



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 10-65

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Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco
File No. DSP-09026

RESOLUTION

WHEREAS, the Prince George's County Planning Board is charged with the approval of Detailed Site Plans pursuant to Part 3, Division 9 of the Zoning Ordinance of the Prince George's County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on June 10, 2010, regarding Detailed Site Plan DSP-09026 for The Evergreens at Laurel, the Planning Board finds:

1. **Request:** This application is a request for a single-story, 5,403-square-foot, community building in a certified, nonconforming, multifamily housing development.

2. **Development Data Summary**

	EXISTING	APPROVED
Zone(s)	R-18	R-18
Use(s)	Multifamily	Multifamily
Acreage	9.09	9.09

3. **Location:** The subject site is located in Planning Area 62, Council District 1. More specifically, the property is located in the southeastern quadrant of the intersection of South Laurel Drive and Laurel-Bowie Road (MD 197).
4. **Surrounding Uses:** The subject property is bounded on the northeastern property boundary by Laurel-Bowie Road (MD 197), an arterial. The northwestern and western property boundaries are bounded by South Laurel Drive. The adjacent property to the south is a utility right-of-way for Potomac Electric Power Company (PEPCO). To the east is a vacant, wooded property.
5. **Previous Approvals:** The subject property is a certified, nonconforming use that has previously received permit approvals only. The site was constructed between 1970 and 1972. In 1998, it was certified as a nonconforming use, NCU-8496-98-4, as it no longer conformed to the bedroom percentages prescribed by the Zoning Ordinance. In 2000, Permit 9361-2000 was issued to add parking on the northern end of the site near Laurel-Bowie Road. This permit was issued in error, as a special exception was required to modify the approved NCU and expand the parking. In addition, in 1990, the *Prince George's County Landscape Manual* was adopted. The revision to parking via permit did not conform to Landscape Manual requirements for the added parking spaces.
6. **Design Features:** The subject site is irregular in shape with two sides fronting on public rights-of-way. There are three entrances to the development on South Laurel Drive. There is no vehicular connection to Laurel-Bowie Road (MD 197). Two of the entrances are connected by a rectangular-shaped circulation system with two sections that branch off the rectangular street system. Both of

these branches dead-end in a parking lot. One of these branches has an additional ingress/egress point for vehicles to enter South Laurel Drive.

Eight garden-style apartment buildings are arranged within the green areas between the drive aisles. Most units have parking on one side and open, green space with shade trees provided on the other. The proposed community building will replace a boiler room that was previously situated in a central location on the site, attached to existing apartments.

Sidewalks are provided throughout the site to provide access from parking areas to the front of the multifamily units. This sidewalk system connects to the existing public sidewalk on South Laurel Drive. There is no pedestrian connectivity to Laurel-Bowie Road (MD 197). There are two children's play areas located within the open spaces, and sidewalk connections to these as well.

The landscaping on the subject property predates the Landscape Manual. There are shade trees on the eastern property boundary where the site is adjacent to South Laurel Drive. There are additional shade trees and some evergreens scattered throughout the open, green spaces provided. No landscaped buffer exists between the PEPCO utility right-of-way and the development. The parking approved in 2000, near Laurel-Bowie Road (MD 197), did not include additional landscaping. A few existing evergreens are provided in this location. The planting plan provided for the new community building is generous.

The proposed community building will contain a fitness room, lounge, offices, conference room, leasing area, and a model apartment. There is a main entrance on the southwest elevation and a secondary entrance on the northwest elevation. An arbor system has been provided over the entrances. The exterior architecture has been designed to complement the existing apartments in material and style. The elevations are full brick with an exterior insulation and finishing system (EIFS) screen at the top that matches the color of the existing concrete on the units. Portions of the existing boiler room will remain. The original roofline of the boiler room is visible in these elevations, but has been integrated into the architectural design of the community building.

