



**ITEM REPORT  
PLANNING AND ZONING COMMISSION**

Agenda Date: 2/10/2026  
Agenda Section: New Business

**TO:** Baxter Planning and Zoning Commission

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**FROM:** Matthew Gindele, City Planner

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**REQUEST:** **PUBLIC HEARING.** Conditional use permits and variance to allow joint-access and a drive-through establishment with a principal structure smaller than ordinance allows for property located at 8464 Fairview Road (city file 2025-040)

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**APPLICANT:** Matt Developmant Company

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**ZONING:** C-2, Regional Commercial

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**1. Application Request**

The applicant is requesting approval of the following items for the roughly 1.1-acre site:

- **Conditional Use Permits (CUPs)** to allow a restaurant drive through and joint access.
- **Variance** to allow a principal structure to be smaller than the minimum dimensions required by Code

The applicant is proposing to develop the vacant site located on the north side of State Highway 210 with a 510-square foot 7 Brew coffee shop with a drive through and external walk-in freezer. Access to the site would be from Fairview Road.

**2. Context**

Adjacent Land Use and Zoning

	<b>Adjacent Land Use</b>	<b>Zoning</b>
<b>North</b>	Commercial	C-2, Regional Commercial
<b>East</b>	Commercial	C-2, Regional Commercial
<b>South</b>	State Highway 210/Commercial	C-2, Regional Commercial
<b>West</b>	Commercial	C-2, Regional Commercial

Natural Characteristics of the Site

The site was previously developed with a structure that has been removed. The site is currently open grassland in the center of the site with gravel around the perimeter. There is a single tree in the center of the site with a few more on the north property line. There are no wetlands on the site, and the site is not located in a shoreland overlay district and there is no FEMA floodplain on the property.

## Utility Commission Review

The Utility Commission reviewed the application on February 5, 2026 and recommended approval of the conditional use permits and variance subject to the following conditions:

1. Enter into an Escrow Agreement prior to issuing a building permit.
2. Enter into a Stormwater Facilities Maintenance Agreement prior to issuing a building permit.

### **3. Analysis of Request**

#### Conditional Use Permit for a Drive-through

The applicant is requesting a conditional use permit to allow a drive-through for 7 Brew. The zoning ordinance states that drive through business is allowed subject to the following standards:

- The business shall be located on a site with direct access to a minor arterial street, collector, or service road.

*The proposed drive-through site is located on Fairview Road which is a service road that has direct access to State Highway 210.*

- Drive-Through Lanes: Drive-through or drive-in lanes are not allowed between the building and a lot line that faces a public street. This does not pertain to driveways.

*The drive-through lanes are proposed on the east, north, and west sides of the building and are not located between the building and the service road.*

- Drive-through facilities, including, but not limited to, the service windows and stacking spaces, shall be separated from residentially zoned or guided property by an arterial or collector street or shall be set back at least two hundred feet (200') from residentially zoned or guided property.

*There is not a residentially zoned or guided property within 200 feet of the subject property.*

- The public address or order system shall not be audible from any adjacent residentially zoned or guided property. Electronic speaker devices, if used, shall not be audible beyond the property being served and shall not be operated between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M., unless extended by the city council as part of the conditional use permit.

*Staff has added a condition to the resolution for compliance with this standard.*

- Adequate stacking distance shall be provided, which does not interfere with other driving areas, parking spaces, or sidewalks. Stacking spaces shall not interfere with parking spaces or traffic circulation.

*The applicant is providing a stacking lane and adjacent escape lane adjacent to the stacking. The escape lane will also double as a secondary stacking lane during high traffic volume times. The stacking does not interfere with parking or circulation of the site.*

- Businesses with one drive-through lane shall provide stacking space for at least ten (10) vehicles, as measured from and including the last pick-up station, window, or the like.

*The proposed drive-through has 13 stacking stalls per lane in compliance with these ordinance requirements.*

- The applicant shall demonstrate that such use will not significantly lower the existing level of service on streets and intersections. The city may require a traffic study to be prepared.

*Staff finds this commercial area was designed for high-traffic commercial use and traffic has been previously studied.*

- Screening shall be provided of automobile headlights in the drive-through lane to adjacent properties. Such screening shall be at least three feet (3') in height and fully opaque, consisting of a wall, fence, dense vegetation, berm, or grade change.

