

Background:

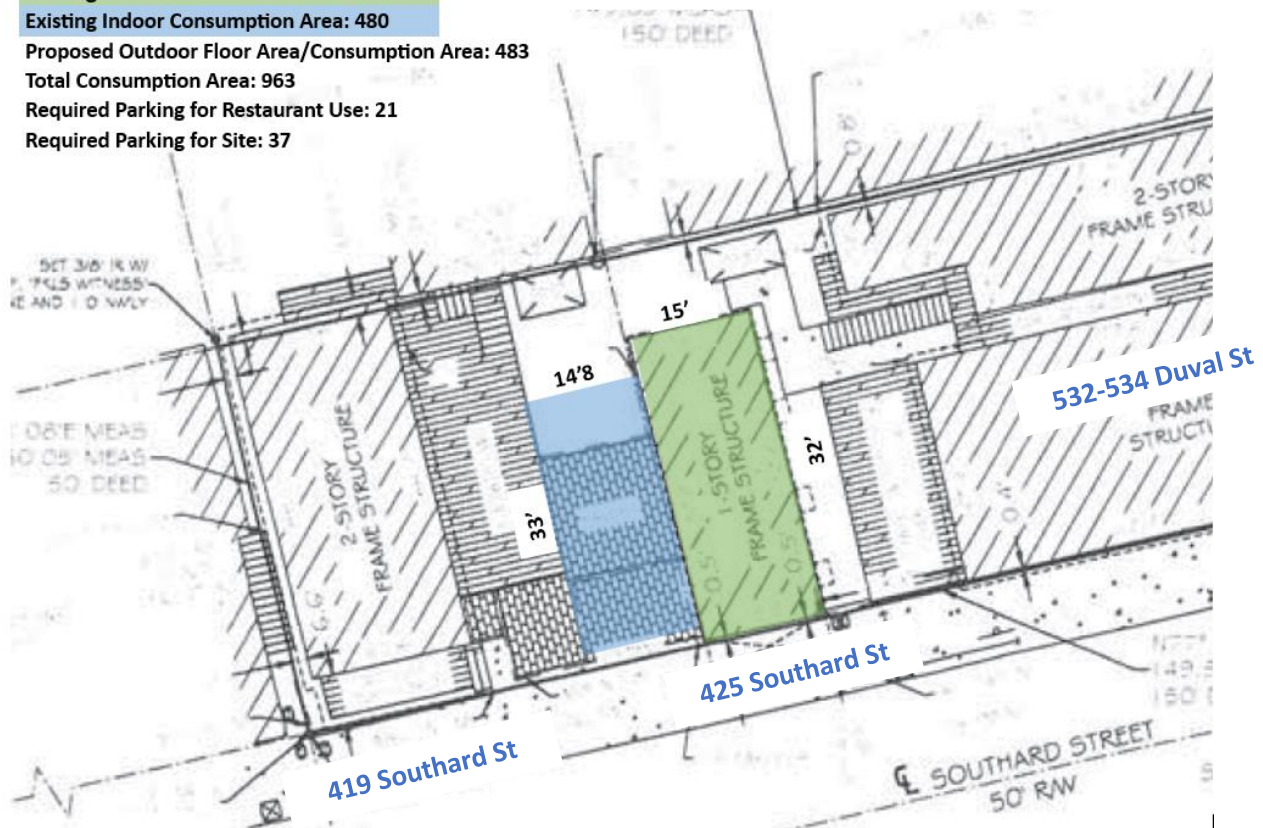
The subject property consists of a 7,500 square-foot parcel on the northwest corner of Duval and Southard Street in the HRCC-1 zoning district and the Historic Commercial Pedestrian Oriented Area. The parcel contains three buildings with separate addresses, including 532-534 Duval Street, 425 Southard Street, and 419 Southard Street.

The structure at 523-534 Duval Street contains commercial use on the first floor and three dwelling units on the second floor. The structure at 419 Southard Street currently contains three dwelling units with no commercial floor area.

