



**CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION**  
**4500 KNOX ROAD COLLEGE PARK, MARYLAND 20740**  
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**ADVISORY PLANNING COMMISSION**

**Approved Minutes of Meeting**

**August 1, 2013 – 7:30 P.M.**

**City Hall Council Chambers**

<b><u>Members</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Mary Cook, Chair	_____	_____ x
Clay Gump, Vice-Chair	_____ x	_____
Lawrence Bleau	_____ x	_____
James McFadden	_____ x	_____
Charles Smolka	_____ x	_____
Rose Greene Colby	_____ x	_____

Also Present: Planning Staff- Terry Schum, Miriam Bader and Theresheia Williams; Public Services Staff – Jeannie Ripley and Gilbert Cabrera; Attorney – Sue Ford.

**I. Call to Order:** Clay Gump called the meeting to order at 7:35 p.m.

**II. Approval of Minutes:**

Lawrence Bleau moved to accept the minutes of July 11, 2013. Clay Gump seconded. The motion carried 5-0-0.

**III. Amendments to Agenda:** There were no Amendments to the Agenda.

**IV. Public Remarks on Non-Agenda Items:** There were no Public Remarks on Non-Agenda Items.

**V. Public Hearings:**

**CNU-2013-01: Certification of Nonconforming Use to continue use of existing apartment buildings contrary to current zoning requirements**  
**Applicant: College Park Homes**  
**Location: 7007, 7009, 7011, 700a, 7013, 7015 and 7017 Fordham Court**

Clay Gump explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting Certification of a Nonconforming Use in the R-18 zone for seven existing multi-family buildings located on six lots on Fordham Court. The property is located on the east side of Route 1 and consists of a total of 21 dwelling units. The development is part of College Park Homes, a multifamily residential rental housing complex. It is approximately 1.565 acres and was built in 1942. The lots were rezoned from Residential A Zone to the Residential C Zone per Zoning Map

Amendment #486 on January 29, 1942. Apartments are permitted in the Residential C Zone. The property was then placed in the R-18 Zone on November 24, 1949. With the adoption of the bedroom percentages zoning ordinance amendment on October 1, 1968, the apartments became nonconforming. They became nonconforming with respect to density on May 6, 1975, when the density of the R-18 zone was changed to 12 units per acre. A valid Use and Occupancy permit issued prior to the date of nonconformance was not submitted and was not located.

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. Based on the submitted site plan, it can be concluded that the apartment buildings were established in accordance with all the 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. The applicant submitted, as part of their application, letters from the Washington Suburban Sanitary Commission (WSSC) that lists the activation date of each account for each property and indicates that it was in continuous use since the activation date from prior to 1968 to the present time. The applicant also submitted residential Occupancy Permits, Rental Unit License Applications and Inspection reports from prior to 1968 to the present.

Staff concludes that the 7 buildings were built legally in 1942 according to the regulations in effect at the time. There is also a preponderance of evidence to show that the uses have operated continuously. Staff recommends that the Certification of Nonconforming Use be approved and that a new Use and Occupancy Permit be issued to the current owner.

Miriam Bader submitted the staff report, Exhibits 1- 7 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

Lawrence Bleau asked if there had been a break in operation, how would that have been reflected in WSSC records?

Miriam Bader stated that it would have been indicated in the WSSC letter, because it states when the meters were established.

Clay Gump asked how far do the City permits go back?

Miriam Bader stated to 1967.

VaLiesha Brown, attorney, testified that she agrees with the staff report presented. She entered into the record affidavits from Mr. Carlton Green, Robert Watkins and Shannon Watkins that support the conclusion that the buildings located at 7007, 7009, 7011, 700a, 7013, 7015 and 7017 Fordham Court have been in continuous operation since prior to 1968. The affidavits were accepted unanimously by the Commission and entered into the record as Exhibits 8a – 8c.

Shannon Watkins, the daughter of the property owner, testified that she manages the property and that her father owns the property. She stated that her mother managed the property until she died a year ago.