*The applicant has submitted a landscape plan with trees around the perimeter of the drive through. A condition of approval has been added to the draft resolution that prior to issuance of a building permit city staff shall review and approve the specific tree species and locations to ensure compliance with the headlight screening requirements of the zoning ordinance.*

- A bypass lane shall be provided for each drive-through use, allowing cars to leave the drive-through lane from the stacking area.

*The drive through plans include a code compliant bypass lane.*

#### Conditional Use Permit Amendment for Joint Access

The applicant is requesting a conditional use permit for joint/cross-access easement. The joint access is proposed on the north entrance into the site from the mall property. The zoning ordinance permits the setback for drive aisles to be reduced to zero to allow joint driveway and parking across lot lines with approval of a conditional use permit, provided that:

- Driveways and parking areas are designed to accommodate a safe traffic pattern
- Design requirements are met.
- An access master plan is submitted
- A cross-access easement be submitted for approval by the city attorney and recorded.

Staff notes that the attached plans for development serve as the master plan for joint access. Staff finds that the joint access meets the city's design requirements for joint use and would include a safe traffic pattern. Staff has added a condition to the approving resolution that the applicant shall submit a private joint access easement to be reviewed by the City Attorney and recorded with Crow Wing County.

#### *CUP Standards*

Staff has also reviewed the request against the general CUP standards. Section 10-7-4 of the Zoning Ordinance defines the criteria for reviewing and processing a conditional use permit (CUP). Specifically:

- A. Excessive Burden: The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

*The City finds that the drive-through business and joint access parking would not create an excessive burden on existing parks, schools, streets, and other public facilities because the surrounding road network has been designed to support commercial development in the vicinity of the subject property and there are no schools in the vicinity.*

- B. Compatibility: The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.

*The City finds that the adjacent properties are currently developed with commercial use and that drive-throughs and joint access are allowed conditional uses in the C-2 district and therefore, would not depreciate adjacent properties.*

- C. Appearance: The use shall have an appearance that will not have an adverse affect (sic) upon adjacent properties.

*The City finds that the drive-through and joint access would not have an adverse effect on adjacent properties because the adjacent property is all commercial use and that the applicant will provide screening for the drive through headlights to adjacent properties. Additionally, staff finds that adjacent properties are developed with drive throughs and joint access with the mall property to the north.*

- D. Overall Needs: The use, in the opinion of the planning and zoning commission shall be reasonably related to the overall needs of the city and to the existing land use.

*The City finds that drive-throughs and joint access are commonly a part of commercial development and serve to build out the needs of the commercial district.*

- E. Consistent With Purpose: The use shall be consistent with the purposes of this title and purposes of the zoning district in which the applicant intends to locate the proposed use.

*The City finds that the drive-through use and joint access is consistent with the purposes of the zoning ordinance and the C-2 zoning district. Conditions have been added to the resolution addressing ordinance requirements for the conditional uses.*

- F. Comprehensive Plan: The use shall not be in conflict with the comprehensive plan of the city.

*The drive-through use and joint access would not conflict with the comprehensive plan of the city.*

- G. Traffic: The use will not cause traffic hazard or congestion.

*With the conditions in the resolution, the proposed uses would not cause a traffic hazard or congestion.*

- H. Facilities: The use shall have adequate utilities, access roads, drainage, and necessary facilities.

*The site has adequate utilities, access roads, drainage, and necessary facilities.*

### Variance

The applicant is requesting a variance to allow a principal structure that is 15 feet by 34 feet when the ordinance requires principal structures to be a minimum of 24 feet by 30 feet. The applicant is proposing a pre-fabricated building that is specifically designed for this particular use and to meet building codes in every state nation-wide.

Additionally, the business operates purely as a drive-through without any seating in the building, or any access to the general public, effectively minimizing the building footprint.

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Specifically:

- a) That there are practical difficulties in complying with the Zoning Ordinance.

*There are practical difficulties in complying with the Zoning Ordinance because the applicant uses a pre-fabricated building design that does not meet the minimum principal structure dimensions required by ordinance. Additionally, the business model for the proposed use is strictly a drive through and does not include indoor seating which allows for a smaller building footprint.*

- b) That the conditions upon which a petition for a variation is based are unique to the parcel of land for which the variance is sought and were not created by the landowner.

