



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 15-20

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
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File No. CNU-30304-12

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed CNU-30304-12, Pleasant House Apartments, requesting certification of a nonconforming use for a 192-unit multifamily apartment building in the R-18 Zone in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on February 19, 2015, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property, identified as Pleasant House, Parcel A, Block 1, is located at the intersection of Seat Pleasant Drive and Hill Road. Pleasant House is a 14-building, four-story, brick apartment complex. Ten of the buildings front Seat Pleasant Drive, 6800-6812 and 6900-6904 (Seat Pleasant Drive), and four front Hill Road, 900-906 (Hill Road). The complex has a total of 192 dwelling units on a combined 7.94 acres. The property is zoned Multifamily Medium Density Residential (R-18). Vehicular access to the development is via Seat Pleasant Drive and Hill Road. There are pedestrian walkways along Seat Pleasant Drive and Hill Road connecting the buildings. A total of 235 on-site parking spaces are provided along Seat Pleasant Drive and Hill Road. No loading spaces are required.
- B. **Development Data Summary:**

	EXISTING	APPROVED
Zone	R-18	Unchanged
Acreage	7.9447	Unchanged
Use(s)	Multifamily Dwellings	Unchanged
Total Units	192	Unchanged
Site Density	24.11 units/acre	Unchanged
Lot Coverage	15%	Unchanged
Bedroom Percentages		Unchanged
Efficiency & 1BR	47 (24.5%)	
1 BR w/ Den / 2 BR*	137 (71.3%)	
2 BR w/ Den/ 3BR*	8 (4.2%)	
<i>*Unused bedroom percentages for three or more bedroom apartments may be added to the maximum allowed percentages for two-bedroom apartment units.</i>		

- C. **History:** Construction of the subject apartments began in 1963 and was completed in 1964 in accordance with the requirements in place. The development standards at that time permitted the allowable density based on 1,800 square feet of gross lot area per dwelling unit. The complex became nonconforming on January 1, 1964 when the Prince George's County Zoning Ordinance was amended to require a minimum of 2,000 square feet net lot area per dwelling unit in the

R-18 Zone, which would only permit 173 units. The complex does not meet the requirements for bedroom percentage regulations, which became effective October 1, 1968. The development exceeds the number of allowable two-bedroom units by 87 units (33.5 percent). The applicant applied for a Use and Occupancy Permit (30304-2012-U) because no prior use and occupancy (U&O) permits for the property could be located.

- D. **Surrounding Uses:** The site is surrounded by residential development, single-family homes in the Central Hills subdivision to the north and townhouses on Seat Pleasant Drive to the south. The site is surrounded by the following uses:

North and West— Vacant land owned by The Maryland-National Capital Planning Commission (M-NCPPC) and the Central Hills Subdivision zoned One-Family Semidetached, and Two-Family Detached, Residential (R-35).

South and East— Seat Pleasant Drive and Hill Road.

- E. **Request:** The applicant requests certification of an existing 192-unit multifamily apartment complex that was constructed in 1964. Because some development regulations in the R-18 Zone were changed or adopted after the apartment use was lawfully established, the complex became nonconforming. The nonconforming status commenced January 1, 1964 when the Zoning Ordinance was amended to increase the original minimum net lot area per dwelling unit from 1,800 square feet of gross lot area per dwelling unit to 2,000 square feet of lot area per unit, and on October 1, 1968 when bedroom percentages were adopted allowing a maximum of 40 percent two-bedroom and ten percent three-bedroom units in the R-18 Zone.

- F. **Certification Requirements:** Certification of a nonconforming use requires that certain findings be made. First, the use must either predate the pertinent Zoning Ordinance or have been established in accordance with all County Code Regulations in effect at the time it began. Second, there must be no break in operation for more than 180 days since the use became nonconforming.

Section 27-244 of the Zoning Ordinance sets forth the following specific requirements for certifying a nonconforming use:

Section 27-244. Certification.

(a) **In general.**

- (1) **A nonconforming use may only continue if a use and occupancy permit identifying the use as nonconforming is issued after the Planning Board (or its authorized representative) or the District Council certifies that the use is nonconforming and not illegal.**

(b) Application for use and occupancy permit.

- (1) The applicant shall file an application for a use and occupancy permit in accordance with Division 7 of this Part.**
- (2) Along with the application and accompanying plans, the applicant shall provide the following:**
 - (A) Documentary evidence, such as tax records, business records, public utility installation or payment records, and sworn affidavits, showing the commencing date and continuous existence of the nonconforming use;**
 - (B) Evidence that the nonconforming use has not ceased to operate for more than 180 consecutive calendar days between the time the use became nonconforming and the date when the application is submitted, or that conditions of nonoperation for more than 180 consecutive calendar days were beyond the applicant's and/or owner's control, were for the purpose of correcting Code violations, or were due to the seasonal nature of the use;**
 - (C) Specific data showing:**
 - (i) The exact nature, size, and location of the building, structure, and use;**
 - (ii) A legal description of the property; and**
 - (iii) The precise location and limits of the use on the property and within any building it occupies;**
 - (D) A copy of a valid use and occupancy permit issued for the use prior to the date upon which it became a nonconforming use, if the applicant possesses one.**

Analysis—When the applicant applied for a U&O permit, the Permit Review Section staff was able to verify that building permits were approved in December 1963 for the existing complex, however, the original U&O permit records were not available. Therefore, in accordance with Section 27-244(f) of the Zoning Ordinance, the Planning Board must determine whether, in fact, the use was legally established prior to the date it became nonconforming and that it has been in continuous operation since that time.

