



# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 15-29

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File No. CNU-4012-2015

## RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed CNU-4012-2015, Strathcona Apartments requesting certification of an existing 42-unit, multifamily, garden-style apartment complex 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 April 16, 2015, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property, known as the Strathcona Apartments, is located on the south side of Crescent Road at its intersection with Southway Road in the City of Greenbelt. The entire property is contained within the Planned Community (R-P-C) Zone. The site, addressed as 28-40 Crescent Road, is developed with a two-building, three-story, brick, garden apartment complex. The subject property contains 42 multifamily units on 1.29 acres. Building One is developed with 30 units and Building Two has 12 units. There is limited vehicular access to the development via a parking lot off of Southway Road. Pedestrian access is provided via ingress/egress on Crescent Road.

- B. **Development Data Summary:**

|                      | EXISTING               | APPROVED  |
|----------------------|------------------------|-----------|
| Zone                 | O-S, R-T, R-18/R-P-C   | Unchanged |
| Acreage              | 1.29 total             | Unchanged |
| Use(s)               | Multifamily Apartments | Unchanged |
| Bedroom Percentages  |                        |           |
| 1 BR                 | 34 (81%)               | Unchanged |
| 1 BR with Den (2 BR) | 8 (19%)                |           |
| Lot Coverage         | 1,339 s.f./d.u.        | Unchanged |

- C. **History:** The buildings, known as 28-40 Crescent Road in Greenbelt, Maryland, were constructed as a 42-unit garden-style apartment complex in the 1930s/1940s when Old Town Greenbelt was under federal ownership. Off-street parking was not a requirement to serve the property at that time, however, 11 spaces are provided. In 1953, the Greenbelt Cooperative purchased the town from the federal government; however, a new zoning plan was not adopted for the area until June 5, 1957, which is when the apartment complex became nonconforming. When the property came into the Maryland-Washington Regional District (Regional District) in 1957, the R-P-C Zone was imposed upon the City of Greenbelt; the property thus existed within the R-P-C Zone, but was also subject to the underlying Multifamily Medium Density Residential (R-18) Zone requirements. In 1990, the property was placed in the R-18 and R-T/R-P-C Zones. The R-18 Zone allowed a maximum density of 1,800 square feet per dwelling unit and the site only provides 1,339 square feet per dwelling unit. The Townhouse (R-T) Zone prohibits multifamily dwellings unless they are a part of a condominium regime, within a transit district zone, abut the District of Columbia, or a

mix of residential and commercial uses, which this site does not. Forty-two off-street parking spaces are required to serve the property, but only 11 are provided. The site plan includes a table that indicates the current Prince George's County Zoning Ordinance requirements for the R-18 and R-T Zones and where the complex conforms to or deviates from those requirements. There are no previously issued use and occupancy (U&O) permits for the apartments; therefore, a public hearing before the Prince George's County Planning Board is required.

- D. **Request:** The applicant requests certification of an existing 42-unit, multifamily, garden-style apartment complex that was built when the property was not subject to the requirements of the Zoning Ordinance. Because development regulations were changed or adopted after the apartment use was lawfully established, the complex became nonconforming. The nonconforming status began June 5, 1957 when the property came into the Regional District and again in 1990 when the property was placed in the R-18 and R-T/R-P-C Zones and was subject to the Zoning Ordinance.
- E. **Surrounding Uses:** The site is surrounded by the following uses, all within the R-P-C:
- |               |                                                                                                  |
|---------------|--------------------------------------------------------------------------------------------------|
| <b>North—</b> | Property zoned Commercial Shopping Center (C-S-C) developed with retail uses along Crescent Road |
| <b>West—</b>  | Developed residential property zoned R-18 and R-T along Southway Road                            |
| <b>East—</b>  | Property zoned R-18 and R-T                                                                      |
| <b>South—</b> | Developed residential developed property zoned R-T                                               |
- F. **Certification Requirements:** Certification of a nonconforming use requires that certain findings be made. First, the use must either pre-date the pertinent zoning regulation or have been established in accordance with all regulations in effect at the time the use 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:

