

Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Development Review Division  
301-952-3530



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# SPECIAL EXCEPTION APPLICATION NO. 4442 (DPLS - 275) (DDS-533)

Application	General Data
Project Name  Subway (Bellefonte)	Date Accepted 10/10/01
	Planning Board Action Limit N/A
	Tax Map & Grid 117 A-1
Location  Northeast corner of Old Alexandria Ferry Road and Wood-yard Road, known as 8223 Woodyard Road.	Plan Acreage 0.27
	Zone C-S-C
	Dwelling Units N/A
Applicant  c/o Daniel Wilson 4140 Ferry Landing Road Dunkirk, Maryland 20754	Square Footage N/A
	Planning Area 81A
	Council District 09
	Municipality None
	200-Scale Base Map 211SE7

Purpose of Application		Notice Dates	
SE-4442:	Drive-in or Fast-Food Restaurant	Adjoining Property Owners (CB-15-1998)	10/30/01
DPLS-275:	Departure of 6 required parking spaces	Previous Parties of Record (CB-13-1997)	10/10/01
DDS-533:	Departure to reduce driveway width	Sign(s) Posted on Site	05/10/02
		Variance(s): Adjoining Property Owners	N/A
Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
DPLS-275, DDS-533	SE-4442		

May 23, 2002

**TECHNICAL STAFF REPORT:**

TO: The Prince George's County Planning Board  
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Special Exception Application No. 4442**  
**Departure from Parking and Loading Standards Application No. 275**

REQUEST: **SE-4442: Drive-in or Fast-Food Restaurant**

**DPLS-275: Departure of 6 of the required 19 off-street parking spaces  
in accordance with Section 27-568.**

**DDS-533: Departure of 7 to 22 feet from the 22-foot driveway requirement in  
accordance with Section 27-563.**

RECOMMENDATION: **SE-4442: APPROVAL, subject to conditions**

**APPROVAL**  
**DPLS-275: APPROVAL**

**DDS-533:**

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**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 301-952-3530 for additional information.

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## FINDINGS:

- A. Location and Field Inspection: The site is located in the northeast corner of the intersection of Woodyard Road and Old Alexandria Ferry Road. It is developed with a vacant restaurant building surrounded by an asphalt parking lot.
- B. History: The property was retained in the C-S-C Zone by the 1993 *Sectional Map Amendment (SMA) for Subregion V*.
- C. Master Plan Recommendation: The 1993 *Master Plan for Subregion V* recommends an employment use for the subject property.
- D. Request: The applicant seeks permission to establish a fast-food restaurant (Subway) with drive-through lane in an existing building. In addition, the applicant seeks a departure of 6 of the 19 required off-street parking spaces and a departure to reduce the driveway and drive-aisle width requirement for some of the parking spaces.
- E. Neighborhood and Surrounding Uses: The site is surrounded by the following uses:

North: A six-unit motel/apartment building in the C-S-C and I-4 Zones

East: A used vehicle lot in the C-M Zone.

South: Across Woodyard Road is a gas station/convenience store in the C-S-C Zone.

West: A liquor store in the C-S-C and I-4 Zones.

The neighborhood is defined by the following boundaries:

North: Piscataway Creek and Andrews Air Force Base

East: Piscataway Creek

South: Woodyard Road (MD 223)

West: Old Alexandria Ferry Road

This is the same neighborhood as was accepted in SE-3744, which is located 1,000<sup>+</sup> feet to the north along Bellefonte Lane. It is primarily a residential neighborhood characterized by well-kept single-family residences on wooded lots. Commercial and industrial development is confined along Woodyard Road and Old Alexandria Ferry Road.

- F. Specific Special Exception Requirements - Section 27-350 - Drive-in or Fast-Food Restaurant:

(a) **A drive-in or fast-food restaurant may be permitted, subject to the following:**

- (1) **All proposed buildings, structures, and outdoor facilities (including vehicle parking) shall be located at least two hundred (200) feet from the nearest property line of any land in any Residential Zone, or land proposed to be used**

**for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may reduce this setback requirement when it determines that the landscaping, screening, and buffering requirements in the Landscape Manual, or other conditions, will adequately protect abutting residential property;**

Finding: For the most part, this use is more than 200 feet from a residentially zoned property. The exception to this is one residential lot across Woodyard Road to the southeast along Deborah Street. Because this property is across Woodyard Road, which is itself a greater source of noise and activity than the proposed Subway, it would be appropriate to reduce the setback.