The applicant submitted the following documentary evidence in support of the application:

1. A letter dated September 30, 2014 from the Washington Suburban Sanitary Commission (WSSC) stating that the address has had an active WSSC account since January 1, 1965. The present meters were set at each of the four properties 6800–6806 Seat Pleasant Drive May 22, 1986; 6808–6812 Seat Pleasant Drive October 15, 1987; 6900–6904 Seat Pleasant Drive August 13, 1987; and 900–906 Hill Road April 18, 1989. WSSC noted that water and sewer services have been in use and available since April 18, 1989. WSSC invoices dated November 15, 2007 to January 4, 2008.
2. Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) Multifamily Rental Licenses for Pleasant House Apartments for the years 1986 through 2016 which consistently show 192 apartments on the property.
3. Prince George's County Multifamily Rental License Applications for Pleasant House Apartments for the years 1970, 1972, and 1992 through 2008 which consistently show 192 apartments on the property.
4. Prince George's County Permits November 18, 1980 to May 14, 2014.
5. Prince George's County Department of Environmental Resources Burglar Alarm License dated March 14, 1989.
6. Letters from tenants dated October 2014:
 - a. Ms. Baines, 6808 Seat Pleasant Drive, Apt. 102
 - b. Rosa M. Hall, 6804 Seat Pleasant Drive, Apt. 104
 - c. Nathan Kelly, 6812 Seat Pleasant Drive, Apt. 201
 - d. Rhoda Kyrthyn, 6806 Seat Pleasant Drive, Apt. 104
 - e. Delores Coates, 902 Hill Road, Apt. 203
 - f. Ester Smith
 - g. Candyce M. Brown, 6810 Seat Pleasant Drive, Apt. 302
 - h. Earl V. Mayo, 6902 Seat Pleasant Drive, Apt. T-3
 - i. Ruth Riggins, 6802 Seat Pleasant Drive, Apt. T-3
 - j. Kenneth Robinson, 6904 Seat Pleasant Drive
 - k. Annette Hickerson, 6902 Seat Pleasant Drive, Apt. 201
7. Maryland State Department of Health and Mental Hygiene, Prince George's County permits to operate a swimming pool/spa dated December 31, 2001, December 31, 2002, December 31, 2004, and December 31, 2005.
8. Prince George's County District Council Zoning Proposal and Resolution dated April 17, 1964 for a swimming pool and boat house.

9. Plat WWW 49-97, Pleasant House, Parcel A, Block 1, dated December 1963.
10. M-NCPPC PGAtlas aerial photos of the site covering the period of time from 1965, 1977, 1980, 1984, 1993, 1998, 2000, 2005, 2006, 2007, 2009, and 2011. Each of these photos show the existing buildings located on the site in its present configuration.
11. Maryland Department of Assessments and Taxation record indicating the existence of a tax account for the property.
12. Federal Income Tax Returns for the years 2009-2011.
13. Business Licenses from the Town of Seat Pleasant 1996-2001.
14. Washington Gas Utility Bills December 2007, January and February 2008, and October through December 2008.
15. A site plan of the subject property was submitted that contains a comparison of the regulations in effect when the apartments were built to current regulations. The site plan shows building locations, setbacks, parking, and pedestrian connections.

DISCUSSION

The above evidence supports the applicant's claim that the apartment complex has been in continuous operation since its construction in 1964. M-NCPPC Permit Review staff cites the approval of building permits in December 1963, and the submission of the Prince George's County District Council Zoning Proposal and Resolution dated April 17, 1964 for a swimming pool and boat house as demonstrating that the complex was constructed in conformance with the regulations at the time. The letter from WSSC indicates that a service account serving the property was activated on January 1, 1965. There is no indication of WSSC water service interruption to the property since the nonconforming use began in January 1964 when the density regulations in the R-18 Zone were changed. The complex became further nonconforming when bedroom percentage regulations, which became effective October 1, 1968, were adopted. Additional evidence, which consists of apartment license applications, aerial photographs, tax returns, various permits, and letters from tenants, demonstrate that the property has continuously operated as an apartment complex since the nonconforming status fell into place.

CONCLUSION

Based on the evidence submitted by the applicant, together with the lack of contradictory evidence from other sources, the Planning Board concludes that the subject apartments were constructed in accordance with the requirements of the Zoning Ordinance in effect prior to January 1, 1964 and October 1, 1968. There is also no evidence to suggest a lapse of continuous use of the Pleasant House Apartment complex since their construction.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application.

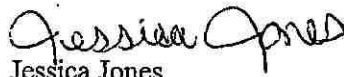
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Washington, Geraldo, Bailey, Shoaff and Hewlett voting in favor of the motion at its regular meeting held on Thursday, February 19, 2015, in Upper Marlboro, Maryland.

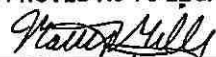
Adopted by the Prince George's County Planning Board this 19th day of March 2015.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:IT:arj

APPROVED AS TO LEGAL SUFFICIENCY.



M-NCPPC Legal Department
Date 2/27/15