

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
JUNE 6, 2022 PUBLIC HEARING**

Case Number:	Docket #22-39
Applicant:	Weihe Engineers, Inc. for S & S, LLC
Location:	The subject property is located at 2437 N Lebanon Street, Lebanon, Indiana 46052.
Acreage and Zoning	The subject property is zoned Planned Business Commercial (PBC) and in the Thoroughfare Overlay District and comprised of 1.57 acres.
Property History:	<p>History of Property: This is the first time the requested Development Standards Variances have appeared before the City of Lebanon Board of Zoning Appeals. The property is currently a used car dealership.</p> <p>Lebanon Planning Staff Determination: S & S, LLC presented the intent to construct a Taco Bell and 7 Brew on the subject property. Upon review of the conceptual site plans, Staff identified several variances necessary in order to develop the site as proposed.</p>
Variance Request(s):	<p>Applicant Request: Development Standard Variance Request</p> <p>Variance Request #1 – Front Building Setback UDO Section 4.13.D Because the subject property is located within the Thoroughfare Overlay District, a 20-foot buffer yard is required along Lebanon Street in addition to the front building setback of 50 feet in the PBC zoning district. This would require the building to be setback a minimum of 70 feet from the front property line. Because of restrictions associated with property depth and the proposed design that includes dual drive through lanes, the applicant is requesting relief from the front building setback requirement to allow the building to be setback approximately 40 feet from Lebanon Street rather than the required minimum of 70 feet.</p> <p>Variance Request #2 – Front/Rear Parking Setback UDO Section 7.5.F.2.i Because the subject property is located within the Thoroughfare Overlay District, a 20-foot buffer yard is required along Lebanon Street in addition to the front parking setback of 10 feet. This would require the parking lot to be setback a minimum of 30 feet from the front property line, which significantly restricts the usability of the site. In addition, the applicant is proposing a parking setback of 4 feet along the east property line where the existing site currently has no setback. The applicant is requesting relief from the front/rear parking setback requirements to allow the</p>

parking to be setback 7 feet from Lebanon Street rather than the required minimum of 30 feet and 4 feet from the east property line rather than the required minimum of 5 feet.

Variance Request #3 – Corridor Buffer Setback

UDO Section 6.1.L.3.c

The Thoroughfare Overlay District requires a 20-foot corridor buffer along said thoroughfare in addition to the required parking setbacks. While the applicant is proposing a perimeter landscape area along the frontage of the parking area, because of the restricted lot size and existing conditions, the applicant is requesting relief from this additional buffer setback requirement.

Variance Request #4 – Lot Plantings

UDO Section 6.1.L.3.d

In the Thoroughfare Overlay District, structures are required to include building base landscaping around 75% of the perimeter. The applicant has provided landscape and/or turf areas restricted to the front and rear of the Taco Bell building, but due to site restrictions is unable to completely meet the lot planting requirement. The applicant has requested relief from the lot plantings requirement.

Variance Request #5 – Overlay Prohibited Use (Drive Through Establishment)

UDO Section 6.1.H

The Thoroughfare Overlay District includes a list of uses that are prohibited in the district, including Drive Through Establishments. These types of establishments serve patrons strictly from the drive through windows and do not include inside seating. The applicant is requesting relief from this requirement to allow the construction of the 7 Brew drive through coffee shop on the subject property.

Variance Evaluation:

Evaluation of Variance(s)

Statutory Authority of BZA for Reviewing Variances.

Pursuant to state statute and the Lebanon Unified Development Ordinance, the Board of Zoning Appeals must find that each of the following conditions is satisfied in order to grant a variance from the development standards in the Ordinance. Per Indiana Code (IC) 36-7-4-918.5; No variance in the application of the provisions of the ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find, in writing that each of development standard variances listed above has been reviewed based on the following (3) statutory criteria:

Statutory Criteria

Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.

Variance #1:

Criteria-3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.

Staff Evaluation of Development Standard Variances

**Variance Request #1 – Front Building Setback
UDO Section 4.13.D**

Because of restrictions associated with property depth and the proposed design that includes dual drive through lanes, the applicant is requesting relief from the front building setback requirement to allow the building to be setback approximately 40 feet from Lebanon Street rather than the required minimum of 70 feet.

Staff Evaluation of Development Standard Variances

Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

Staff Analysis

The relief from the front building setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The building would still maintain a setback of 40 feet from the front property line, allowing plenty of visibility for motorists along Lebanon Street.

Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.

Staff Analysis

The requested variance for the front building setback will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed setback of 40 feet is consistent with the adjacent property to the north. In addition, the applicant is proposing to install significant landscaping along Lebanon Street where there currently is none.

Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.

Staff Analysis

The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The addition of the thoroughfare overlay buffer requires the proposed property to maintain a front setback that is significantly large than the setback of any adjacent property. With the installation of the required buffer plantings and a proposed setback of 40 feet, the proposed condition is an improvement to adjacent existing commercial properties.

