the landowner and are the result of the current layout of zoning districts in the City of Pompano Beach, together with the necessity of siting a free-standing emergency room in reasonable proximity to the residents that may require the life-saving services. The Applicant is requesting the variance in an effort to develop a property that is longer in use with a permitted medical use, while maintaining safe and efficient traffic circulation through the Property.

**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 Project Site due to its proximity to residential districts would impede the provision of critical medical services to the surrounding neighborhoods. For example, almost the entire 4.1-mile stretch of North Federal Highway that is zoned B-3 from NE 6<sup>th</sup> Street to the northern City limits has residential districts adjacent to it within the 500-foot separation distance—Single Family Residence-3 (RS-3) along the northern two thirds, and Two-Family Residence (RD-1) and Multiple-Family Residence (RM-20 and RM-30) in the area around NE 14<sup>th</sup> Street. The only area that could site the facility while meeting the 500-foot separation would be the Pompano Citi Centre shopping mall.

Similarly, the approximately 3.3-mile stretch of North Dixie Highway from Sample Road to NW 14<sup>th</sup> Street (around the southern boundary of the Pompano Beach Airpark) is zoned B-3 and B-4 and has the RS-3 zoning district within the 500-foot separation distance, with the exception of one larger area zoned I-1 between NE 29<sup>th</sup> Street and NE 24<sup>th</sup> Street, on the east side of North Dixie Highway. Even in this one area of I-1, the specialty hospital could not be located on a parcel fronting onto North Dixie Highway because of the RS-3 district on the west side of North Dixie Highway which would still be within the 500 feet; instead, the specialty hospital would have to be located deeper into the industrial park. FSERs need to be located directly on an arterial road so a site on a local road in the middle of industrial park would be inappropriate.<sup>2</sup>

Even the South Dixie Highway corridor, which is zoned B-4 and is dominated by auto repair businesses, would have almost no parcels that could meet the requirement, as the corridor is within 500 feet of Multiple-Family zoning districts.

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<sup>2</sup> See Use Standard 155.4209. D.3.d: “The specialty hospital shall be located on a site that (...) fronts on or has direct access to and from an arterial or collector street.”

The application of this Code requirement to the Project Site would result in unnecessary and undue hardship given the limited availability of parcels that are a) located within a zoning district that permits the ‘Specialty hospital’ use; b) are not within 500 feet of a residential zoning district; and c) are sufficiently close to residential areas so as not compromise the time-sensitive nature of urgent and emergency care.

**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.

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

Because the distance between the Project Site and adjacent residential zoning districts is fixed, by its very nature the extent of this Variance is the minimum necessary to allow the Specialty hospital use on this Project Site.

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

The intent of the 500-foot distance separation requirement is to protect nearby lower-density residential neighborhoods from potential adverse impacts that may be associated with the broader Specialty hospital category. An FSER does not neatly fit under any of the ‘Health Care’ uses listed in the Code, so 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 FSER would be a small 10,860-square-foot building and would generate far fewer impacts than any of these example uses.

In the B-3 district, a wide range of uses are permitted without a distance separation requirement and would be approved by-right. Two typical commercial uses were considered: a 28,400-square-foot retail establishment and a 28,400-square-foot high-turnover restaurant. According to Institute of Transportation Engineers (ITE) trip generation rates, the retail would generate approximately 3,188 daily trips and the restaurant would generate 2,555 daily trips. By contrast, the proposed 10,860-square-foot free-standing emergency room would generate 271 daily trips, 90 percent fewer than these commercial uses.

In addition to these standard commercial uses, other by-right uses include: colleges, grade schools, courthouses, fire or EMS stations, and police stations. All of these by-right uses are expected to have far greater noise and traffic impacts on the surrounding neighborhoods. Fire, EMS, and police stations in particular are worth noting due to the frequency of emergency vehicle trips and the accompanying siren noise. While the free-standing

emergency room would generate some ambulance trips, they are expected to be far less frequent than any of those three uses. Other HCA-operated free-standing emergency rooms located in Boynton Beach and Palm Beach Gardens have experienced long term ambulance visits that average .4 and .8 ambulance visits per day respectively.