*The conditions upon which a petition for a variation is based are unique to the parcel due to the existing elevations and grades of the surrounding development combined with the proposed development plan. Specifically, the surrounding developments are three to ten feet higher in elevation than the current grade of the subject property. Fill will need to be brought in to elevate the grade of the subject property. Additionally, the stormwater pond elevations are significantly lower in elevation than the grade of the site. In order to get the stormwater pond grades for the subject property to a 4:1 slope as is required by ordinance, the entire northeast corner of the property is needed to properly grade out the stormwater pond which cuts into the developable space. That, combined with the proposed site plan, significantly limits the developable space which staff finds as grounds for the requested variance.*

- c) That the granting of the variation will not alter the essential character of the locality.

*The variance would not alter the essential character of the locality. The site is located in an existing commercial area. The primary stacking lanes for the drive through would be in the side and rear yard of the site, opposite of Fairview Road. Additionally, the adjacent property to the east has an undersized building which received a variance.*

- d) The proposed variance would be in harmony with the general purposes and intent of the Ordinance.

*The variance would be in harmony with the general purposes and intent of the ordinance.*

- e) The variance is consistent with the Comprehensive Plan.

*The variance would be consistent with the Comprehensive Plan.*

### Site Plan Review

A site plan review for the items listed in the table below is not part of the review for this application. The site plan review will occur prior to issuance of a building permit. However, staff has included the information to show that it appears that the site can be developed in compliance with ordinance requirements.

	<b>Ordinance Requirement</b>	<b>Proposed</b>	<b>Meets/Exceed Requirements</b>
<b>Building Setbacks (principal structure)</b>	35-foot front setback	>35 feet	Yes
	10-foot side setback	>10 feet	Yes
	30-foot rear setback	>30 feet	Yes
<b>Building Setbacks (accessory structure)</b>	35-foot front yard	>35 feet	Yes
	10-foot side yard	>10 feet	Yes
	10-foot rear yard	>10 feet	Yes
<b>Parking &amp; Drive Aisle Setbacks</b>	10-foot setback	10+ feet	Yes
<b>Parking</b>	8 Spaces (One Stall Per 2.5 Seats, Minimum 8 stalls) (0 seats)	9 spaces	Yes
<b>Parking Stall Dimensions</b>	10 feet by 18 or 20 feet	10 feet by 18 feet	Yes
<b>Drive Aisle Dimensions</b>	24 feet	24 feet	Yes
<b>One Way Drive Aisle Dimensions</b>	14 feet and 16 feet	14 feet and 16 feet	Yes
<b>Parking Lot Sidewalks</b>	ADA compliant	ADA compliant	Yes
<b>Building Height</b>	45 feet	19-foot 4-inches	Yes
<b>Structural Coverage</b>	50 percent	1.75 percent	Yes
<b>Impervious Surface</b>	88 percent (non-shoreland)	47 percent	Yes
<b>Architectural</b>	Materials from Ordinance List for C-2 Properties	Architectural cement board (brick pattern) on buildings, engineered aluminum on canopy	Yes
	Earth Tone Colors	Earth Tone Colors	Yes
<b>Landscaping</b>			
Number of Trees	4 trees	5 trees	Yes

Size of Trees	2-inch and 6 foot	2.5-inch and 6 foot	Yes
Priority Placement of Trees	Front Yard & Perimeter	Front Yard/Perimeter	Yes
Number of Shrubs	2 shrubs	2 shrubs	Yes
Size of Shrubs	3 gallon	3 gallon	Yes
Tree Species	Approved Trees List	Unknown	??*
Percentage of Coniferous	30 % of required trees	30 % coniferous	Yes
<b>Screening</b>	Headlight screening	No screening	No*

\*Condition added to resolution

#### 4. Recommendation

Staff recommends approval of the conditional use permits for a drive through and joint access and the variance for principal structure size, subject to the findings and conditions in the draft resolution.

#### Attachments

1. Applicant Narrative
2. Site Location Map
3. Draft Resolution 2026-011 Approving the CUPs and Variance
4. Development Plans
5. Floor Plans & Elevations