<p>Staff Recommendation:</p>	<p>Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the front building setback requirement of the Planned Business Commercial zoning district.</p>
<p>Variance #2:</p>	<p>Variance Request #2 – Front/Rear Parking Setback UDO Section 7.5.F.2.i</p> <p>The applicant is requesting relief from the front/rear parking setback requirements to allow the parking to be setback 7 feet from Lebanon Street rather than the required minimum of 30 feet and 4 feet from the east property line rather than the required minimum of 5 feet.</p> <p style="text-align: center;">Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p>Staff Analysis The relief from the front/rear parking setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. With the proposed setback of 7 feet, there will be no visibility issues for motorists.</p> <p><i>Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.</i></p> <p>Staff Analysis The requested variance for front/rear parking setback will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed setback is consistent or more significant than adjacent commercial parking lots.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p>Staff Analysis The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The addition of the thoroughfare overlay buffer requires the proposed property to maintain a front parking setback that is at least 20 feet more than any adjacent parking setback, in some cases the difference is much more than this. With the installation of the required buffer plantings and a proposed setback of 7 feet, the proposed condition is an improvement to adjacent existing commercial properties.</p>
<p>Staff Recommendation:</p>	<p>Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the front/rear parking setback requirement of the Planned Business Commercial zoning district.</p>

<p>Variance #3:</p>	<p>Variance Request #3 – Corridor Buffer Setback UDO Section 6.1.L.3.c</p> <p>The Thoroughfare Overlay District requires a 20-foot corridor buffer along said thoroughfare in addition to the required parking setbacks. While the applicant is proposing a perimeter landscape area along the frontage of the parking area, because of the restricted lot size and existing conditions, the applicant is requesting relief from this additional buffer setback requirement.</p> <p style="text-align: center;">Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p>Staff Analysis The relief from the corridor buffer requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The proposed project will still maintain the required buffer improvements within the reduced width.</p> <p><i>Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.</i></p> <p>Staff Analysis The requested variance for the buffer width reduction will not affect the use and value of the area adjacent to the property in an adverse manner. The proposal essentially maintains the same setback as the existing site adding the required landscaping that is currently not provided.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p>Staff Analysis The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The buffer requirement of 20 feet, when combined with other required buffers and setbacks would essentially render the site unbuildable. The proposal would provide a buffer where one doesn't currently exist.</p>
<p>Staff Recommendation:</p>	<p>Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the corridor buffer setback requirements of the Thoroughfare Overlay district.</p>
<p>Variance #4:</p>	<p>Variance Request #4 – Lot Plantings UDO Section 6.1.L.3.d</p> <p>The applicant has provided landscape and/or turf areas restricted to the front and rear of the Taco Bell building, but due to site restrictions is unable to completely</p>

<p>Staff Recommendation:</p> <p>Variance #5:</p>	<p>meet the lot planting requirement. The applicant has requested relief from the lot plantings requirement.</p> <p style="text-align: center;">Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p>Staff Analysis The relief from the lot plantings requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><i>Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.</i></p> <p>Staff Analysis The requested variance for lot plantings will not affect the use and value of the area adjacent to the property in an adverse manner. The applicant is proposing to install some building base landscaping, which is consistent with existing commercial sites in the area.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p>Staff Analysis The strict application of the terms of the UDO will result in practical difficulties in the use of the property. Given the restricted lot size/depth and the configuration of the building with dual drive through lanes, there is not sufficient space to also provide the required lot planting space.</p> <p style="text-align: center;">Staff Recommendation:</p> <p>The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the lot plantings requirement of the Thoroughfare Overlay district.</p> <p style="text-align: center;">Variance Request #5 – Overlay Prohibited Use – Drive Through UDO Section 6.1.H</p> <p>The applicant is requesting relief from the Overlay Prohibited Use for Drive Through Establishments to allow the construction of the 7 Brew drive through coffee shop on the subject property.</p> <p style="text-align: center;">Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p>Staff Analysis</p>
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The relief from the overlay prohibited use requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The applicant has worked with Staff to ensure safe auto movements to and through the site.

Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.

Staff Analysis

The requested variance for overlay prohibited uses will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed 7 Brew coffee shop is complementary to adjacent commercial uses in the area and will cause no traffic issues in the area.

Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.

Staff Analysis

The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The look and operation of a drive through establishment is very similar to a typical fast-food restaurant with drive through, which is permitted in the overlay district, except for not also including inside seating. In particular, now that many fast-food restaurants include dual drive through lanes, the operation of the site in comparison to the proposed 7 Brew would be very similar.

Staff Recommendation:

Staff Recommendation:

The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the Overlay Prohibited Use requirement of the Thoroughfare Overlay district.