



PGCPB No. 13-10

File No. DSP-12046

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 January 24, 2013, regarding Detailed Site Plan DSP-12046 for North Pointe, (aka Ager Road Station & Queens Chapel Apartments), the Planning Board finds:

1. **Request:** The subject application requests approval to add six units to an existing 228 unit multifamily development, and to reduce the parking requirement by 14 spaces.
2. **Development Data Summary:**

	EXISTING	APPROVED
Zone	R-18/D-D-O	R-18/D-D-O
Use(s)	Multifamily	Multifamily
Acreage	9.42	9.42
Site Square Footage/GFA	186,960	186,960
Total Rental Unit Count	228	234
One bedroom units	99	100
Two bedroom units	99	104
Three bedroom units	30	30

**Other Development Data:**

Parking Required per NCU 6113-2002 for 228 units	228 spaces
Parking Required for 6 additional units per Section 27-568	15 spaces
1 one-bedroom unit @ 2.0 spaces per unit = 2 spaces	
5 two-bedroom units @ 2.5 spaces per unit = 13 spaces	
<b>Total Parking spaces required per Section 27-568</b>	<b>243 spaces</b>
<b>Total Parking spaces provided</b>	<b>229 spaces</b>

With the proposed additional 6 units, a deficit of 14 parking spaces will exist on the site. The application proposes no modification to the number of spaces within the existing parking lot.

3. **Location:** The site is in Planning Area 68, Council District 2 in the City of Hyattsville. More specifically, it is located in the southeastern quadrant of the intersection of Ager Road and

PGCPB No. 13-10  
File No. DSP-12046  
Page 2

Nicholson Street, within approximately one-quarter mile of the West Hyattsville Metro station. The property address is 5720 29<sup>th</sup> Avenue.

4. **Surrounding Uses:** The subject site is located in the Multifamily Medium-Density Residential (R-18) Zone. It is bounded to the north by Nicholson Street and to the west by Ager Road. East of the subject property are single-family detached homes in the One-Family Detached Residential (R-55) Zone. South of the subject property are single-family detached homes in the R-55 and Townhouse (R-T) zones.
5. **Previous Approvals:** The North Pointe Apartments has been in continuous operation since 1954, when the complex was first constructed. The property was previously known as Queens Chapel Apartments and Ager Road Station Apartments. The Maryland-National Capital Park and Planning Commission (M-NCPPC) approved a nonconforming use site plan and permit NCU-6113-2002-U for 228 dwelling units (including 99 one-bedroom units, 99 two-bedroom units, and 30 three-bedroom units) and 229 parking spaces on April 8, 2002.
6. **Design Features:** North Pointe Apartments is a garden-style apartment complex with 228 rentable units. Five janitor apartment units and one model unit were also constructed with the existing apartment complex buildings, but were not certified with the 228 other rental units in 2002. The janitor and model units are located within buildings 7, 12, 16 and 19. The applicant seeks approval with the subject application to convert the existing janitor apartments and model unit into six additional rental apartment units. The Planning Board finds that the subject application proposes no increase of existing floor area, and is exempt from development district standards.

#### COMPLIANCE WITH EVALUATION CRITERIA

7. **The 2004 Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District:** The subject property is located within the Multifamily Residential Community (MRC) character area of the November 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District*. The application conforms to the land use recommendations of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* for properties classified in the Multifamily Residential Community Character Area. The goals for this area include: (1) promoting development of high-quality multifamily residential housing with the potential for artist studios for residents (2) promoting renovation and/or redevelopment and increasing the variety of multifamily housing options (3) encouraging multimodal transportation options, all of which may be furthered by this application.

Per the November 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District*, expansion of a certified non-conforming use requires a detailed site plan, if the proposal does not conform to the standards.

PGCPB No. 13-10  
File No. DSP-12046  
Page 3

**Page 141 states in part:**

- 8.b. ...a property owner may not expand a certified nonconforming use, or a use or structure that was lawful on the date of the SMA approval but does not conform to the standard, unless a detailed site plan is approved with findings that the expansion is compatible with adjacent uses and meets the goals of the sector plan.**

The subject application is an expansion of a non-conforming use because it includes additional rental units, although no additional gross floor area (GFA) is proposed. At the time a use and occupancy permit was applied for, the subject application was not able to demonstrate conformance with parking requirements contained in the sector plan or the Zoning Ordinance. It was therefore determined that a detailed site plan should be required for the six-unit expansion of the non-conforming use and the resulting deficit in the number of required parking spaces on the site.

