

April 26, 2000

**TECHNICAL STAFF REPORT:**

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Elsabett Tesfaye, Senior Planner

SUBJECT: **Departure from Parking and Loading Standards Application No. 262**  
**Departure from Design Standards Application No. 511**  
**Variance Application No. 511A**

REQUEST: **Waiver of the 65 required parking spaces and 2 loading spaces**  
**Departure from the required 10-foot-wide Landscape Strip**  
**Variance from the required building setbacks**

RECOMMENDATION:      **DPLS-262      APPROVAL, with condition**  
                                 **DDS-511      APPROVAL, with condition**  
                                 **VDDS-511A      APPROVAL, with condition**

---

**NOTE:**

The Planning Board has scheduled this application for a public hearing on the agenda date indicated above. The Planning Board also encourages all interested persons to request to become a person of record in this application. Requests to become a person of record should be made in writing and addressed to the Development Review Division at the address indicated above. Please call 301-952-3280 for additional information.

---

## FINDINGS:

- A. Location and Field Inspection: The property is located on the east side of Baltimore Avenue (US 1), south of its intersection with Alternate US 1 in Hyattsville. The site comprises 4,787 square feet (.11 acres) of land and is improved with a two-story, aluminum siding building.
- B. History: The 1994 Sectional Map Amendment for Planning Area 68 retained the property's C-S-C zoning. The subject property is part of a subdivision that was recorded over 100 years ago. Some of the lots in the original subdivision are no longer in existence. The subject property is currently identified as part of Lot 2, in J.A. Register's Addition to Hyattsville. The remaining portion of Lot 2 is owned by the City of Hyattsville and is currently used as a parking lot. With the recent approval of Preliminary Plat Application No.4-00001 the subject property becomes a single parcel.
- C. Master Plan Recommendation: The 1994 Sectional Map Amendment for Planning Area 68 retained the commercial land use designation of the subject property. The Master Plan also places the property within the Hyattsville Town Center and recommends it for redevelopment with a two- to three-story mixed use building.
- D. Request: Michael and Debra Franklin, the applicants, own approximately 8,552 square feet of land located on the east side of Baltimore Avenue. The property, found on Tax Map 50, Grid C1, currently comprises three lots (2, 1 and 5) and bears the addresses 5119, 5121 and 5123 Baltimore Avenue. The property is zoned C-S-C. The Franklin property is improved with an old hardware store (the ■Hyattsville Hardware Co.●) which the Franklins converted to a general store and delicatessen trading under the name of ■Franklin's General Store.● Adjacent to this store is an existing two-story aluminum siding shed. The portion of the Franklin's property containing the aluminum siding shed (5119 Baltimore Avenue) is the subject of this application.

The applicants wish to raze the shed and erect a three-story restaurant with 11,088 square feet of gross floor area to complement the general store and delicatessen.

The applicant's site plan does not provide for the required parking and loading spaces for the proposed use. A departure of 65 parking spaces and two loading spaces is requested (DPLS-262). The applicants are also requesting a departure from design standards (DDS-511) to waive the required minimum 10-foot-wide landscaped strip along the property's boundary lines that are adjacent to public rights-of-way. In addition, the applicants are requesting variances (VDDS-511A) to the required building setback.

- E. Surrounding Uses: The immediate area surrounding the site is characterized by commercial developments and light-industrial uses in the C-S-C, C-M, C-O and I-1 Zones. The nearest residential uses are located approximately 550 feet west of the site on the east side of 43<sup>rd</sup> Avenue in the R-55 Zone. The subject property abuts US 1 to the west, railroad tracks and Alternate US 1 to the east and northeast, a parking lot to the north and a general store that is owned by the applicants to the south.
- F. Design Requirements:

1. Number of Required Parking and Loading Spaces: **Section 27-568 of the Zoning Ordinance requires one parking space for every 3 seats for an eating and drinking establishment.**

The site requires 65 parking spaces for the proposed 195-seat restaurant. A departure of 65 parking spaces is requested

**Section 27-582 requires two loading spaces for a service establishment comprising over 10,000 square feet of gross floor area (GFA).**

A total of two loading spaces are required for the proposed restaurant that comprises 11,088 square feet of GFA. A departure of two loading spaces is requested.

