

PLANNING COMMISSION

March 16, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0147

Request:	Change in zoning from R-4 to C-1, with associated Detailed District Development Plan with Binding Elements, and Waivers and Parking Waiver
Project Name:	7 Brew
Location:	7609 Bardstown Road
Owner:	Estate of William C Ridge Jr.
Applicant:	Hogan Real Estate
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	22 - Robin Engel
Case Manager:	Dante St. Germain, AICP, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

05:56:37 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation.)

06:04:41 In response to questions from Commissioner Lewis, Ms. St. Germain clarified how the double drive-through lanes work on the plan. There is a walk-up window (see recording.)

06:06:03 In response to questions from Commissioner Mims, Ms. St. Germain said there is no requirement for the Heine Brothers property next door to connect with this site.

06:06:44 In response to questions from Commissioner Carlson, Ms. St. Germain clarified the parking waiver request.

The following spoke in support of the request:

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Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Mike Leonard, 9300 Shelbyville Road Suite 1300, Louisville, KY 40222 (signed in but left before case was called)

Summary of testimony of those in support:

06:06:08 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

06:19:07 In response to questions from Commissioners Mims and Carlson, Mr. Pregliasco said that Note #14 on the site plan deals with interconnection. He explained the interconnection in more detail (see recording for detailed discussion.)

The following spoke in opposition to the request:

No one spoke.

Deliberation:

06:21:17 In response to questions from Commissioner Howard, Ms. St. Germain discussed binding element #6 on page 18 of the staff report (see recording for discussion.) She noted that there are some residential properties across the street, and a few to the north. There may be trucks idling during construction, but not during operations.

An audio/visual recording of the Planning Commission meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in zoning from R-4 Single Family Residential to C-1 Commercial

06:22:31 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is located along Bardstown Road, which is a commercial corridor under development in this area. The proposal would not constitute a non-residential expansion into an existing residential area as the neighboring properties are all non-residential in use; the site is located on Bardstown Road, a commercial corridor with developing activity centers to the north and south of the site; the proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit noxious odors, particulates or emissions; access to the site is via Bardstown Road, a major arterial and transit corridor at this location; the adjacent properties are either in non- residential use, or are developing with non- residential uses; and the proposed zoning district would not permit uses handling hazardous or flammable materials, or uses similar to junkyards, landfills or quarries; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located in a developing activity center; the site has appropriate access and connectivity; the site is located along Bardstown Road, a developing commercial corridor and major arterial at this location; the proposed zoning district would permit a more compact pattern of development in a developing activity center; the proposed zoning district would permit a mixture of compatible land uses in a developing activity center; the proposed zoning district would permit residential uses above retail; the proposal would provide new development providing commercial uses; no underutilized parking lots are proposed; and the proposed zoning district would permit an appropriate design and scale of a center in the Neighborhood Form District. The site placement is on Bardstown Road, a commercial corridor; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not located in the floodplain; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic assets are evident on the site; and no distinctive cultural features are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located in a developing activity center; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via Bardstown Road, a major arterial at this location; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal would permit a mix of complementary neighborhood-serving uses; the site is easily accessible by bicycle, car, transit and pedestrians. Access by people with disabilities will be improved by the proposal; the proposal would permit higher-density mixed-use developments that reduce the need for multiple automobile trips; and Transportation Planning has approved the proposal; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4 Single Family Residential to C-1 Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.

ABSENT: Commissioners Clare and Fischer.

Waivers:

Waiver #1 - from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the east property line (22-WAIVER-0194)

Waiver #2 - from 5.5.2.B.1.a to not provide required vehicular and pedestrian connections between abutting non-residential uses (22-WAIVER-0195)

Waiver #3 - from 8.3.3.A.1 to permit more than three signs on one façade of a non-residential building (23-WAIVER-0006)

06:23:17 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the most affected property is developed with an institutional use, which is unlikely to change in the foreseeable future; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent

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property is being used in a similar intensity as what would be permitted by the proposed zoning district; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is relatively small and the proposed drive-through encroaches into the required LBA. Without this encroachment, the site design would have to be shifted toward Bardstown Road, which would then result in an encroachment into the required parkway buffer. This would be less desirable than the LBA encroachment as proposed, and impact the public more severely; and

WHEREAS, the Commission further finds that 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 because provision of the required landscape buffer area would be prohibitive of the requested use on the lot; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the most affected property has been recently developed with a coffee shop, which would be unlikely to be visited after customers have visited the coffee shop proposed on the subject site. Other affected properties are developed as a school and a church. Connectivity to the church property might be beneficial, but the topography is not conducive to one; and

WHEREAS the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages connectivity to reduce the number of vehicular trips. Connecting the adjoining non-residential uses is unlikely to reduce the number of vehicular trips to any appreciable degree; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is relatively small and making the connections would impact the site design to a high degree; and

WHEREAS, the Commission further finds that 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 because provision of the connections would impact the site design to a high degree and potentially cause prohibitive expense; and

(Waiver #3) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the signage is relatively small and no variance is being requested for the total allowed square footage; and

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WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address attached signage; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as each of the proposed signs serves a different, distinct purpose and removing any of them would impact the functionality of the site; and

WHEREAS, the Commission further finds that 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 as the removal of any of the proposed signs would negatively impact the functioning of the site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the east property line (22-WAIVER-0194); **AND** the requested Waiver #2 from 5.5.2.B.1.a to not provide required vehicular and pedestrian connections between abutting non-residential uses (22-WAIVER-0195); **AND** the requested Waiver #3 from 8.3.3.A.1 to permit more than three signs on one façade of a non-residential building (23-WAIVER-0006).

The vote was as follows:

YES: Commissioners Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.

ABSENT: Commissioners Clare and Fischer.

Parking Waiver to exceed the maximum allowable parking (22-PARKWAIVER-0008)

06:24:27 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the parking waiver is in compliance with the Comprehensive plan since the proposed coffee shop operates differently from most drive-through restaurants, as it will have many more employees than a building of this size would normally be expected to have, and those employees will need parking. Additionally, walk-up traffic is accommodated by the building design, and must be accommodated in the parking as well; and

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WHEREAS, the Commission further finds that the applicant conducted a parking study using existing 7 Brew branded facilities in other locations; and

WHEREAS, the Commission further finds that the requirements found in Table 9.1.3B do not allow for the provision of parking needed to accommodate the parking spaces needs of the proposed use. A parking study was performed for similar facilities that demonstrated a higher parking need than allowed by the Land Development Code; and

WHEREAS, the Commission further finds that the requested increase is the minimum needed to do so because the parking study done on other 7 Brew branded coffee shops shows that more spaces are needed than would be permitted by the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Parking Waiver to exceed the maximum allowable parking from five (5) spaces to a total of twelve (12) spaces including one handicapped space (22-PARKWAIVER-0008).

The vote was as follows:

YES: Commissioners Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.

ABSENT: Commissioners Clare and Fischer.

Detailed District Development Plan with Binding Elements

06:25:06 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is currently undeveloped but no tree canopy, slopes, water courses, flood plains or sensitive soils are evident on the site. The scenic views along Bardstown Road will be preserved by the provision of a parkway buffer; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

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WHEREAS, the Commission further finds that no open space requirements are pertinent to the request; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission further finds that the overall site design is compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code, with the exception of the requested variance and waivers, and conforms with the Comprehensive Plan; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Bardstown Road right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these

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binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.

ABSENT: Commissioners Clare and Fischer.