There are ample windows provided on the elevations, except on one side of the main entry elevation where the design appears unbalanced. The interior floor plan shows a model apartment in this location. The applicant has indicated that the model apartment would have no windows in the location where they should appear on the exterior of the building. The architect has provided trellises and planters of the same dimensions as the windows. This will be discussed further in the findings below.

No lighting or signage has been provided on the site plans. This issue will be discussed in the findings below.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements in the R-18 Zone and the site design guidelines of the Zoning Ordinance.
- a. The subject application is an existing, certified nonconforming use. Multifamily housing is a permitted use in the R-18 Zone, but the development conforms to earlier standards and does not meet current density regulations.
 - b. The proposal is an existing, certified nonconforming use that was built in accordance with regulations in place at the time of construction, and with the nonconforming use permit regarding lot coverage and green area, building height, density, and other regulations.
 - c. In 2000, the parking lot was expanded on the northern edge of the site adjacent to Laurel-Bowie Road under Permit 9361-2000-CE. This existing parking expansion was not part of the initial request for this site plan. During the course of review, it was revealed that this permit was issued in error, as a special exception was required to expand the nonconforming use and furthermore, the parking expansion does not conform to the requirements of the Landscape Manual. The parking expansion cannot be validated as part of the detailed site plan for the community building, which is an expansion of a nonconforming use that is permitted by detailed site plan. The parking issue should be resolved through one of the following three options, which were provided to the applicant.
 - (1) The detailed site plan can be put on hold while the applicant undergoes the process to validate a permit issued in error through the Zoning Hearing Examiners Office and District Council.
 - (2) The application for a detailed site plan can be withdrawn, and an application for a special exception may be submitted. The parking can be approved as part of the special exception.
 - (3) The detailed site plan for the community building can be processed, but only if the parking area approved in error is removed or validated as a permit issued in error prior to issuance of a use and occupancy permit.

The applicant has rejected options (1) and (2) above, and has requested that the detailed site plan for the community building move forward to Planning Board hearing. In light of this decision by the applicant, staff has incorporated option (3) above in the proposed conditions below.

An application for alternative compliance was submitted and processed for the parking approved in error and has been included below for informational purposes only.

- d. Subtitle 27, Division 6, Subdivision 1, of the Zoning Ordinance defines the requirements for nonconforming buildings, structures, and uses. The applicable sections of this division are provided below.

Section 27-242(a) In general.

- (1) **A nonconforming building or structure, or a certified nonconforming use (except as provided for in this Section) may be altered, enlarged, or extended, provided that:**
- (A) **The alteration, enlargement, or extension conforms to the building line setback, yard, and height regulations of the zone in which the use is located; and**
 - (B) **A special exception has been approved by the District Council, in accordance with Part 4 of this Subtitle.**

The subject application included additional parking, previously approved by a permit which was issued in error. The parking does not conform to standards, as no revision to a site plan or special exception was approved, and the new parking did not conform to the requirements of the Landscape Manual. Staff has added a condition of approval to the recommendation section of this report to require the parking approved in error to be removed from the site plan for the community building or to receive validation as a permit issued in error.

The applicant has also requested a change in the bedroom percentages as part of this application. The proposed community building contains new offices. The applicant has proposed the conversion of the existing offices to additional apartment units. The proposed changes to the bedroom percentage for a nonconforming use cannot be approved through a detailed site plan and will require a special exception to be approved by the District Council. A condition of approval has been added to the recommendation section of this report to require a special exception to be approved prior to the conversion of these offices to apartments.

Section 27-242(b)(5) Recreational and social uses for multifamily dwellings.

- (A) **The alteration, extension, or enlargement of recreational and social uses associated with certified nonconforming multifamily dwellings, for the sole use of residents and their guests shall not be considered an alteration, extension, or enlargement of the nonconforming use. A Detailed Site Plan shall be approved for this use in accordance with Part 3, Division 9, of this Subtitle, prior to the issuance of any permits.**

Section 27-242(b)(5)(A) permits the community center as an expansion of a nonconforming, multifamily development, and provided the legal basis for this detailed site plan application.