Commissioners reviewed the evidence and testimony submitted and determined that:

- 1) A Nonconforming Use Site Plan was submitted that indicates that the apartment buildings were established in accordance with all the regulations in effect at the time the uses began in the early 1940's.
- 2) Based on a preponderance of the documentary evidence submitted including City of College Park occupancy permits, Washington Suburban Sanitary Commission records, and three affidavits, the seven apartment buildings located at 7007, 7009, 7011, 7011A, 7013, 7015, and 7017 Fordham Court have been continuously operated as apartment buildings since the early 1940's, and there has been no break in operation for more than 180 days since the use became nonconforming on October 1, 1968.

Lawrence Bleau moved to approve the Certification of Nonconforming Use for the properties listed and adopt the reasons set forth in the staff report as well as the affidavits submitted. James McFadden seconded. Motion carried 5-0-0.

**CNU-2013-04: Certification of Nonconforming Use to continue use of existing apartment building contrary to current zoning requirements**

**Applicant: College Park Homes**  
**Location: 6923 Carleton Terrace**

Clay Gump explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting Certification of a Nonconforming Use in the R-18 zone for a six unit apartment building located at 6923 Carleton Terrace. The structure was built in 1947. The buildings became nonconforming with respect to bedroom percentages in 1968 and with respect to density in 1975. On April 16, 1946, the property was rezoned from the Residential A Zone to the Residential C Zone. On November 26, 1949, the property was placed in the R-55 Zone, which prohibited the existing use and rendered the apartments nonconforming. On May 1, 1990, the property was rezoned to its current zone, R-18, by the Langley Park-College Park Greenbelt Sectional Map Amendment and the apartments became a permitted use again.

Staff concludes that the subject building located at 6923 Carleton Terrace was built legally in 1947 according to the regulations in effect at the time. There is also a preponderance of evidence to show that the uses have operated continuously. Staff recommends that Certified Nonconforming Use CNU-2013-04 be approved and that a new Use and Occupancy Permit be issued to the current owner.

Miriam Bader submitted the staff report, Exhibits 1- 7 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

Rose Colby asked if the comments in Exhibit 5, the letter from M-NCPPC permit review, need to be addressed?

Miriam Bader stated that when Park and Planning reviewed the site plan, there were certain things that were missing. The applicant has sense revised their site plan and everything on the checklist has been met.

VaLiesha Brown, attorney, testified that she agrees with the staff report presented. She entered into the record affidavits from Mr. Carlton Green, Robert Watkins and Shannon Watkins that support the conclusion that the building located at 6923 Carlton Terrace has been in continuous operation since prior to 1968. They were accepted unanimously by the Commission and entered as Exhibits 8a – 8c.

Commissioners reviewed the evidence and testimony submitted and determined that:

- 1) A Nonconforming Use Site Plan was submitted that indicates that the apartment building was established in accordance with all the regulations in effect at the time the use began in 1947.
- 2) Based on a preponderance of the documentary evidence submitted including City of College Park occupancy permits, Washington Suburban Sanitary Commission records, and three affidavits, the structure at 6923 Carleton Terrace has been continuously operated as a six unit apartment building since 1947, and there has been no break in operation for more than 180 days since the use became nonconforming on October 1, 1968.

Lawrence Bleau moved to approve the Certification of Nonconforming Use for the property listed and adopt the reasons set forth in the staff report as well as the affidavits submitted. Rose Colby seconded. Motion carried 5-0-0.

**13-0798:                      Reconsideration of the decision for case #13-0798 Waiver  
   of Sections 132-4(A(1) and 132-8(A)**  
**Applicant:                 Samuel Bronstein**  
**Location:                 9026 Autoville Drive**

At the June 6, 2013 APC meeting, the applicant, Samuel Bronstein, was present during the APC hearing but left before his case was called with no explanation or request for continuance or postponement of his appeal hearing. The Commission voted 4-0-0 to sustain the violation of Section 132-4(A) of the City Code pertaining to Citation 13-0798.