Since it's demonstrable that the proposed use would have fewer impacts on the residential neighborhood than many of the other uses allowed by-right in the B-3 zoning district, granting this variance is in harmony with the general purpose, intent, and spirit 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

Justification Narrative for Variance (Distance Separation)

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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.

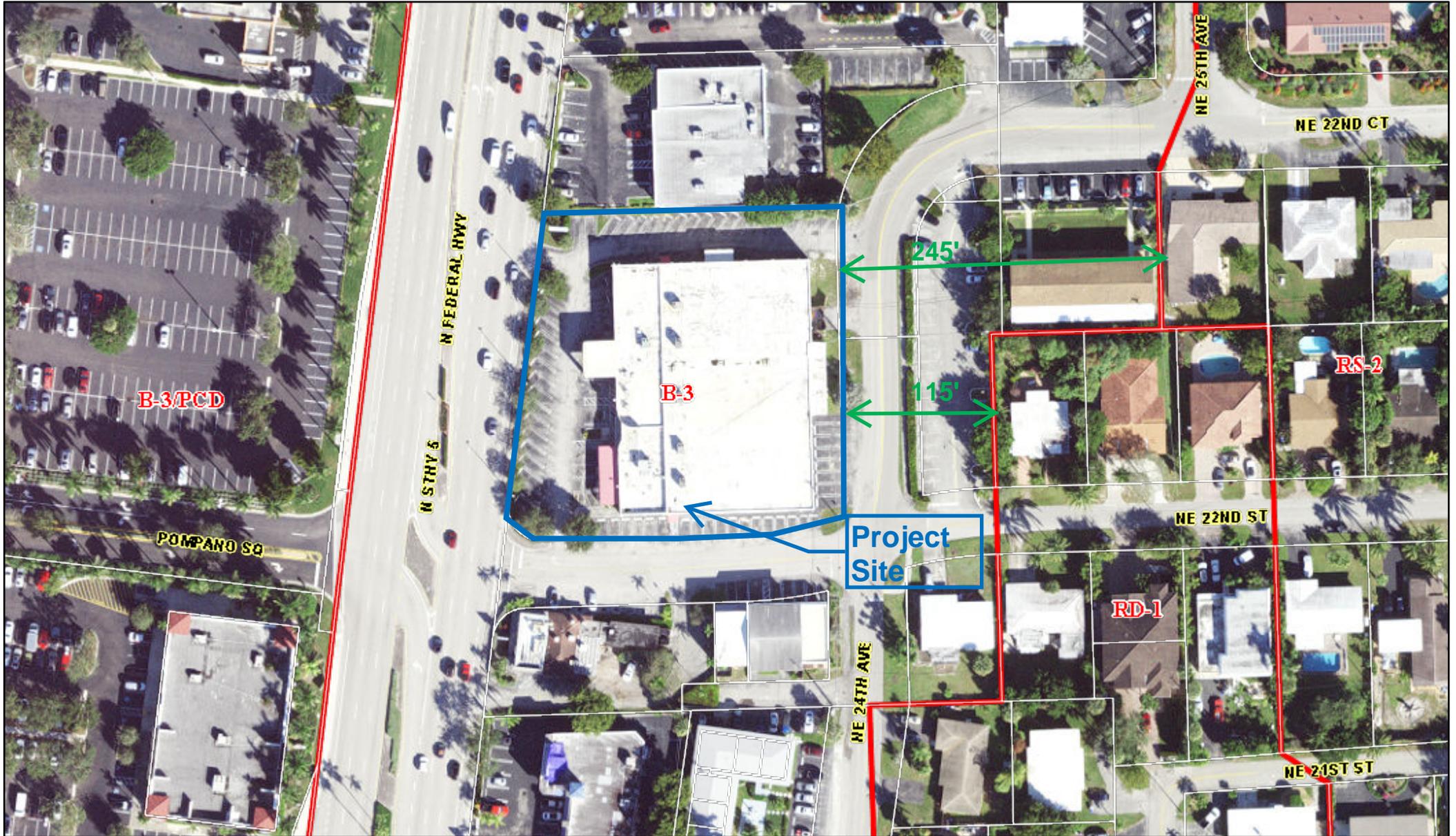
Sincerely,  
GREENSPOON MARDER LLP



Julian Bobilev, AICP

Exhibits

Exhibit A, Distances from R- Districts



August 11, 2022

