

**WAIVER OF A MAJOR DEVELOPMENT PLAN REVIEW STANDARD APPLICATION**

**Part 1. Application Notes**

An application for a waiver is a request for relief from the development standards as part of a Major Development Plan Review application.

1. The Planning Board reviews the application at a public workshop and public meeting and makes its decision based on the standards in Section 375-5(E)(14)(b) of the USDO.
2. A waiver application asks the Planning Board to change the standard code requirements because of a unique situation. The burden of proof lies with the Applicant and requested waivers will only be granted if an application and supporting materials meet the necessary criteria.
3. The Planning Board is required to grant only the minimum waiver that it deems necessary and adequate to address the hardship while preserving and protecting the character of the neighborhood and health, safety and welfare of the community.
4. Use one form per requested waiver.

Note: A pre-application meeting is available upon request prior to submitting this application.

**Part 2. General Information**

Project Address: ±329 N. Pearl Street, Albany NY 12207	Tax ID Number(s): 65.75-1-1
Zoning District: Mixed-Use, Community Urban (MU-CU)	Current Principal Use(s): Vacant Land

**Part 3. Project Description**

*(Describe the request and identify the standard of requirement of the USDO proposed to be waived)*

Select the type of standard or requirement being varied:

- Non-dimensional Form-Based Zoning Standards       Access, Circulation, and Connectivity Standards  
 Subdivision of Land Standards       Parking and Loading       Landscaping, Screening and Buffering  
 Building and Streetscape Design       Exterior lighting standard       Other (*Specify; must reference a specific standard in the USDO*): \_\_\_\_\_

Section number of USDO from which the waiver is being requested:

§375-405(5)(c)(i)

Current USDO requirement or standard:

"All parking shall be accessed from rear alleys where they exist and/or from side streets if the lot is located on a corner in all districts except MU-CH..."

Proposed requirement or standard:

To allow the access drive to connect to the primary drive (North Pearl Street) rather than the side street (Colonie).

#### Part 4. Character of the Neighborhood

Explain why the waiver being proposed will not result in a structure or a configuration that will be out of place in the neighborhood or zone district:

There are currently multiple corner lots with access drives connected to a primary street in the immediate area including 314/316 N. Pearl, 254 N. Pearl, 747 Broadway and 795 Broadway.

In addition, there are two existing curb cuts onto the N. Pearl project area from previous land uses.

Given the proximity of the other corner lots with access drives connected to a primary street, adding another to the project area will fit within the existing neighborhood context.

#### Part 5. Alternatives Considered

Describe the benefit to be achieved by the granting of the waiver and why such benefit cannot otherwise be reasonably achieved. As part of the description, list all alternatives that were considered and rejected, and include evidence where necessary to support your conclusions:

From the USDO, "the purpose of the MU-CU district is to provide for a wide variety of retail, residential, and commercial uses intended to serve an area larger than a specific neighborhood in an urban setting characterized by relatively small blocks..."

The proposed parking lot is intended to serve employees and patrons of the Capital Repertory Theatre located at the intersection of Livingston and North Pearl.

Initial TRC discussions indicated support of the parking lot entrance going to North Pearl with the parking lot situated to the north end of the parcel (See SK-3 for alternate layouts presented at 2/11/2020 Planning Board Workshop).

Option 2 layout was selected as it would reserve space for potential future development at North Pearl and Colonie Streets. Given the steep slopes along Colonie Street, a building could act as a "retaining wall" with the first floor at the front and basement floor at the rear. This condition, on top of an agreement with SHPO to not disturb anything below grade to protect an archaeologically sensitive area, made the gentle slopes to the north of the side ideal for the parking lot. In addition, the entrance is proposed to be at the south end of the parking lot, rather than the north near the lot line, for safer sight lines entering and exiting the parking lot. And finally, concern over firetruck access to Colonie Street was expressed.

If the drive was extended from the parking lot location shown on the plans to Colonie Street, then it would not be possible to reserve the remaining North Pearl Street frontage for development. And, if the parking lot was shifted closer to Colonie, a taller retaining wall would be needed to the rear of the parking lot and Colonie Street frontage thus separating the parking lot from the street. Both options would have a negative impact on the character of the neighborhood.

### Part 6. Substantiality

Indicate why the requested waiver is not a substantial or contextually significant deviation from the prevailing regulation:

The waiver requests that the access drive connects to a primary street rather than a side street.

Given that there are similar conditions in the neighborhood, as well as two existing curb cuts within the project area along North Pearl Street (which are to be removed and replaced to match surrounding granite curb) this is not a significant deviation from the prevailing regulation.

### Part 7. Impact on Environment

Describe any potential impact on such factors as drainage, traffic circulation, dust, noise, odor, public services, among others (e.g., compliance with the USDO requirement to be waived would result in the removal of three mature trees and a natural berm):

Locating the access drive onto North Pearl will not negatively impact drainage, traffic circulation, dust, noise, odor, nor public services.

The proposed access drive location has clear sight lines as well.

### Part 8. Self-Created Difficulty

Explain why the need for the waiver is not self-created (e.g., the lot was created in 1954 and does not comply with the minimum lot area requirements of the USDO):

Multiple design alternatives were evaluated to discover the best solution for a parking lot location and to avoid a self-created difficulty. (See SK-3 for alternate layouts presented at 2/11/2020 Planning Board Workshop).