- 8. Zoning Ordinance:** The Planning Board finds that the subject application complies with the requirements in the Multifamily Medium-Density Residential (R-18) and Development District Overlay (D-D-O) Zones and the site plan design guidelines of the Zoning Ordinance, as applicable.
- a. Section 27-441, Table of Uses, governs permitted uses in residential zones. The subject multifamily use is permitted in the Multifamily Medium Density Residential (R-18) Zone.
- b. Parking and loading on the subject site were constructed in 1954, and were subject to the parking requirements in effect at that time. Non-Conforming Use Permit NCU-6113-2002 required 228 parking spaces for 228 rental units, while 229 parking spaces existed on the site.

The certified non-conforming apartments had previously been exempt from the current parking standards contained in Part 11, Off-Street Parking and Loading, pursuant to Section 27-584(a)(1), Exclusion of previously existing uses, which states:

- (a) The following shall not be required to comply with the provisions of this Part:**

- (1) Any legally existing use that complies with the previous requirements for parking and loading areas (in effect at the time the use began). If the use is a certified nonconforming use, the parking lot or loading area used with it shall not be reduced, except in accordance with this Part;**

As the proposed additional rental units would require additional parking, the above exemption from the requirements of Part 11 of the Zoning Ordinance is no longer

PGCPB No. 13-10  
File No. DSP-12046  
Page 4

permitted under Section 27-584(a)(1). The six additional units, which were not certified with the non-conforming use application, should meet the current parking design standards. The Zoning Ordinance requires fifteen parking spaces for the six rental units.

The application which is located in a D-D-O Zone, has been required to file a detailed site plan to include six additional rental units and reduce the parking requirement by fourteen spaces.

- c. Section 27-548.25, Site Plan Approval, gives the following additional considerations for sites in development districts:

**Section 27-548.25(b)**

**In approving the Detailed Site Plan, the Planning Board shall find that the site plan meets applicable Development District Standards.**

The Planning Board finds that the applicability of the development district standards is limited in this case, because the application does not propose an increase in gross floor area, nor any modification of the existing parking lot. The development district standards have been considered in the analysis of the subject request; however, no development district standards strictly apply to the subject site, including the regulations for required parking contained in the D-D-O-Z, which are also considered to be development district standards.

**Section 27-548.25(e)**

**If a use would normally require a variance or departure, separate application shall not be required, but the Planning Board shall find in its approval of the site plan that the variance or departure conforms to all applicable Development District Standards.**

The subject proposal, which requests a reduction in the parking requirement, would normally require a departure from parking and loading standards. No separate application has been required. See Finding 12 for additional discussion of the departure request.

9. **The Prince George's County Landscape Manual:** The Planning Board finds that the subject application for an addition of units and modification of the parking requirement does not subject the site to the requirements of the 2010 *Prince George's County Landscape Manual*.
10. **Woodland and Wildlife Habitat Conservation Ordinance:** The Planning Board finds that the subject application is not subject to the requirements of the Woodland and Wildlife Habitat Conservation Ordinance, as no site disturbance is proposed.

PGCPB No. 13-10  
File No. DSP-12046  
Page 5

11. **Tree Canopy Coverage Ordinance:** The Planning Board finds that the subject proposal is exempt from the requirements of the Tree Canopy Coverage Ordinance as no site disturbance is proposed.
12. **Departure from Parking and Loading Spaces:** The subject site requires a departure from parking and loading spaces. As the site is located within a development district, no separate application has been required for the departure.

The Planning Board has reviewed the departure request in consideration of the requirements of the Subtitle 27 as well as consistency with the goals of sector plan. The transportation goals for the sector plan are shown on page 39 of the document; the expansion of this use is compatible with the two goals, which are:

1. **To provide an integrated multimodal transportation system that is safe, efficient, attractive, and accessible, while reducing dependency on the automobile.**
2. **To provide safe and convenient pedestrian and nonmotorized circulation opportunities in the Arts District for recreation and transportation, with an emphasis on connections to Metro and US 1.**

The expansion would generate 4 AM and 4 PM peak-hour vehicle trips. This amount of traffic would be considered to have a de minimus impact on adjacent roadways. Ager Road is a master plan arterial facility, and the existing 128-foot right-of-way is consistent with the master plan recommendation.

The Zoning Ordinance provides minimum standards for on-site parking and loading on the subject property for two primary reasons. The standards protect the patrons of the subject property from the problems caused by not having adequate and available parking at hand. The parking standards also protect neighboring property owners from the problems caused by persons residing on or visiting the subject property and using parking spaces on adjacent land or streets during that time.

