

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed CNU-36887-2002-U 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 March 6, 2003, the Prince George's County Planning Board finds:

- A. Location and Field Inspection: The subject property is an irregularly shaped parcel located on the north side of Sheriff Road, approximately 800 feet west of Harvey Drive. The property is developed with four, three-story brick garden apartment buildings, which are situated around the perimeter of a T-shaped asphalt parking lot. The parking lot is connected to a driveway that provides access to the property from Sheriff Road. A small playground is located near the northeast corner of the property. This apartment development is identified as the Eaton Square Apartments by a small freestanding sign along the yard facing Sheriff Road

B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-18	R-18
Use(s)	Apartments	Apartments
Acreage	2.64 ac.	2.64 ac.
Lots	1	1
Parcels	1	1
Square Footage/GFA	38,720 sq. ft.	38,720 sq. ft.
Dwelling Units:		
Attached	0	0
Detached	0	0
Multifamily	48	48

- C. History: The subject multifamily development consists of 48 two-bedroom apartments. Based on information from the Maryland State Department of Assessments and Taxation, the subject apartments were established in 1964. The property was in the R-18 Zone at that time and is currently in that zone.

- D. Master Plan Recommendation: The *Approved Master Plan for Landover and Vicinity* (1993) recommends urban residential development (12.0 to 16.9 dwelling units per acre) for the subject property.

- E. Request: The applicant is requesting to certify the existing apartment complex as a

nonconforming use. The subject development has 48 two-bedroom dwelling units. When this apartment complex was established in 1964, there were no maximum bedroom percentage requirements for the R-18 Zone. However, in October 1968, regulations were adopted limiting the number of two-bedroom apartments to 40 percent and three-bedroom apartments to 10 percent. Furthermore, the property has a current density of 18.4 dwelling units per acre, pursuant to the 1964 regulations that permitted one dwelling unit per 1,800 square feet of net lot area. The maximum permitted density under the old regulations was 24 dwelling units per acre in the R-18 Zone. However, this density exceeds the maximum currently allowed (12 units/acre), pursuant to regulations adopted in May 1975.

F. Surrounding Uses:

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| North– | Triple-attached dwellings in the R-20 Zone along Allendale Drive. |
| East– | Undeveloped land in the R-O-S Zone and triple-attached dwellings in the R-20 Zone. |
| South– | Across Sheriff Road is the Wayne K. Curry Sports and Learning Complex in the R-M Zone and the William Paca Elementary School in the R-55 Zone. |
| West– | Undeveloped land and triple-attached dwellings along Allendale Drive to the northwest in the R-20 Zone. |

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.**

H. 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 1964.
2. Letter dated August 27, 2002, from Prince George's County's Department of Environmental Resources (DER), Community Standards Division, indicating that the subject property has been continuously licensed as an apartment complex since 1970.
3. Apartment license applications approved by DER from 1970 through 2003.

I. CONCLUSION:

The applicant has applied for a use and occupancy permit but does not currently have a valid permit. The subject use is nonconforming with respect to both the number of two-bedroom units and density. The documents submitted by the applicant suggest that

the subject use was established in 1964 and predates both the bedroom percentage requirements (October 1968) and the density requirements (May 1975). In addition, the subject use was in compliance with the regulations in existence in 1964 for density. No bedroom percentage requirements existed at that time.

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.

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 Scott, with Commissioners Eley, Scott, Lowe and Hewlett voting in favor of the motion, at its regular meeting held on March 6, 2003 in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of March 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JJ:rmk

(Revised 8/9/01)