

May 31, 2000

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Johndel Jones-Brown

SUBJECT: **Certified Nonconforming Use Application No. 5401-2000-U**

REQUEST: Church

RECOMMENDATION: **Approval**

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 301-952-3280 for additional information.

FINDINGS:

- A. Location and Field Inspection: The subject property is located on the northeast corner of the intersection of Suitland Road and Skyline Drive in an unincorporated part of Prince George's County. The property is improved with two structures: a split foyer, brick-frame dwelling which serves as a parsonage and a one- to two-story main structure which serves as a church. The address of the parsonage is 4307 Skyline Drive while the address of the church is 6412 Suitland Road. A gravel parking area is also provided on the property. The property is located within the Heights Planning Area (76A) and within Council District Nine.
- B. History: The property was classified in the R-80 Zone upon adoption of the Subregion VII Sectional Map Amendment in July 1984. The church was constructed in 1952 and a parsonage was added in 1974.
- C. Master Plan Recommendation: The Subregion VII Master Plan was approved October 1981. The plan recommends the property for the suburban density of 2.7 to 3.5 dwelling units per acre. This portion of the subregion is currently being restudied as part of the Heights Master Plan. The Preliminary Master Plan for the Heights (PA 76A) retains the subject property in the R-80 Zone. The property is located along Suitland Road which is proposed in the Preliminary Master Plan as an ■Other Gateway.¹ Suitland Road was designated as a gateway because of its unique function. When state and foreign officials arrive at Andrews Air Force Base to visit the Nation's Capital, Suitland Road is the route that is taken to Suitland Parkway and to the District of Columbia. In general, the Preliminary Master Plan recommends that properties along gateways that are subject to a subdivision application, building permits (for new buildings, building expansion, exterior building renovation, redevelopment) or other development activity such as streetscape improvements should conform to the applicable recommendations. Specific recommendations are made in the area of entrance features (signage, architectural elements and focal points), pedestrian-friendly atmosphere (sidewalks, lighting and amenities), landscaping, building appearance/property maintenance, building signage, safety and security.
- D. Request: The applicant wishes to validate an existing church on a property of approximately 1.77 acres in the R-80 Zone. Pursuant to Council Bill CB-23-1993, a special exception is required for a church on less than two (2) acres of land in the R-80 Zone. In order for the property to be certified as a Non-Conforming Use, the applicant must show that the church existed prior to the enactment of CB-23-1993 (August, 1993) and has been in continuous operation since that date.
- E. Surrounding Uses: The property is located in a predominately residential area with some retail uses nearby. A gas station is located near the subject property across Skyline Drive at Suitland Road in the C-S-C Zone. The remainder of uses adjacent and across Skyline Drive are single-family residential in the R-80 Zone. Across Suitland Road, there are two small commercial centers: one housing a child day care facility, beauty shop, and an employment center is located in the C-S-C Zone; the second, housing a barber shop and lounge/restaurant is located in the C-O Zone. Suitland

¹The Preliminary Master Plan proposes three gateway designation: Major Gateways (Naylor Road Metro/Branch Avenue Commercial Corridor, Indian Head Highway Commercial Corridor, Branch Avenue Metro Station), Minor Gateways (23rd Parkway, Wheeler Road, Owens Road) and Other Gateways (Suitland Road).

Road is a collector facility with two through-lanes and a center turning lane. Skyline Drive is a two lane residential street.

- F. Certification Requirements: Certification of a nonconforming use requires that certain findings be made. First, the use must either predate zoning or have been established in accordance with all 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 sets forth the specific requirements:

1. **In general, 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) certifies that the use is really nonconforming and not an illegal use.**
2. **Application for Use and Occupancy Permit:**
 - a. **The applicant shall file for a use and occupancy permit.**
 - b. **Along with the application and accompanying plans, the applicant shall provide the following:**
 - (1) **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.**
 - (2) **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 non-operation 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.**
 - (3) **Specific data showing:**
 - (i) **The exact nature, size and location of the building, structure and use.**
 - (ii) **A legal description of the property.**
 - (iii) **The precise location and limits of the use on the property and within any building it occupies.**
 - (4) **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.**

- G. Documentary Evidence: According to the applicant's statement of justification, the church was constructed in 1952, held its first services in the facility in 1954 and has been in continuous operation for the past 46 years. While originally established as the East Washington Baptist Church, Inc. it was succeeded by the Morningside Baptist Church and subsequently by the Suitland Road Baptist Church. Since 1987, Reverend Kelvin McCune has served as pastor of the Suitland Baptist Church.

To support the claim of continuous operation since prior to August, 1993, business meeting minutes and church programs have been submitted which cover the time period from October, 1992 through January, 2000. The specifics of the submitted documentation are given in the table below:

January, 1993	minutes from the October, 1992 business meeting
August, 1993	minutes from the August, 1993 business meeting
January, 1994	minutes from the January, 1994 business meeting
August, 1994	minutes from the August, 1994 business meeting
September, 1994	minutes from the September, 1994 business meeting
January, 1995	minutes from the January, 1995 business meeting
July, 1995	minutes from the July, 1995 business meeting
September, 1995	minutes from the September, 1995 business meeting
March, 1996	minutes from the March, 1996 business meeting
July, 1996	minutes from the July, 1996 business meeting
January, 1997	schedule of services and church program for the week of January 5, 1997
July, 1997	schedule of services and church program for the week of July 20, 1997
January, 1998	schedule of services and church program for the week of January 4, 1998
July, 1998	schedule of services and church program for the week of July 12, 1998
January, 1999	schedule of services and church program for the week of January 10, 1999
July, 1999	schedule of services and church program for the week of July 18, 1999
January, 2000	schedule of services and church program for the week of January 30, 2000

The applicant has also submitted a site plan which provides a legal description of the property, shows existing improvements on the property and illustrates the size and location of the building, structure and use.

CONCLUSION:

1. The supplied documentation is sufficient to establish the existence of the site and its use as a church prior to the passage of CB-23-1993. The applicant has also supplied information , while not overwhelming, documenting the continuous of the site as a church from the passage of CB-23-1993 to the time of this application. No information or testimony has been received which suggests that this use has been interrupted for more than 180 days. The applicant has submitted a site plan which adequately shows the nature, size and location of the building, structure and use, as well as the legal description of the property. There is not a use and occupancy permit for the property issued prior to the date the use became non-conforming.
2. Staff recommends approval of the certification of the use as non-conforming.