- (2) **A bicycle rack for at least six (6) bicycles shall be provided on the premises, unless the applicant demonstrates to the satisfaction of the District Council that the requirement is inappropriate because of the location or nature of the establishment;**

Finding: A bike rack is shown on the site plan.

- (3) **The use will not restrict the availability, or upset the balance, of land use in the neighborhood for other commercial uses; and**

Finding: The proposed fast-food restaurant will not restrict the availability or upset the balance for other commercial activities in the neighborhood. The proposal will convert a currently vacant restaurant building into a active commercial use. Although there are many commercial uses clustered at this intersection, there are no other freestanding fast-food restaurants in the general neighborhood.

- (4) **Special consideration shall be given to advertisement, outdoor display, outdoor activity, lighting, hours of operation, and other aspects of the proposed operation to assure that the health, safety, and general welfare of the community will be protected.**

Finding: The hours of operation are proposed to be 8:00 a.m. to 10:00 p.m., daily. Only building-mounted signage is proposed, with no freestanding sign.

- (b) **A special exception shall not be required for the conversion of a drive-in restaurant to a fast-food restaurant, or the conversion of a fast-food restaurant to a drive-in restaurant, provided that no enlargement or extension takes place. The addition of a window or other facility to provide for drive-in service shall not be construed to be an enlargement or extension. The conversion shall be permitted for a drive-in or fast-food restaurant which has become a certified nonconforming use or was established pursuant to a Special Exception, provided that any conditions of the Special Exception remain in effect.**

Finding: This section is not applicable.

G. Parking Standards:

1. Number of Required Parking Spaces - Departure from Parking & Loading Standards Application No. 275: A total of 19 parking spaces are required and 13 are provided. The applicant is seeking a departure of six spaces.

(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.**
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 special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949.**
4. **All methods for calculating the number of spaces required have either been used or found to be impractical.**
5. **Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.**

Finding: The purposes of required off-street parking and loading spaces are set forth in Section 27-550 of the Zoning Ordinance. These purposes generally are to require off-street parking and loading spaces in numbers sufficient to serve the parking and loading needs associated with the use and to aid in relieving traffic congestion on streets by reducing the use of streets for parking and loading. Other purposes are to protect the residential character of residential areas and to provide parking and loading areas which are convenient and increase the amenities in the regional district.

The grant of the requested departure will not cause disharmony with the above stated purposes. Nineteen parking spaces are required and 13 are provided. The proposed on-site parking will be adequate to serve the use. According to the applicant, Subway is a made-to-order sandwich shop, which operates at a lower customer volume than a typical burger or chicken fast-food restaurant, and thus has a lower parking demand. According to the applicant, 80% percent of the business is expected to be carry-out. Many of the carry-out orders will be using the proposed drive-through, which will allow stacking of five cars. In addition, those customers who choose to park and go inside to make a carry-out order will not be staying to eat on the premises, allowing for greater turnover of parking spaces.

The requested departure is the minimum necessary. Given the constraints imposed by the 120-foot-wide unbuilt ultimate right-of-way (ROW) for Woodyard Road, it is not feasible to locate the required 19 spaces on site. A maximum of 13 spaces can be provided without encroaching on the ROW. All methods for calculating the number of parking spaces have been applied in this case, and they have been found to be impractical to reduce the required parking.

Finally, granting the requested departure will not infringe upon the parking and loading needs of adjacent residential areas. The nearest such area is found to the southeast, across Woodyard Road. The off-street parking compound proposed by the applicant is adequate to serve the parking and loading needs of this use.

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

Finding: There is no apparent shortage of parking spaces within the general vicinity of this use. It appears that all adjoining properties (developed with commercial uses) have their own parking compounds. The 1993 *Master Plan for Subregion V* recommends an employment use for the subject property; however, the subsequent SMA retained the property in the C-S-C Zone since it was developed with a restaurant. The site does not lie within the boundaries of any municipality. There are no public parking facilities within the general vicinity of this site, although both Old Alexandria Ferry Road and Woodyard Road are on a county bus route.

2. Twenty-two-foot-wide Driveway Requirement - Departure from Design Standards Application No. 533: This site is impacted by an unbuilt 120-foot-wide ultimate right-of-way along Woodyard Road. While the applicant has been careful to ensure no structures or parking spaces are within this right-of-way, some of the parking spaces technically do not have a 22-foot-wide driveway aisle. Because of this, a departure from Section 27-563 is necessary.