Section 27-242(b)(7) Improvements to multifamily development.

(A) In multifamily developments existing as of January 1, 1990, in the R-30, R-30C, R-18, R-18C, R-10, and R-H Zones, the following improvements do not require a Special Exception:

(ii) Trash enclosure;

Section 27-242(b)(7)(A)(ii) permits the addition of the trash compactor and enclosure.

(xi) New access or parking, if accompanied by a reduction of 30% or more in the number of bedrooms.

Section 27-242(b)(7)(A)(xi) permits the addition of new parking areas if accompanied by a reduction of 30 percent or more in the number of bedrooms. The number of bedrooms is unchanged since the nonconforming use permit was approved. The parking approved in error will not be approved or validated as part of this detailed site plan.

(B) Such improvements shall conform to any applicable regulations in this Subtitle.

The community building and trash compactor will conform to the applicable standards. The parking area approved in error does not meet the applicable regulations of this subtitle.

8. ***Prince George's County Landscape Manual:*** The application is subject to the *Prince George's County Landscape Manual* as this proposal will require building and grading permits to construct the new community building. The application is exempt from Sections 4.1, 4.3, 4.6, and 4.7, as the gross floor area (GFA) will be increased by 3,076 square feet in this proposal, when the existing boiler room is not included.

There is no exemption from Section 4.4, Screening Requirements. The applicant has removed all dumpsters on-site to create additional parking, and is providing a trash compactor on the far eastern property boundary to serve residents. In addition, there are HVAC (heating, ventilating, and air conditioning) units and other equipment near the buildings that should be screened in accordance with this section. A condition of approval has been added to the Recommendation Section of this report to require compliance with Section 4.3, and Section 4.4 of the Landscape Manual.

The existing parking is not subject to Section 4.3, Parking Lot Requirements, but the section of parking approved by permit in error in 2000 will need to comply with the requirements of Section 4.3 of the Landscape Manual. The applicant has submitted an application for alternative compliance in this location. The Planning Director has recommended approval of this request. However, the parking approved in error by permit and the associated alternative compliance cannot be processed as part of a detailed site plan. A special exception or petition to the District Council is required. The alternative compliance request has been included for informational purposes only and is not to be approved in conjunction with this detailed site plan.

Location:

The subject property is located in the southeastern corner of the intersection of Laurel-Bowie Road and South Laurel Drive.

Background:

The underlying case, Detailed Site Plan DSP-09026, is proposed to add a community center to a multifamily development that was constructed in phases in the late 1960s and early 1970s. The site is the subject of a certified non-conforming use Permit No. NCU-8496-98-4. The development has existed legally, since 1972, by permit, and has no previous approvals on the record. During the course of review, it was discovered that Permit No. 9361-2000-02 issued for new parking, on November 2, 2000, did not take into account the Landscape Manual requirements, and was therefore issued in error. This request for Alternative Compliance will bring the site into conformance with the requirements of the *Prince George's County Landscape Manual*, while taking into consideration the limitations of the site as it has been constructed.

The subject property measures approximately 9.1 acres and is zoned R-18 for residential use. The site is bounded to the northeast by Laurel-Bowie Road and commercial and residential uses beyond. The western property boundary is adjacent to the right-of-way of South Laurel Drive. To the east, the property is adjacent to a vacant lot, zoned Commercial-Office (C-O). The southern property line is adjacent to power lines, in the R-18 Zone.

The applicant has filed this request for alternative compliance from Section 4.3, Parking Lot Requirements, of the *Prince George's County Landscape Manual*, along the northeastern property boundary, adjacent to the right-of-way of Laurel-Bowie Road.

REQUIRED: 4.3 Parking Lot Requirements, along the northeastern property boundary, adjacent to the right-of-way of Laurel-Bowie Road.

