



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of May 16, 2009**

DATE: April 22, 2009

SUBJECT: U-3220-09-1 USE PERMIT for special exception use permit for condominium conversion, 2912 17th Street South, Perry S Hall Apartments LLC (31-001-036).

Applicant:

Perry S Hall Apartments LLC
2912 17th Street South
Arlington, Virginia 22204

By:

G. Evan Pritchard, Attorney
Walsh, Colucci
2200 Clarendon Blvd, 13th Fl.
Arlington, Virginia 22201

C. M. RECOMMENDATION:

Approve the subject use permit, subject to the condition of this staff report.

ISSUES: This is a use permit for a condominium conversion, which is required in cases where an existing apartment building is not compliant with the Zoning Ordinance, and no issues have been identified.

SUMMARY: The applicant is requesting a use permit to allow the conversion of an existing vacant apartment structure to condominiums because the existing project does not conform to the regulations of the Zoning Ordinance in regard to density, rear setback, and parking. The condominiums will be affordable condominiums sold by Habitat for Humanity. The existing apartment building contains 12 existing dwelling units instead of the 10 currently permitted, has 12 parking spaces instead of the 14 required, and has a rear setback of 23.9 feet instead of 25 feet. Section 31.9 of the Zoning Ordinance states that the County Board "shall grant the use permit if the applicant can demonstrate that the continuance of any existing nonconformities, as proposed by the conversion, is not likely to affect adversely the property or adjacent properties, the intention of the comprehensive plan, or the public welfare and safety." This standard is met.

County Manager: _____

County Attorney: _____

Staff: Peter Schulz, DCPHD, Planning Division

PLA-5262

Therefore, staff recommends the use permit be approved subject to the condition of this staff report.

BACKGROUND: The property is 18,719 square feet, and since construction of the existing building has been zoned “RA14-26”. The subject property contains an apartment building constructed in 1952, and is nonconforming to the current Zoning Ordinance in three (3) respects: 1) the building was properly permitted to have 12 dwelling units according to the Zoning Ordinance in effect at the time, as opposed to the required 10 dwelling units today; and 2) The current apartment building also has only 12 parking spaces where 14 spaces are required (10 spaces were required at the time of original construction); and 3) the rear setback is 23.9 feet instead of the required 25 feet.

Comment [AC1]: Briefly describe applicant history and/or previous approval of use permit/site plan proposed for amendment

The property is currently owned by a Limited Liability Corporation whose sole member is Habitat For Humanity of Northern Virginia, and the intention is to provide affordable homeownership opportunities. As in all Habitat for Humanity (HFH) developments there will be a “sweat equity” component of about 300-500 of work hours per family. HFH states that the rehab of this building will be extensive so families should easily attain those hours. The project will serve households at 30-50% AMI. The units will be permanently affordable and the home buyers will be eligible for Home Buyer assistance through the County’s Moderate Income Purchase Assistance Program (MIPAP). The MIPAP assistance will make it possible to make the units affordable to households with very low incomes.

Site: Located in the Nauck neighborhood east of South Walter Reed Drive, the property is surrounded by other apartment buildings, townhouses, duplexes, and single-family dwellings. Both sides of 17th Street South are zoned “RA14-26”, but at the rear lot line the subject property borders an “R-6” single-family district.

Comment [AC2]: Brief description of site location and boundaries and any unique features relevant to the application.

Zoning: “RA14-26” Apartment Dwelling Districts

Comment [AC3]: Insert district only – ex: “RA7-16” Apartment Dwelling Districts.

General Land Use Plan “Low-Medium” Residential (16-36 units/acre)

Neighborhood: The site is located in the Nauck Civic Association. The Nauck Civic Association has been notified and a copy of their letter of support is attached.

DISCUSSION: Section 31.9 of the Arlington County Zoning Ordinance requires the County to issue a use permit to permit the conversion to condominiums of a building which does not conform to the regulations of the Zoning Ordinance if the applicant can demonstrate that there is no “adverse impact on the property or adjacent properties, meets the intention of the Comprehensive Plan, and is not detrimental to the public welfare and safety”.

Comment [AC4]: Be brief and succinct. Discuss 1) what the applicant proposes under the request, 2) any land use and planning related analysis (zoning, policy, procedure, practice and regulation and community/neighborhood impacts, and 3) any issues and associated resolution. Do not incorporate conclusion statements in the discussion.

Density: The structure received a building permit and a certificate of occupancy for 12 units in 1952, when the “RA14-26” regulations at the time calculated density as a range based on the number of proposed bedrooms per dwelling unit. For instance, a studio apartment required a minimum 1,400 square feet of lot area for every such dwelling unit, and an apartment of more than two bedrooms required a minimum lot area of 2,600 square feet per dwelling unit (hence the “14-26” in the “RA14-26” designation). About a decade later, the apartment zoning districts

were amended to be a fixed square footage of lot size per dwelling unit, regardless of the number of bedrooms. The "RA14-26" regulations now require a minimum of 1,800 square feet of lot area per proposed dwelling unit. The applicant is proposing to continue the existing density of 12 dwelling units. Because the existing number of units is lawfully nonconforming, the continuation of the nonconformity will not adversely affect the neighboring properties, and is consistent with the General Land Use Plan (GLUP) designation of "Low-Medium" Residential (16-36 units/acre).

Parking: The subject property currently has 10 parking spaces, and the applicant is proposing 12 spaces. The current Zoning Ordinance requires 14 spaces. 10 spaces were the legal requirement at the time of construction. The applicant is not able to provide the full number of parking spaces due to constraints such as the required setback for parking areas in a residential zone and maximum permitted lot coverage. The applicant is also adding a van-accessible handicapped space, which the property has never had before. Given that this is an existing project, allowing the applicant to have two (2) fewer parking spaces than required by the Zoning Ordinance is not unreasonable for an affordable housing project. Furthermore, there is frequent Metrobus and ART service along South Glebe Road and South Walter Reed Drive, half a block from the project location.

Rear Setback: The Board of Zoning Appeals in 1986 granted a variance of one foot from the required 25-foot rear yard setback to construct a one-story rear bump-out addition at the left and right corners in order to expand two (2) first floor dwelling units, however a recent survey shows the property encroaches by 1.2 inches, and is therefore approximately 23.9 feet from the rear property line. The applicant is also proposing to build on top of the nonconforming one story bump-out to three (3) stories in order to expand the dwelling units on those floors as well.

CONCLUSION: The proposed use permit to permit the continuance of nonconforming density, rear setback, and required number of parking spaces would not adversely affect the property or neighboring properties, would be consistent with the intention of the comprehensive plan, and would not negatively affect the public welfare or safety. Therefore, staff recommends that the use permit be approved, subject to the condition of this staff report.

Proposed Condition:

1. The applicant agrees to submit to, and obtain the Zoning Administrator's approval of a parking plan for the site, which plan shall provide for 12 spaces. The developer further agrees to submit the plan at the time of a building permit application and to obtain the Zoning Administrator's approval of the plan as providing for 12 spaces and otherwise meeting all zoning ordinance requirements before issuance of a building permit. The parking spaces shall be built as part of the project before issuance of the certificate of occupancy, and maintained throughout the existence of the condominium.

PREVIOUS COUNTY BOARD ACTIONS: There are no previous County Board actions.

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