**(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.**

The purposes of the Zoning Ordinance relative to off-street parking and loading are set forth in Section 27-550 as follows:

1. **To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;**
2. **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;**
3. **To protect the residential character of residential areas; and**
4. **To provide parking and loading areas which are convenient and increase the amenities in the Regional District.**

Finding: The applicant is proposing to retain the long-existing pavement around the restaurant building while upgrading the parking spaces to today's standards. The applicant could have retained the parking spaces at the old 20 feet by 10 feet standard and been "grandfathered" in accordance with Section 27-584; but this would have resulted in fewer parking spaces being provided. The purposes of the Zoning Ordinance will be equally well satisfied if the requested departure is granted. The parking spaces will meet today's design standards, and additional parking spaces will be provided, helping to ensure that sufficient parking is provided. This departure will not endanger the residential character of residential areas; surrounding properties are commercially zoned and developed.

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.**

Finding: The unbuilt ultimate right-of-way of Woodyard Road artificially constrains the development of this site. The applicant has been careful to keep parking and structures out of the right-of-way, and the applicant is proposing to bring the parking up to today's standards. The requested departure is the minimum necessary given the site design and layout. There is no way short of removing parking spaces to alleviate its need. The departure will simply serve to recognize the fact that the right-of-way exists, and therefore it must be taken into account. In reality, the access to parking on the site will



remain as it has existed for many years. Therefore, it will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

- H. Landscape Manual Requirements: The application is exempt from the requirements of the *Landscape Manual* because it does not propose new building area or new parking areas.
- I. Zone Standards: The proposed use meets the requirements of the C-S-C Zone.
- J. Sign Regulations: The applicant is not proposing a freestanding sign. All signage is to be building mounted.
- K. Other Issues: The Permit Review Section (M-NCPPC), in their referral dated November 2, 2001, points out several minor changes that need to be made to the site plan:
1. Section 27-554 requires all parking lots to be surfaced in such a manner as to be dust free. A note must be placed on the site plan demonstrating the type of surface to be used.
  2. Section 27-559(b) requires all compact parking spaces to be marked as such; the method of marking the compact parking spaces must be provided on the site plan.
  3. The site plan must demonstrate a ramp to be provided for handicap purposes.
  4. If a trash dumpster is proposed, it must be demonstrated on the site plan and screening provided pursuant to Section 4.4 of the *Landscape Manual*.
- L. Required Findings:

**Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:**

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**

Finding: The purposes of zoning are many and varied, but can generally be characterized as protecting the health, safety and welfare of the present and future citizens of the county by promoting beneficial land use relationships. The applicant's proposal will do so by placing a use on this site similar to one which was shown to be compatible with surrounding uses and the neighborhood in general.

- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

Finding: With few exceptions, the proposal meets the requirements and regulations of the Zoning Ordinance. In those instances where it does not, minor conditions are recommended to ensure conformance.

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**

Finding: The proposed use will not substantially impair the 1993 Master Plan for Subregion V, which recommends an employment use for the property. This site was retained in the C-S-C Zone during the subsequent Sectional Map Amendment in recognition of the restaurant that was then existing on the site. The applicant's proposal to place a fast-food restaurant on the site will not substantially impair the Master Plan.

- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**
- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Finding: Special exception uses are those uses which are deemed compatible in the specific zone in which they are allowed, absent site-specific evidence to the contrary. In the subject case, impacts to adjacent properties and the health, safety and welfare of residents and workers in the area are not apparent. The applicant wishes to establish a use at this site similar to one which existed here for many years (a restaurant).

- (6) **The proposed site plan is in conformance with an approved Tree Conservation Plan.**

Finding: This site is exempt from the Tree Conservation Ordinance because it is less than 40,000 square feet in area, has less than 10,000 square feet of woodland, and does not have a previously approved Tree Conservation Plan.

## CONCLUSION:

The applicant has met their burden of proof in these applications. Therefore, staff recommends:

**SE-4442:** **APPROVAL**, subject to the condition that prior to the issuance of permits, the site plan shall be revised to include the following:

1. A note indicating the type of dust-free surface to be used on the parking compound.
2. A note indicating the method of marking the compact parking spaces.
3. A ramp or curb cut to be provided for handicap access from the parking compound.
4. If a trash dumpster is proposed, it must be delineated on the site plan and screening must be provided pursuant to Section 4.4 of the *Landscape Manual*.

**DPLS-275:** **APPROVAL**

**DDS-533:      APPROVAL**