2. Landscape Manual: The proposal is subject to the requirements of Section 4.2 of the *Landscape Manual*.

**Section 4.2 (Commercial and Industrial and Landscaped Strip requirements) of the Landscape Manual specify that a landscape strip with a minimum width of 10 feet shall be provided to all non residential properties adjacent to all public rights-of way. The section also offers three options in terms of types, plant materials and average width that can be used in order to meet this requirement.**

The subject property has 40 feet of frontage on Baltimore Avenue (west). The property also abuts the right of way of Alternate US 1 (overpass) to the northeast and the 37-foot wide right of way of the Prince Georges Realty Company to the east, adjacent the railroad tracks. Since the proposed restaurant building will occupy virtually the entire property, the required Landscape Strip cannot be provided in a manner that is consistent with the requirements of Section 4.2 of the *Landscape Manual*. The applicants are requesting a Departure from this requirement.

The request for departure from the *Landscape Manual* requirements addresses only the requirements of Section 4.2. The site plan shall be revised to reflect compliance with the requirements of Section 4.4(b) of the *Landscape Manual* with regard to screening. **All dumpsters, trash pads, and trash collection or storage areas must be carefully located and oriented on the site to be as inconspicuous as possible. They shall be screened from all adjoining properties, public roads, and retail parking areas.**

- G. Sign Regulations: No sign is shown on the site plan. Any sign that will be placed on the property must meet all area, height and setback requirements
- H. Other Issues:

1. The notation on the site plan identifies the existing two-story structure as a three-story structure. The plan need to be revised to reflect the correct number of floors.
  2. Although no parking is provided on the site, a ramp/drop curb or other means of access for the physically handicapped should be indicated on the site plan.
- I. Required Findings - Departure from Parking and Loading Standards (DPLS-256):

(A) **Section 27-588(b)(8) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. **The purposes of Section 27-550 will be served by the applicant's request.**

The purposes of the Parking Regulations are as follows:

- a. **The off-street and on-street parking areas are sufficient to serve the parking and loading needs of all persons associated with the building and use.**
- b. **To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points.**
- c. **To protect the residential character of residential areas.**
- d. **To provide parking and loading areas which are convenient and increase the amenities in the Regional District.**

The applicants are requesting a waiver of all required 65 parking spaces and two loading spaces for the proposed restaurant use. The applicants have submitted into the record a License Agreement executed with the City of Hyattsville and the Parking Authority of Prince George's County that gives them the exclusive use of 65 parking spaces located on the adjoining property for the benefit of the proposed restaurant. The License Agreement also gives the applicants the right to use the parking lot to access the loading dock to be located on the subject property. The term of the license is for a period of five years, which may be extended for nine additional periods of five years each. In addition to providing a convenient parking accommodation to the proposed restaurant's patrons, the License Agreement will reduce potential traffic congestion on the area's streets.

There are no residential properties surrounding the site; therefore, none will be affected by the proposal. The proposed redevelopment of the area will enhance the appearance of the property and the immediate area. It would also contribute to the economic

revitalization of this older, commercially-developed area in the County. The purposes of this Subsection will be served by the requested departure.

**2. The departure is the minimum necessary, given the specific circumstances of the request.**

The availability and exclusive use of a parking facility that is located on the adjacent property compensates for the deficiency in off-street parking on the property. The provision of all 65 required parking spaces on the adjoining property adequately satisfies the parking needs of the proposed restaurant. Given the specific circumstances of the request, the departure is the minimum necessary.

**3. The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or to alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949.**

The subject site is currently identified as p/o Lot 2, J.A. Register's Addition to Hyattsville, recorded at Plat A at page 34, in 1884. Many of the lots in the original subdivision ceased to exist becoming part of road construction and improvements in the area. Part of Lot 2 is currently used as a public parking lot in the City of Hyattsville and is the subject of the Licence Agreement executed between the applicants and the City of Hyattsville and the Parking Authority of the County for the exclusive use of 65 parking spaces for the proposed restaurant.

The subject property is typical of many irregularly shaped small parcels of land that are found in several areas inside the Capital Beltway. Developments on many of these parcels often do not conform to current zoning regulations in terms of required parking spaces and design standards. The Master Plan for Planning Area 68 identifies the parking requirements as a frequently cited hindrance for development in older areas. The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location.

**4. All methods for calculating the number of spaces required have either been used or found to be impractical.**

All methods for calculation have been used and found impractical to further reduce the parking requirement.

**5. Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted**

There are no residential areas in the vicinity of the subject property or the adjoining property on which the parking spaces are provided.