The Planning Board adopts the submitted parking survey and letter (Silberholz to Adams, October 4, 2012) as further justification for approval of the departure request.

The survey was conducted with the purpose of determining the number of existing parking spaces that are vacant during a peak usage of the North Pointe Apartment complex, Saturday morning. The survey was conducted to determine if there currently is adequate parking to accommodate the conversion of six (6) janitor/model units to rental units, as proposed by the subject application. As discussed in detail herein, there are over 80 existing vacant spaces during the peak usage period of the North Pointe Apartment complex parking lot, and thus more than adequate existing parking spaces to accommodate the conversion of six (6) janitor/model units to rental apartments.

PGCPB No. 13-10  
File No. DSP-12046  
Page 6

The parking counts were conducted during the weekend versus a normal Monday through Friday workday to provide a good opportunity to find a large number of tenants residing in their apartments (i.e., at home) instead of at work. The survey relied on a visual count of the number of parking spaces that were found to be vacant. The survey was conducted early in the morning of Saturday, September 29, 2012. It began at 7:42AM and continued for approximately 1/2 hour.

Based on observations, a total of 84 (37 percent) existing parking spaces were vacant and available to provide additional parking for the apartment complex. Also, four (4) vehicles were observed leaving the parking areas. Those four spaces that became vacant were counted as being "parked" and were not included in the "available parking" count. The following is a breakdown of the vacant space parking counts spread across the four existing parking lots:

**Parking Lot# 1**

(i.e., located at the northeast quadrant of the property adjacent to buildings 1, 2, and 3):

- a. Total Spaces in Lot = 60
- b. Compact vacant spaces = N/A
- c. Standard vacant spaces = 31
- d. Parallel vacant spaces = N/A
- e. Total Vacant Spaces = 31

**Parking Lot# 2**

(i.e., located at the southeast quadrant of the property adjacent to buildings 10, 11, 12, and 13):

- a. Total Spaces in Lot = 87
- b. Compact vacant spaces = N/A
- c. Standard vacant spaces = 31
- d. Parallel vacant spaces = N/A
- e. Total Vacant Spaces = 36

**Parking Lot# 3**

(i.e., located at the northwest quadrant of the property adjacent to Buildings 7, 8, and 9):

- a. Total Spaces in Lot = 40
- b. Compact vacant spaces = N/A
- c. Standard vacant spaces = 7
- d. Parallel vacant spaces = 3
- e. Total Vacant Spaces = 10

PGCPB No. 13-10  
File No. DSP-12046  
Page 7

**Parking Lot# 4**

(i.e., located at the southwest quadrant of the property adjacent to Buildings 16, 17 and 18):

a.	Total Spaces in Lot	=	42
b.	Compact vacant spaces	=	N/A
c.	Standard vacant spaces	=	6
d.	<u>Parallel vacant spaces</u>	=	<u>1</u>
e.	Total Vacant Spaces	=	7

Of the 84 existing vacant parking spaces determined to be available, approximately 48 of those spaces are considered to be within close proximity to the six janitor/model units proposed for conversion.

While the survey was done on only one occasion, the Planning Board finds that the submitted information demonstrates that there is excess parking on the site. Although not stated in the applicant's justification, the site appears to be well-served by public transportation, with three different bus lines traversing Ager Road adjacent to the site and a bus stop at Ager Road and Nicholson Lane. Also, the site is about 2,700 feet from the entrance to the West Hyattsville Metrorail station; while this is a long walk, it is reasonable, and facilities appear to be in place to complement it. The availability of transit is a consideration that can be used in approving a departure from parking and loading standards. Furthermore, while the development district's parking standards do not apply in this case, they would only require one space per unit for a total of 234 required parking spaces. Parking reductions are also encouraged in the D-D-O Zone as a means to reduce dependency on the automobile.

Given that the requested departure is very small in comparison to the overall on-site parking supply, the survey combined with the availability of transit provides a degree of assurance that available parking can serve the expanded use, and that granting the departure would be consistent with the goals of the sector plan.

13. **Further Planning Board Findings and Comments from Other Entities:** 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 General Plan Development Pattern policies for the Developed Tier, and conforms to the land use recommendations of the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* for properties within the Multifamily Residential Community Character Area. The proposed reduction of surface parking areas is in harmony with the sector plan's goal to encourage multimodal transportation options within the Multifamily Residential Community Character Area.