- (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 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;
  - (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:** According to the applicant's documentation, the 28-40 Strathcona apartments were constructed as part of the Greenbelt Towns program initiated during Franklin D. Roosevelt's administration. When the applicant applied for a U&O permit, the Planning Information Services staff could not verify that the apartments were constructed and in continuous use in accordance with the requirements in effect at the time the property became a part of the Regional District in 1957 because the original U&O permit records were not available. Therefore, in accordance with Section 27-244(f), the Planning Board must determine whether, in fact, the use was legally established prior to the date it became nonconforming, June 5, 1957, 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 from the Washington Suburban Sanitary Commission (WSSC), Credit Department, indicating December 1, 1966 as the date the accounts were opened for 28-40 Crescent Road, Greenbelt, Maryland and that the accounts are currently active.
2. An Affidavit of Memorandum from Charles L. Levin providing evidence of the subject property being used as a multi-unit apartment building since approximately 1952 or early 1953.
3. A rental housing license and inspections from the City of Greenbelt from 1994 to present.
4. A Wikipedia article regarding Greenbelt, Maryland citing multifamily apartments constructed as a part of a plan to promote middle-income housing.
5. A 1953 U.S. Government advertising circular marketing the occupied multifamily properties for sale.
6. A Quit Claim deed for the property dated April 30, 1953.
7. Articles of Organization for Strathcona Apartments, LLC.
8. Depreciation schedules verifying that the property was placed in service in 1953.
9. Tax Returns for 1955-71, 1978, 1979, 1981, and 1988-2013.
10. Financial Statements for 1980 and 1981.
11. Weaver Brothers Insurance, Inc. letters and insurance policy excerpts 1982-1984.
12. Weaver Brothers Operating Statements for 1985, 1986, and 1987.

## DISCUSSION

The above evidence which consists of a 1953 U.S. Government advertising circular marketing the occupied multifamily properties for sale, a letter from WSSC citing continuous service, a signed affidavit from former owner Charles L. Levin, and other documents including tax returns, financial statements, articles of organization, and other such documents, supports the applicant's claim that the 42 dwelling unit Strathcona multifamily apartment complex was developed when it was not subject to Zoning Ordinance requirements and has been in continuous operation since being constructed and when the use became nonconforming in 1957 when the property came into the Regional District and the R-P-C Zone was imposed upon the City of Greenbelt (subject to the underlying zone of R-18 and later in 1990 when the underlying zone was changed to R-T). The allowable density on the subject site in 1957, per the R-18/R-P-C Zone, imposed at that time was 1,339 square feet per dwelling unit on 1.269 acres.

## 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 Strathcona Apartments were not subjected to the requirements of the Zoning Ordinance when constructed. There is also no evidence to suggest a lapse of continuous multifamily dwelling apartment use since the use became nonconforming.

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.

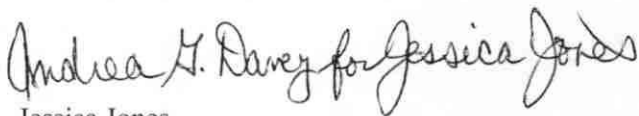
BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

\* \* \* \* \*

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 Bailey, seconded by Commissioner Geraldo, with Commissioners Bailey, Geraldo, Shoaff, and Hewlett voting in favor of the motion, and with Commissioner Washington absent at its regular meeting held on Thursday, April 16, 2015, in Upper Marlboro, Maryland.

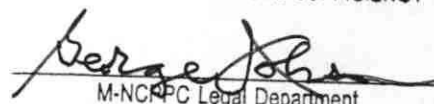
Adopted by the Prince George's County Planning Board this 7<sup>th</sup> day of May 2015.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Planning Board Administrator

PCB:JJ:IT:rpg

APPROVED AS TO LEGAL SUFFICIENCY

  
M-NCPPC Legal Department  
Date 5/12/15