On July 15, 2013, the applicant submitted a request that his case be reconsidered for a continuance in order to have an opportunity to present evidence. Another hearing was scheduled for August 1, 2013. At the August 1, 2013 meeting, Lawrence Bleau moved to reconsider the decision on Case #13-0798 to allow the applicant to submit evidence pertaining to his case. James McFadden seconded. Motion carried 5-0-0.

Code Enforcement Officer Gilbert Cabrera submitted updated photos that he took on July 31, 2013, which shows that nothing has been done to bring the violation into compliance. The photos were entered into the record as Exhibits 7a-7l.

Samuel Bronstein, applicant, testified that he just received the inspection notices after several months and he is still unclear of what he is being cited for. He stated that the City has been unable and unwilling to describe to him what the infraction is. He stated that he never verbally spoke with the inspector as stated in the inspection report. He considers the items in his yard as materials (metal, lumber, and plastic pipe) not “trash.” He recycles a lot of the items stored in his yard and sells it for scrap value.

Mr. Bronstein submitted the following Exhibits into the record, which were entered as follows:

- 1) Exhibit 8 - recycling receipts
- 2) Exhibit 9a & 9b - photos of 9026 Autoville Drive showing items in the yard dated July 29, 2013
- 3) Exhibit 10a-10c – photos of 9030 Autoville Drive showing debris in the yard

Clay Gump asked the attorney how litter is defined in the City’s Code?

Sue Ford, attorney, stated that the City of College Park code defines litter in Section 132-2 as *“All rubbish, waste material, refuse, garbage, trash, debris, dead animals or other discarded materials or property of every kind and description.”*

Lawrence Bleau asked the applicant if he participates in the City’s recycling program?

Samuel Bronstein stated yes.

Lawrence Bleau asked if any of the materials in his yard were intended for the recycle pick-up?

Samuel Bronstein stated no, because he is saving the items in his yard for scrap value and he recycles the aluminum cans.

Lawrence Bleau asked how long of a period are the items to be sold present on the property?

Samuel Bronstein stated that he collects the aluminum cans for a year. He crushes them and puts them in trash bags.

Clay Gump asked if the City is required to give verbal notification before a violation notice is posted?

Gilbert Cabrera stated no.

Charles Smolka asked the applicant since he has received the violation notice, how is he planning to bring the violation into compliance?

Samuel Bronstein stated that he will be putting some of the items on Craig's List to sell.

Charles Smolka asked what kind of time-frame would he need to bring the property into compliance?

Samuel Bronstein stated about 90 days.

Clay Gump asked what condition would the property have to be in to be considered as compliant?

Jeannie Ripley stated that the items would have to be in a garage or behind a closed structure.

Lawrence Bleau moved to deny the request for waiver of Sections 132-4(A)(I) and 132-8(A) but to give the applicant additional time to come into compliance. Charles Smolka seconded. Motion carried 4-0-1, with Rose Colby abstaining. Specifically, the following was adopted:

- 1) The property should be re-inspected by CEO Gilbert Cabrera in 45 days.
- 2) CEO Cabrera should report back to the Commission at their October 3, 2013 meeting with an update on the property.
- 3) Mr. Bronstein will come back before the Commission at the November 7, 2013 meeting.

**VI. Update on Development Activity** Terry Schum reported on the following:

**Metropolitan at College Park-** The proposed development will include up to 290 units, consisting of 235 multifamily dwellings and 55 townhomes. The application has been filed and accepted by Park and Planning. A tentative Planning Board hearing date is scheduled for October 10, 2013.

**Monument Village at College Park –** This development has not been accepted or referred. The developers met with the Autoville community to discuss the project.

**University of Maryland Charrette -** Staff attended a charrette at the University of Maryland on July 31, 2013 to site a university-affiliated hotel and conference center on the East Campus site.

**VII. Other Business:** There was no other business.

**VIII. Adjourn:** There being no further business, the meeting was adjourned at 9:39 p.m.

Minutes prepared by Theresheia Williams