Length of bufferyard:	76 linear feet
Landscape yard width:	10 feet
Fence or wall:	No
Plant materials (1 shade tree + 10 shrubs/35 linear feet)	
Shade trees (10 plant units per tree)	3 shade trees
Evergreen trees (5 plant units per tree)	0 evergreen trees
Shrubs (1 plant units per shrub)	22 shrubs
Total plant units	52 plant units

PROVIDED: 4.3 Parking Lot Requirements, along the northeastern property boundary, adjacent to the right-of-way of Laurel-Bowie Road.

Length of bufferyard:	76 linear feet
Landscape yard width:	0-9 feet
Fence or wall:	No
Plant materials (1 shade tree + 10 shrubs/35	
Shade trees (10 plant units per tree)	6 shade trees
Evergreen trees (5 plant units per tree)	6 evergreen trees
Shrubs (1 plant units per shrub)	14 shrubs
Total plant units	104 plant units

Justification of Recommendation:

The strict application of the *Prince George's County Landscape Manual*, Section 4.3, Parking Lot Requirements, requires the applicant to provide a ten-foot-wide landscaped strip between parking areas and public right-of-ways. Due to a permit issued in error, the additional parking for this site was constructed without the required ten-foot landscaped strip. The applicant has provided full compliance with Section 4.3 for the remaining 132 linear feet where the ten-foot setback was available. Alternative Compliance has been requested for the 76 linear feet of property line where less than the required ten-foot setback was available. The applicant has provided twice the required number of planting materials for this section. Plant materials that could not be placed in the appropriate location due to a lack of space between the property line and the parking lot have been placed to either side of the section for which the applicant is seeking alternative compliance.

The Alternative Compliance Committee finds that providing twice the required planting materials for this 76-foot section of parking lot is equal to or better than normal compliance with the *Prince George's County Landscape Manual*.

Recommendation:

The Alternative Compliance Committee recommends approval of Alternative Compliance for the Evergreens at Laurel Apartment Complex pursuant to Section 4.3 of the *Prince George's County Landscape Manual* along the northeastern property line, adjacent to Laurel-Bowie Road.

9. **Urban Design Section:** The proposed architecture for the community building complements the existing building in design, color, and material.

The trellises provided in lieu of windows on the front elevation, to the left of the main entrance, do help balance the composition where windows could not be provided due to the model apartment within. The trellises are a creative solution that complement the arbor; however, there is concern that the trellises could be removed or poorly tended to, which may cause this solution to fail long-term. A condition has been added to require the applicant to provide faux windows or another architecturally-balanced set of features in this location.

The west elevation consists of two short sections where the community building will join the existing apartment building. This elevation has no architectural detailing or windows. The sections are relatively small, and the applicant has indicated that there is an exercise room with a mirror wall on one side and stated that windows in this location could interfere with the privacy of the adjacent units. This elevation should be softened by providing additional landscaping in this location.

10. **Woodland Conservation and Tree Preservation Ordinance:** The property is exempt from the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the property contains less than 10,000 square feet of woodland on-site and there is no previous tree conservation plans associated with this property. The exemption letter is limited to the construction of the community building and is valid through August 10, 2011.

11. **Referral Agencies and Departments:** The subject application was referred to the concerned agencies and divisions. The referral comments are summarized as follows:

- a. **Community Planning:** The application is consistent with the 2002 *Prince George's County Approved General Plan* Development Pattern policies for the Developing Tier, and the high-urban land use recommendations of the 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I Planning Areas 60, 62, and 62*. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density, suburban, residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable.
- b. **Transportation Planning:** The access and circulation are unchanged and no transportation conditions exist that would restrict the proposal.

- c. **Subdivision Review:** The subject property is located on Tax Map 14, Grid F-3, and is known as Parcel A, Pumpkin Hill, in the R-18 Zone, and is approximately 9.09 acres. The property is subject to record plat WWW 58 @ 93, recorded in the land records of Prince George's County on January 24, 1966. The bearing and distances along the northeastern section of the property have been slightly altered since 1966 and reflect the additional dedication for Laurel-Bowie Road for widening. The change in the configuration of the property is permitted pursuant to Section 24-107(c)(5) of the Subdivision Regulations, which exempts from filing a subdivision plat, the conveyance of land to a "governmental agency for public use."

