

WAIVER JUSTIFICATION STATEMENT

Hogan Real Estate

7714 & 7718 Bardstown Rd. & Cedar Creek Rd.

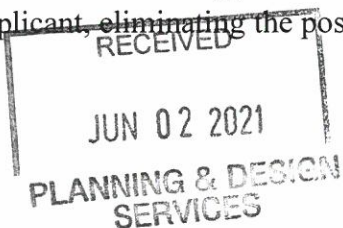
The proposed waiver, which will permit the applicant to waive the required amount of clear glass along the Bardstown Road elevations of two of the four buildings nearest Bardstown Road on the subject property, will not adversely affect the adjacent property owners. The applicant proposes to construct a multi-use commercial development which will include retail, restaurant, and other commercial spaces. The focus of the development is toward the center of the property, providing an active core that will include several patios and pedestrian connections between buildings. The two affected buildings will each have two tenant spaces, one of which will be retail and will contain a significant amount of clear glazing. The other tenant space will be a fast casual restaurant or coffee shop with drive through. These areas will contain spandrel glazing along a portion of the elevation facing Bardstown Road. All of the buildings will be located behind a significant parkway buffer area, including landscaping.

This waiver will not violate the Comprehensive Plan. The proposed commercial development is consistent with other Suburban Marketplace Corridor commercial developments in the area. The proposed building design waiver is necessary to create a neighborhood scale, inward-facing development that will provide both an attractive core and an attractive view from Bardstown Road. Currently, only the Town Center and Regional Center form districts contemplate developments of this design.

The reduction in clear glazing is the minimum waiver necessary to allow the proposed building to function as intended. In both the fast casual restaurant and coffee shop spaces, both of which are the smaller tenant in their respective buildings, the areas along Bardstown Road are “back of house” areas that contain coolers and storage rooms for which clear glazing is not appropriate. The applicant is proposing to provide a significant amount clear glazing where the retail tenant is located, as well as on the other three sides of the proposed buildings.

The waiver arises from special circumstances that do not generally apply to land in the vicinity of the project. In this case, the proposal is affected by two competing design requirements, the parkway buffer, which seeks to put a greater distance and heavy plantings between buildings and the roadway, and the glazing requirement, which seeks to make buildings more open to the street. Here, the proposed buildings are at least 40’ from the right of way behind a heavily planted parkway buffer area. This distance reduces the effect of the clear glazing. The proposed design will not have any adverse effect on adjoining properties.

The strict application of the regulations would create an unnecessary hardship on the applicant, eliminating the possibility of an inward-facing, neighborhood serving center.



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District Development Plan Justification:

In order to justify approval of any district development plan, the Planning Commission considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

- 1. Are there any natural resources on the property, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites? And are these natural resources being preserved?**

There are no significant natural resources to preserve. Applicable tree canopy requirements will be complied with.

- 2. Is safe and efficient vehicular and pedestrian transportation provided both within the development and the community?**

The proposed development has been designed to accommodate both pedestrians and vehicular traffic to, from and within the site.

- 3. Is sufficient open space (scenic and recreational) to meet the needs of the proposed development being provided?**

Open space is not required with this development.

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- 4. Are provisions for adequate drainage facilities provided on the subject site in order to prevent drainage problems from occurring on the subject site or within the community?**

MSD will review the development plan to ensure that the site's drainage impacts are adequately handled.

- 5. Is the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses compatible with the existing and projected future development of the area?**

The proposal will be compatible with the surrounding area and will be consistent with the intensity of development previously approved by the Planning Commission for this property when it was rezoned for commercial development several years ago.

- 6. Is the proposal in conformance with the Comprehensive Plan and Land Development Code?**

The proposal is in compliance with a wide variety of goals and objectives as outlined in the Comprehensive Plan.