**(B) In making its findings, the Planning Board shall give consideration to the following:**

- 1. The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within 500 feet of the subject property.**

Most of the businesses in the area do not provide much in the way of on-site parking. However, the proposed restaurant will have exclusive access to 65 spaces on the adjoining lot.

- 2. The recommendations of an area master plan, or County or local revitalization plan, regarding the subject property and its general vicinity.**

The Master Plan recommends retail-commercial use for this area. As such, the proposed departure will ensure the subject property remains consistent with the Master Plan. In addition, the proposed use is consistent with the recommended goal of the Master Plan for Commercial Areas, which is to encourage attractive and thriving commercial development which provides a variety of goods and services for both local users and outside shoppers and which serves as an appealing focal point for the community.

- 3. The recommendations of a municipality (within which the property lies) regarding the departure.**
- 4. Public parking facilities which are proposed in the County's Capital Improvement Program within the general vicinity of the property.**

The subject property is within the municipal boundaries of the City of Hyattsville. The City supports this application and is a cosigner of the License Agreement between the applicants and the City of Hyattsville and the Parking Authority of Prince George's County for the exclusive use of 65 spaces in the public parking facility adjacent to the subject property.

**(C) In making its findings, the Planning Board may give consideration to the following:**

- 1. Public transportation available in the area.**
- 2. Any alternative design solutions to off-street facilities which might yield additional spaces.**

3. **The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within 500 feet of the subject property.**

The hours of operation for the proposed restaurant are generally unrestricted. The subject property is located in a commercial area and as indicated, parking demand that will be generated by the proposed restaurant will be adequately satisfied through the use of the public parking lot on the adjacent property. There will be no disruption to traffic flow or parking conditions on the surrounding streets resulting from the proposed use. The proposal will not affect the nature and hours of operation of other uses within 500 feet of the subject property.

J. Required Findings - Departure from Design Standards (DDS-511):

- (a) **Section 27-239.01(b)(9) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. **The purposes of this Subtitle will be equally well or better served by the applicant's proposal.**
2. **The departure is the minimum necessary, given the specific circumstances of the request.**
3. **The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.**
4. **The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.**
5. **For a departure from a standard contained in the *Landscape Manual*, the Planning Board shall find, in addition to the requirements above, that there is no feasible proposal for alternative compliance, as defined in the *Landscape Manual*, which would exhibit equal or better design characteristics.**

The purposes of the Zoning Ordinance are set forth in Section 27-102. They are varied in nature, but in general, are to protect the health, safety and welfare of the residents and workers in Prince George's County. In this instance, the facts establish that granting the requested departures will in no way jeopardize these purposes. The subject property is located in an older area inside the Beltway that was developed before most of current zoning and development standards came into effect. The current condition of the immediate area can be described as an older commercial corridor with many of the buildings in need of repair and a high number of vacancies. The proposed redevelopment of the subject property will create an environment and related amenities that will enhance and revitalize the commercial corridor and the neighborhood.

The departure is necessary to alleviate circumstances which are unique to the site. The subject property is part of the few remaining parcels of land that were originally subdivided over a century ago. Portions of the original subdivision were dedicated to or incorporated in road constructions and improvements. The remaining lots are fully developed, and any improvement or redevelopment on these lots would require some kind of relief from current development standards.

The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood. The proposed project will be compatible with the existing street-scape on Baltimore Avenue as well as existing development within the commercial corridor.

In addition, since the building will virtually be constructed at the property lines, there is essentially no space within which to provide the required landscaping. Therefore, there is no feasible proposal for alternative compliance with the requirements of the *Landscape Manual*.

**K. Variance from Building Setbacks in Commercial Zones:**

**Section 27-462 requires for a 10-foot setback from the street. The section further specifies that for this regulation, a street shall mean a right-of-way line, as shown on the current approved Master Plan, Functional Master Plan of Transportation or General Plan, Prince George's County Capital Improvement Program, or Maryland State Five-Year Highway Construction Program, whichever indicates the greatest right-of-way width. Any other street shall be deemed to have a right-of-way width of at least 70 feet.**

The applicants are requesting the following variances:

1. A variance of 6.7 feet from the required 10-foot building setback from Baltimore Avenue's 60-foot-wide rights-of way on the west side (front) of the property.
2. A variance of 9 feet from the required 10-foot building setback from the right-of-way for Alternate US 1 (overpass), the northeastern corner of the property.
3. A variance of 10 feet from the required 10-foot building setback from the Prince George's Realty Development Co. 37-foot-wide transit right-of- way, eastern side of the property.

