

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed CNU-44047-05 requesting certification of a non-conforming use 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 June 22, 2006, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is located between Marlboro Pike to the north and Old Marlboro Pike to the south. The site currently has 87 mobile homes on 89 lots (two of the homes are double-wide trailers), which are placed along four loop roads in the development. In addition to the mobile homes, the property has a number of buildings including a garage and laundromat. The northern portion of the site abutting Marlboro Pike has a large gravel parking lot.

B. **Development Data Summary**

	EXISTING	PROPOSED
Zone(s)	C-M Zone	C-M Zone
Use(s)	Mobile Home Park	Mobile Home Park
Acreage	11.40	11.40
Lots	89	89
Parcels	1	1
Square Footage/GFA	2452.5	2452.5
Dwelling Units:		
Detached	87	87

C. **History:** The mobile home park was built in 1959 and the property was originally zoned C-1/R-R on April 24, 1961. At that time a mobile home park (trailer camp) was prohibited in the C-1 Zone and required a special exception in the R-R Zone. The property was then rezoned on 7/8/81 to the C-M Zone. The approved 1994 Melwood-Westphalia SMA retained the C-M Zone for this property.

D. **Master Plan Recommendation:** The 1994 Melwood-Westphalia Master Plan designates this property for service commercial uses. The plan, in the residential chapter, recognized the existence of the facility and recommended that “The Melwood Mobile Home Park should continue at its present location as an interim use and be retained in the C-M Zone.”

E. **Request:** The applicant is requesting certification of this nonconforming use, which according to the submitted justification statement, was purchased on May 17, 1959. The applicant states that the 89 sites existing today were completed in late 1959 and have been in continuous use since that time.

F. **Surrounding Uses:** The site is surrounded by the following uses:

North—Zoned C-O; vacant except for a cement pad and sign for a former use and a small strip of gravel used for parking along Marlboro Pike.

East—Tuckers Restaurant and Lounge in the C-S-C Zone and a single-family home with a commercial use in the C-M Zone.

South—Across Old Marlboro Pike is Macdonald Associates, Inc., and a vacant industrial site in the I-4 Zone.

West—Zoned C-M; Iron Workers Local Union 5 fronts Old Marlboro Pike and undeveloped property fronts Marlboro Pike next to the property.

G. **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.**

As discussed previously, the applicant purchased this site on May 17, 1959, and contends that the 89 sites existing today were completed in late 1959 and have been in continuous use since that time. The park also included a motel, the Andrews Field Motor Inn, that was torn down in 1993. Since the site was originally zoned C-1 in 1961, the mobile home park was in existence prior to the zoning; however, no record of a use and occupancy permit can be found. The applicant has submitted a tax assessment worksheet that attests to the existence of the laundromat associated with the mobile home park in 1959, which corroborates this information.

H. **Documentary Evidence:** The applicant has submitted the following documentation, which establishes the existence of the mobile home park prior to April 24, 1961, and its continuous use since then:

1. A copy of a memo from Joseph Hensley of the Prince George's County Office of the State Department of Assessment and Taxation showing the 1959 assessment of a "laundromat associated with mobile home park" located at 9115 Marlboro Pike that is owned by La Plata Development, Inc.
2. Affidavits from two neighbors, the existing majority stockholder of La Plata Development and the son of the previous owner, all attesting to the existence of this mobile home park in 1959 and its continuous operation since then.
3. A copy of a 1966 photo of the mobile home park.
4. An April 1965 aerial photograph of the area showing the existence of the mobile home park.

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 recommends APPROVAL of 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.

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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 Eley, seconded by Commissioner Clark, with Commissioners Eley, Clark, Squire, Vaughns and Parker voting in favor of the motion at its regular meeting held on Thursday, June 22, 2006, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 20th day of July 2006.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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