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The proposed waiver, which will allow for the proposed development to exceed the maximum number of parking spaces by 46, will not adversely affect adjacent property owners. The applicant is proposing a commercial development and restaurant uses. In accordance with the Land Development Code and Ordinance 114-2020, at Table 9.1.3A and Table 9.1.3B, the maximum number of parking spaces for the proposed commercial development is 175 spaces. The applicant proposes to provide 46 spaces above the maximum for a total of 221 parking spaces. The additional 46 spaces will not adversely affect adjacent property owners as they will provide the required parking spaces for the proposed uses on the subject property.

The attached chart, which includes information taken from the ITE Parking Generation Manual, 5th Edition, demonstrates that the parking provided (221 spaces) is below the 85th percentile for parking required for the proposed use categories. The parking percentiles correspond with demand, indicating that parking at the 85th percentile will meet the demand of the use 85% of the time and be insufficient 15% of the time. Also included in the chart are the allowed maximum parking under the version of Chapter 9 in effect in August 2020, the current allowed maximum, and the parking provided. The parking provided is well below the 392-space maximum allowed in August 2020 and the 85th percentile in the ITE Parking Generation Manual.

The proposed waiver will not violate the Plan 2040 Comprehensive Plan. The property is within the Suburban Marketplace Corridor Form District, which the Plan 2040 Comprehensive Plan defines as “characterized by buildings that are set back far from the street with large parking lots and heavy buffering between uses. These corridors are typically automobile oriented and often contain large-scale retail stores.” The waiver will permit the applicant to construct an automobile oriented commercial development with a large parking lot near Fern Creek along Bardstown Rd. This proposed use is consistent with the Suburban Marketplace Form District.

The proposed waiver is the minimum necessary because of the size and scope of the proposed development along Bardstown Road, a high traffic corridor. Given the intensity of the use, the parking space turnover rate may not be sufficient to serve all customers and could create congestion without the additional parking spaces. Additionally, the proposed restaurants alone will employ approximately 30 employees, which, coupled with overlap in the times employees will be present (such as during a shift change), creates further need for the additional proposed parking spaces to offset parking demand at these peak times. Further, with the recently enacted Land Development Code changes to Chapter 9 parking requirements, the allowable maximum for the subject property’s mix of uses dropped from 392 spaces to 175 spaces, more than a 55% reduction.

Allowing the applicant to provide parking closer to the 85th percentile as set forth in the ITE Parking Generation Manual is a reasonable request.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would require the applicant to operate with limited parking not suited for the proposed use, and potentially cause increased traffic and congestion in the development and along Bardstown Road and Cedar Creek Road.

| PARKING GENERATION 5 th Edition | 85 th Percentile/1000 sf | | | | Average/1000 sf | | | | <u>MAXIMUMS PER LDC</u> | | <u>PARKING PROVIDED</u> |
|--|-------------------------------------|-----------|-------|------------|-----------------|------------|------------|------------|-------------------------|------------|-------------------------|
| | | | | | | | | 8/ 2020 | CURRENT | | |
| Medical Office | 720 | 3,500 sf | 4.59 | 16 | 3.23 | 11 | 23 | 23 | 18 | 31 | |
| Shopping Center | 820 | 28,025 sf | 3.68 | 103 | 1.95 | 55 | 187 | 187 | 108 | 110 | |
| Coffee Shop | 937 | 2,320 sf | 12.52 | 29 | 5.22 | 12 | 23 | 23 | 8 | 17 | |
| Fast Food w/drive | 934 | 4,600 sf | 13.78 | 63 | 8.66 | 40 | 92 | 92 | 18 | 36 | |
| Fast Casual | 930 | 2,330 sf | 11.03 | 26 | 9.93 | 23 | 47 | 47 | 11 | 14 | |
| Furniture Store | 890 | 3,015 sf | 0.86 | 3 | 0.48 | 1 | 20 | 20 | 12 | 13 | |
| Total | | | | 240 | | 142 | 392 | 392 | 175 | 221 | |