The applicant is proposing to construct an additional 5,403 square feet to be used as a community center for the apartment complex. The buildings appear to have been constructed in 1974, and would therefore, allow the applicant to meet an exemption from filing a preliminary plan of subdivision pursuant to Section 24-111(c)(4) of the Subdivision Regulations which states:

- (4) **The development of more than five thousand (5,000) square feet of gross floor area, which constitutes at least ten percent (10%) of the total area of the site, has been constructed pursuant to a building permit issued on or before December 31, 1991.**

The applicant should provide evidence that 10 percent of the site was developed prior to December 31, 1991. The applicant must vest the existing development prior to razing any existing structures in order to remain exempt under this statute, if not, a preliminary plan of subdivision would be required.

- d. **Permit Review:** The following comments have been provided for informational purposes below and carried forward as conditions of approval, where appropriate.
- (1) The change of the existing offices to apartments will constitute an increase to the bedroom percentages and require a special exception to increase the percentages.
 - (2) Permit 9361-2000-CE to add the parking area along Laurel-Bowie Road to the north was approved in error. A special exception for a revision of site plan (ROSP) to a nonconforming use was and is required. The applicant may seek to validate a permit issued in error or obtain the ROSP for the nonconforming use.
 - (3) A Section 4.3a landscape buffer is required for the parking lot added by Permit 9361-2000-CE. The landscape plans must be revised to include the required landscaping and Section 4.3a buffer schedule. Please note, alternative compliance will be necessary, as approximately 55 to 60 feet of the parking lot has been installed directly adjacent to the property line.

- e. **Environmental Planning:** There are no environmental issues associated with this application.
 - f. **Zoning:** There are no zoning issues.
 - g. **The Department of Public Works and Transportation (DPW&T):** DPW&T provided standard comments.
 - h. **The City of Laurel:** The City of Laurel stated that they have no comments regarding the subject application.
12. As required by Section 27-285(b), the detailed site plan represents a reasonable alternative for satisfying the site design guidelines of Subtitle 27, Part 3, Division 9, of the Prince George's County Code without requiring unreasonable cost and without detracting substantially from the utility of the proposed development for its intended use.

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 Detailed Site Plan DSP-09026, subject to the following conditions:

- 1. Prior to signature approval, the applicant shall:
 - a. Indicate on the detailed site plan the date of construction for each building on the subject site.
 - b. Appropriately note which provision of the Subdivision Regulations will be utilized to qualify for exemption from filing a preliminary plan of subdivision, based on the information provided about the construction of the buildings on the site.
 - c. Revise the landscape plan to demonstrate compliance with Section 4.4, Screening Requirements, of the *Prince George's County Landscape Manual*.
 - d. Revise the building elevations to provide faux windows or other architecturally-balanced features on the left side of the main entrance.
 - e. Revise the landscape plan to provide additional landscaping to soften walls on the western elevation.
 - f. Add a note stating that no change to the number of apartments or bedrooms is approved by the subject detailed site plan.
- 2. Prior to the issuance of the use an occupancy permit for the community building, the parking area approved through Permit 9361-2000-CE shall be made a legal part of the improvements to the site.

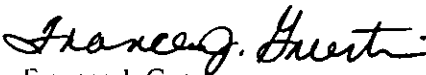
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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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 Squire, seconded by Commissioner Cavitt, with Commissioners Squire, Cavitt, Vaughns and Parker voting in favor of the motion, and with Commissioner Clark absent at its regular meeting held on Thursday, June 10, 2010, in Upper Marlboro, Maryland.


Adopted by the Prince George's County Planning Board this 8th day of July 2010.

Patricia Colihan Barney
Executive Director

By 
Frances J. Guertin
Planning Board Administrator

PCB:FJG:CJ:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department
Date 6/15/10