PGCPB No. 13-10  
File No. DSP-12046  
Page 8

b. **Transportation Planning**—At present, the site has adequate parking. The parking survey determined that approximately 84 spaces out of 229 were vacant. The following are noted in the review of the submitted information:

- The survey was done on a single occasion. Multiple observations provide a greater reliability in a survey.
- The survey was done between the hours of 7:40 a.m. and 8:10 a.m. on a Saturday. *Parking Generation, Third Edition* (Institute of Transportation Engineers) indicates that peak parking on a Saturday is between 9:00 p.m. and 7:00 a.m. Therefore, the survey commenced well after the time of peak demand according to recognized sources.
- It is noted that parking areas nearest the adjacent single-family communities had the most vacant parking in the survey. This does bolster the argument that granting the departure would be unlikely to affect neighboring communities.

Given that the requested departure is very small in comparison to the overall on-site parking supply, the survey combined with the availability of transit provides a degree of consideration that available parking can serve the expanded use, and that granting the departure would be consistent with the goals of the sector plan.

c. **Subdivision**—The property is known as Parcels 1 and 2 on Tax Map 41 in Grid E-3, and is in the R-18 and DDO Zone. Parcels 1 and 2 were approved in Plat Book WWW 22-89 on July 9, 1953. The site plan shows the bearings and distances of the parcels as reflected on the record plat except for the southeast portion of Parcel 1. The DSP should be revised to show the correct bearings and distances as reflected on record plat at the southeast portion of Parcel 1. The applicant has submitted a detailed site plan to convert the existing janitor apartments and model unit into 6 rental apartment units and to allow 229 parking spaces instead of 235. The DSP proposes no increase of existing floor area.

**Section 24-111 of the Subdivision Regulations provides for exemptions from the requirement of filing a preliminary plan of subdivision for parcels with a record plat. Specifically, in this instance Parcels 1 and 2 are subject to Section 24-111(c)(4) which provides:**

- (c) **A final plat of subdivision approved prior to October 27, 1970, shall be resubdivided prior to the issuance of a building permit unless:**
  - (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.**



PGCPB No. 13-10  
File No. DSP-12046  
Page 9

The property has a record plat approved prior to October 27, 1970. Based on General Note 1 on the DSP, the total land area for site is 410,609 square feet based and the existing development on the property is 62,320 square feet (15.17% of the total land area). Based on the archive aerial photos of the site on PGAtlas, the apartments have been in existing prior to 1991. General Note 1 on the DSP indicates that apartments were constructed in 1954. It appears that property is exempt from the requirement of filing a preliminary plan of subdivision by Section 24-111(c)(4) based on the existing conditions, information contained in the application, and PG Atlas.

- d. **Permit Review**—There are no issues of relevance to the proposal.
  - e. **City of Hyattsville**—The City of Hyattsville had no comment on the proposal.
14. Based upon the foregoing analysis and as required by Section 27-285(b) of the Zoning Ordinance, 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.

15. As required by Section 27-285(b)(4) of the Zoning Ordinance, which became effective on September 1, 2010, a required finding for approval of a detailed site plan is as follows:

**The Planning Board may approve a Detailed Site Plan if it finds that the regulated environmental features have been preserved and/or restored in a natural state to the fullest extent possible.**

It is not necessary to make this finding in this case as there are no regulated environmental features on the site.

16. Based on the foregoing analysis and as required by the 2004 *Approved Sector Plan and Sectional Map Amendment for the Prince George's County Gateway Arts District* (page 141, 8.b.), the proposed increase in the number of rental units is compatible with adjacent uses and meets the goals of the sector plan.

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 Special Permit SP-120001, and further APPROVED the Detailed Site Plan DSP-12046, subject to the following conditions:

- 1. Prior to certificate approval of this detailed site plan, the applicant shall revise the plans as follows:
  - a. Provide the parking calculations required per Section 27-568 of the Zoning Ordinance.

PGCPB No. 13-10  
File No. DSP-12046  
Page 10

b. Indicate that a reduction of 14 parking spaces is approved with the subject application.


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.

\* \* \* \* \*

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 Bailey, seconded by Commissioner Geraldo, with Commissioners Bailey, Geraldo, Shoaff, Washington and Hewlett voting in favor of the motion at its regular meeting held on Thursday, January 24, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 14<sup>th</sup> day of February 2013.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:MF:arj

APPROVED AS TO LEGAL SUFFICIENCY.

  
M-NCPRC Legal Department

Date 2/5/13