The applicant owns Frita’s Cuban Burger Café, which operates under a lease at 425 Southard Street. The restaurant is currently licensed for zero seats, and was cited in February of 2023 for 15 unlicensed seats. The applicant is seeking an expansion of consumption and commercial floor area to include approximately 483 square feet of outdoor seating directly adjacent to the structure at 425 Southard Street.

The expansion of the commercial floor area triggers parking requirements pursuant to Sections 108-572 and 108-573. In accordance with 108-575, the expansion requires that any parking deficiency for the site be brought into conformance. Therefore, this variance request must address the required parking for the expanded restaurant area, as well as the commercial and residential uses in the other buildings on site. There is currently no dedicated off-street parking for any of the uses on the subject property.

- Existing Indoor Commercial Floor Area: 600**
- Existing Indoor Consumption Area: 480**
- Proposed Outdoor Floor Area/Consumption Area: 483**
- Total Consumption Area: 963**
- Required Parking for Restaurant Use: 21**
- Required Parking for Site: 37**



Parking Table			
	Floor Area (SF)	Dwelling Units	Required Parking
419 Southard			
Dwelling Units		1	1
425 Southard			
<i>Proposed Café Consumption Area - Indoor</i>	465		
<i>Proposed Café Consumption Area - Outdoor Patio</i>	483		
Total Consumption Area	948		21
Dwelling Units		0	
532-534 Duval			
Commercial Retail Floor Area	3755		13
Dwelling Units	2		2
Total Required Parking			37
Existing			0
Proposed			0
Variance Requested			37

Based on the plans submitted, the proposed design would require variances to the following requirements:

- A variance to minimum parking requirements for 37 parking off-street parking spaces.

Process:

Planning Board Meeting: October 21, 2023
 Local Appeal Period: 10 Days
 Planning renders to DEO for review: Up to 45 days

Staff Analysis - Evaluation:

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board, before granting a variance, must find all the following:

1. *Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.*

The three buildings on the property are historic structures. The structure at 419 Southard and 532-534 Duval Street were constructed in 1913. The structure at 425 Southard was constructed in 1945. The only area on the parcel that is not covered by historic buildings is a 14'x50' strip of land between 419 Southard and 425 Duval Street. The width of this area is not sufficient to allow for parking stalls and a drive aisle based on the dimensions required per Code, which would require a space with at least 23' in width.

IN COMPLIANCE

2. *Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.*

The site's inability to accommodate on-site parking is not a result of the action or negligence of the applicant, however it is the applicant's proposed expansion that has triggered the application of parking requirements.

NOT IN COMPLIANCE

3. *Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

Granting the variance requested will confer upon the applicant special privileges denied by the Land Development Regulations to other lands, buildings, or structures in the same zoning district.

NOT IN COMPLIANCE

4. *Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The applicant is currently able to operate commercially on the property within the existing commercial floor area, and therefore is not deprived of the rights commonly enjoyed by other properties in the same zoning district.

NOT IN COMPLIANCE

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

The applicant is currently able to operate commercially on the property within the existing commercial floor area, so no expansion in floor area is necessary to make reasonable use of the land and structures.

NOT IN COMPLIANCE

6. *Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

The granting of the variance will be in harmony with the general intent and purpose of the Historic Residential Commercial Core – 1 zoning district as defined by the land development regulations.

IN COMPLIANCE

7. *Existing nonconforming uses of other property not the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

IN COMPLIANCE

The existing nonconforming use of other properties is not the basis of approval.

Concurrency Facilities and Other Utilities or Service (Section 108-233):

It does not appear that the requested variance will trigger any public facility or utility service capacity issues.

The Planning Board shall make factual findings regarding the following:

That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.

The standards established by Section 90-395 of the City Code have not been met by the applicant for the parking variance request.

That the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

Recommendation:

The variance request to the required parking does not meet all the criteria stated in Section 90-395. The Planning Department recommends that the request for a variance to minimum parking requirements be denied.

If the Planning Board chooses to approve the variances, the Planning Department recommends the following conditions:

General Conditions:

1. The site plan shall be consistent with the attached plan. Outdoor commercial floor area shall be limited to 483 square feet.