

## R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed CNU-6562-2003 requesting certification of a nonconforming 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 September 25, 2003, the Prince George's County Planning Board finds:

- A. Location and Field Inspection: The property is a rectangular-shaped parcel located on the southeast corner of Merrimack Drive and 14<sup>th</sup> Street, about 600 feet west of New Hampshire Avenue. This parcel is developed with six garden apartment buildings known as the Victoria Station Apartments. The development consists of three 3-story, one 2-story and one 1-story brick buildings. There are three asphalt-parking areas with entrances along 14<sup>th</sup> Street that serve the development.
- B. History: In December 1948, Zoning Map Amendment A-1246 was approved, which placed the subject property in the Residential "C" Zone subject to the requirements of the R-18 Zone. The property was officially placed in the R-18 Zone on November 29, 1949, with the adoption of the Zoning Ordinance for the Regional District. The subject apartment complex was constructed in 1949 in accordance with the R-18 Zone requirements as they existed at that time.
- C. Master Plan Recommendation: The Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity (1989) recommends urban density residential development (12.0 to 16.9 dwelling units per acre) for the subject property. The 2002 General Plan places the property in the Developing Tier.
- D. Request: The applicant wishes to certify an existing 101-unit multifamily apartment complex in the R-18 Zone as a certified nonconforming use. The subject apartment complex has a density of 24 units per acre. However, the maximum density permitted in the R-18 Zone is 12 units per acre. At the time the use was constructed, the Ordinance required one parking space per dwelling unit. Thus, 101 spaces were required. The subject property only provides 75 spaces. The applicant also wishes to validate the original parking layout.
- E. Surrounding Uses:
  - North – Directly across Merrimack Drive are the Hampshire Village Apartments and single-family detached homes to the northeast along 15<sup>th</sup> Street in the R-18 Zone. Garden apartments across Merrimack Drive to the northwest are also part of the Victoria Station development. These apartments are in the R-18 Zone.
  - East - Victoria Station Apartments in the R-18 Zone.

South - Victoria Station Apartments in the R-18 Zone.

West - Across 14<sup>th</sup> Street are garden apartments in the R-18 Zone.

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 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.**

**G. Documentary Evidence:**

The applicant has submitted the following documentary evidence in support of this request for certification:

1. Maryland Department of Assessments and Taxation real property data search that identifies the subject development as built in 1950.
2. Letter dated January 9, 2002, from the Department of Environmental Resources indicating that the property has been continuously licensed as an apartment complex since 1971.
3. Copies of apartment licenses from 1970 to present.
4. Aerial photo from 1965 showing the subject development.
5. A plat from May 1949.

The applicant has also submitted a legal description of the property and a site plan showing the use, size and locations of the buildings as required. There is no record of a use and occupancy permit issued prior to the date the use became nonconforming.

**CONCLUSION:**

Based on the information presented by the applicant, the Planning Board finds that the applicant has submitted the required documentation, the most compelling of which is the Maryland Department of Assessments and Taxation real property data search that identifies the subject development as built in 1950. This application meets the criteria for APPROVAL of the requested certified nonconforming use.

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

Adopted by the Prince George's County Planning Board this 30th day of October 2003.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JJ:rmk

(Revised 8/9/01)