The subject property has 49 feet of frontage on Baltimore Avenue. Baltimore Avenue at this location has a 60-foot-wide right-of way. Upon reviewing the Subdivision Application 4-00001 for the subject property, The Transportation Section had made the following determination:



1. US 1 along the frontage of the subject property is currently constructed to operate as a four-lane collector roadway within the current right-of-way.
2. The Master Plan recommendations along this section of US 1 were developed in consideration of the City of Hyattsville's desire to retain the existing facade line along US 1. If the right-of-way were to be held at 80 feet at this location, the right-of-way needs would cut 10 feet into the existing facade line.
3. In consideration of (1) and (2) above, the transportation staff has determined that the Master Plan requires no additional right-of-way within this block of US 1. Therefore, additional right-of-way dedication or possible reservation is not appropriate.

The Transportation Section has also made the following determination with regard to the Prince George's Realty Development Co. right-of-way,

The Planning Area 68 Master Plan includes a facility - an unlabelled commercial street extension of Rhode Island Avenue - passing behind the subject property. This facility is defined to be a 70-foot right-of-way along an unused transit right-of-way. Concern was initially raised because there is not 70 feet available between the existing CSX railroad right-of-way (which is in use and cannot be relocated) and the subject property.

However, the intent of the plan was that the feasibility of the proposed commercial roadway was recommended for further study by M-NCPPC staff along with the municipalities of Hyattsville and Riverdale Park. This further study has not occurred to date, and it should occur as a part of the preparation of a development plan and detailed guidelines for the Hyattsville Town Center. As the Master Plan only recommended that a feasibility study be conducted, there does not appear to be a basis to preserve right-of-way for this roadway. Therefore, the transportation staff has no recommendation at this time regarding this roadway.

Preliminary Plat of Subdivision 4-00001 was approved, with conditions, by the Prince George's Planning Board on April 3, 2000 (see attached resolution).

L. Required Findings - Variances (VDDS-511A):

**Section 27-230 provides that a variance may be granted based on the following findings:**

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**
- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property.**

**(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The block in which the subject property is located consists of lots that were a part of an area originally subdivided in the late 1800s. While some of these lots have been absorbed by road improvements in the area, some including the subject site remained with part or all of their original size, shape and improvements on them. In the case of the subject property, it is the last improved property at the northern end of the east side of the block and bordered by more rights-of way than other properties on the block. The relative small size of the property, its irregular size and its location surrounded by roadways make it difficult for any type of improvement to conform to current zoning requirements. These characteristics of the subject property constitute an extraordinary condition that is inherent in the property which would justify the requested variances.

The proposed redevelopment of the property would benefit the surrounding area by replacing the existing structure which is currently vacant and a potential blighting influence on the immediate neighborhood. The proposed development will also be in keeping with the existing pattern of development on the block in terms of placement of buildings on the individual lots, setbacks from Baltimore Avenue and lot coverage. The established land use pattern on the block presents a unified appearance and a distinctive setting. The requested variances are essential to maintain and preserve the development pattern and character of the block. Very few, if any, improvements could ever be made on the property without triggering a need for most of the requested variances or other types of relief. Full compliance with current zoning standards would mean inconsistency with the established development pattern along the block, and it could render the property undevelopable. The strict application of this Subtitle will result in undue hardship upon the applicants.

The requested variances will not impair the intent, purpose or integrity of the approved Master Plan for Planning area 68. The Master Plan recognizes the fact that current zoning and development standards are inappropriate for much of the development in the Planning Area and are often impossible to meet. The plan proposes the creation of alternative methods to meet certain zoning requirements and encourages flexibility and speed in the permit process to assist in revitalization.

**CONCLUSION:**

Based on the preceding analysis and findings, it is recommended that DPLS-262, DDS-511 and VDDS-511A be APPROVED, subject to the following conditions:

1. All conditions of the approved subdivision (Preliminary Plat 4-0001) shall be complied with. The site plan shall be revised to reflect all applicable changes in accordance with the approved subdivision of the property.
2. The site plan shall be revised to reflect the correct number of floors for the existing structure.

3. The site plan shall be revised to show a ramp/drop curb or other means of access for the physically handicapped.
4. The site plan shall be revised to reflect compliance with the requirements of Section 4.4(b) of the *Landscape Manual* with regard to screening of dumpsters, trash pads, and trash collection or storage areas.