

R E S O L U T I O N

WHEREAS, the Prince George=s County Planning Board has reviewed Certification of Nonconforming Use Application No. 661-2003 requesting certification of a nonconforming use for 95 multifamily apartment units and bedroom percentages 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 September 25, 2003, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject property is located at the northwest corner of Greenlawn Drive and Knollbrook Road, known as 6421 Knollbrook Drive. It comprises approximately 3.29± acres of land and is improved with a garden apartment complex.
- B. **History:** The subject property was retained in the R-18 Zone in the approved 1990 Sectional Map Amendment for Langley Park-College Park-Greenbelt. The site was rezoned from the Residential “A” Zone (single-family detached) to the Residential “C” Zone (apartments) in 1946 via Zoning Map Amendment No. A-831.
- C. **Master Plan Recommendation:** The 1990 *Approved Master Plan Langley Park-College Park-Greenbelt* plan recommends the property for residential development at low-urban density (garden apartments at a density of 10.0 to 12.0 dwelling units per acre).
- D. **Request:** The applicant requests certification of a 95-unit existing apartment development. The apartment development exceeds the current maximum density allowed in the R-18 Zone of 12 units per acre, providing 28.87 units per acre. In addition, it does not conform to the current bedroom percentage regulations. A maximum of 50 percent of the units may be two-bedroom, here, 51± percent (49 of 95) of the units are two-bedroom.
- E. **Surrounding Uses:** The immediate area surrounding the property is characterized by similar garden apartment uses in the R-18 Zone to the north, east and south. The subject property adjoins strip-commercial uses in the C-O and C-S-C Zones to the west, oriented to New Hampshire Avenue.
- F. **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 nonoperation 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.**

According to the applicant, the apartments were originally constructed in 1949; however, no record of a use and occupancy permit could be found for the apartments. This date does correspond with the initial service date for natural gas, according to Washington Gas (November 7, 1949), as well as the build date shown on the State of Maryland Department of Assessment and Taxation database. According to WSSC, continuous water and sewer service have been supplied since at least 1954. In response to the applicant's request for information regarding the use and occupancy permit, the Prince George's County Department of Environmental Resources, Community Standards Division, offered that the apartment complex has been continually licensed as an

apartment complex since 1970, when they began keeping such records. (See the division's letter to the applicant, dated August 27, 2002.)

The maximum allowed density for multifamily developments has been amended several times in the past 40 years. The subject property first became nonconforming on November 29, 1949, when a maximum of 24 dwelling units per acre was established for the R-18 Zone. The subject property is developed at 28.87 units per acre, well within the 69 dwelling units per acre permitted prior to November 29, 1949.

Bedroom percentage regulations for the R-18 Zone were first codified in October 1968, restricting the number of two-bedroom apartments to no more than 50 percent. Fifty-one and a half percent (49 out of 95) of the apartments in this complex are two-bedroom units, which was permitted at the time of construction.

G. **Documentary Evidence:** The applicant has submitted the following documentation, which establishes existence of the subject apartments prior to the adoption of changes to the ordinance in 1949 and 1968, and its continuous use since:

1. Apartment license applications (for new licenses and renewals) to the Prince George's County Department of Licenses and Permits with license issuance and renewals for the years 1972 to 2002
2. A letter dated August 27, 2002, from the Prince George's County Department of Environmental Resources, Community Standards Division, verifying that the subject apartments were constructed under valid county permits and rental licenses have been issued since 1970, the first year such records were kept.
3. A letter from WSSC confirming that water and sewer service has been continuously provided to the site since at least 1954.
4. A letter from Washington Gas confirming natural gas service at the subject property since November 7, 1949.

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.

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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 Vaughns, with Commissioners Eley, Vaughns, Harley and Hewlett voting in favor of the motion, and Commissioner Lowe temporarily absent at its regular meeting held on Thursday, September 25, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 16th day of October 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:TL:rmk

(Revised 8/9/01)