



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm)*

## CERTIFICATION OF A NONCONFORMING USE NO. 17553-2002-U

Application	General Data
Project Name  Natoli Apartments  Location  Northeast corner of Natoli Place and Queensbury Road, known as 6201 Natoli Place.  Applicant/Address  George Bouyat P.O. Box 951 College Park, Maryland 20741	Date Accepted 9/13/02
	Planning Board Action Limit N/A
	Plan Acreage 0.18
	Zone R-18
	Dwelling Units 8
	Square Footage N/A
	Planning Area 68
	Council District 03
	Municipality Riverdale Park
	200-Scale Base Map 207NE4

Purpose of Application	Notice Dates
Certification of nonconforming multifamily dwellings.	Adjoining Property Owners 9/16/02 (CB-15-1998)
	Previous Parties of Record N/A (CB-13-1997)
	Sign(s) Posted on Site 12-05-02
	Variance(s): Adjoining N/A Property Owners

Staff Recommendation			Staff Reviewer: Jimi Jones
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

December 31, 2002

**TECHNICAL STAFF REPORT:**

TO: The Prince Georges County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Certified Nonconforming Use Application No. 17553-2002-U**

REQUEST: **Certification of eight nonconforming multifamily dwellings.**

RECOMMENDATION: **APPROVAL, with a condition**

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NOTE:

The Planning Board has scheduled this application for a public hearing on the agenda date indicated above. The Planning Board also encourages all interested persons to request to become a person of record in this application. Requests to become a person of record should be made in writing and addressed to the Development Review Division at the address indicated above. Please call 301-952-3530 for additional information.

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## FINDINGS:

- A. **Location and Field Inspection:** The subject property is an irregularly shaped parcel located on the northeast corner of the intersection of Natoli Place (New York Place) and Queensbury Road. This property is developed with a two-and-a-half-story brick apartment building. A split-rail fence encloses the subject property. All parking for the subject use is on the street.

B. **Development Data Summary**

	EXISTING	PROPOSED
Zone(s)	R-18	R-18
Use(s)	8 multifamily dwellings	8 multifamily dwellings
Acreage	0.18	0.18
Lots	1	1
Parcels	1	1
Square Footage/GFA	5,000	5,000

- C. **History:** In 1941 the subject property was in the Residential “C” Zone when the subject apartment building was built. On November 29, 1949, the property was placed in the R-18 Zone. This property remains in the R-18 Zone.

- D. **Master Plan Recommendation:** The Approved Master Plan for Planning Area 68 recommends medium-density, multifamily development for the subject property.

- E. **Request:** The applicant proposes to certify his eight-unit apartment building as a nonconforming use. The subject building was constructed in 1941 as an eight-unit, multifamily dwelling on a 10,000-square-foot lot in the Residential “C” Zone. The Residential “C” Zone required a minimum gross lot area of 625 square feet per dwelling unit. Based on the lot size of 10,000 square feet, eight dwelling units were permitted. The property was rezoned on November 29, 1949, from the Residential “C” to the R-18 Zone, which required a minimum net lot area of 1,800 square feet per dwelling unit. A maximum of five dwelling units would have been allowed for the subject property. The rezoning of the property made the eight-unit apartment building a nonconforming use. The current maximum density for the R-18 Zone is 12 units per acre, or 3,630 square feet per dwelling unit, which only permits two dwelling units on the subject property.

F. **Surrounding Uses:**

North—	A multifamily dwelling in the R-18 Zone and single-family detached homes in the R-55 Zone. Farther north is MD 410 (East West Highway).
East—	A single-family detached dwelling in the R-55 Zone, a small apartment building in the R-18 Zone, and a Volunteer Fire Department station in the R-55 Zone.
South—	Across Queensbury Road are single-family detached homes to the southeast in the R-55 Zone and a credit union to the southwest at Lafayette Avenue in the C-O Zone.
West—	A public parking lot in the R-55 Zone and the B&O Railroad tracks.

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 submits the following information to document the existence of the subject use:

1. **Apartment license applications from the Department of Environmental Resources from 1970 to 2001.**

2. Affidavit dated 9-9-02 from David Simard, former owner of the subject use, who submits that the use was operated as an eight-unit apartment building while under his ownership and 30 years prior. No dates of his ownership are provided.
3. Affidavit dated 9-11-02 from Rosella Wright, who moved next door to the property in 1955, and testifies that the use has always been an eight-unit apartment building.
4. Affidavit dated 7-24-02 from Elizabeth Figard, who lived on the top floor of the subject building from 1948 to 1953.
5. Business license from the Town of Riverdale Park issued to the applicant on July 9, 2002, for the operation of the subject apartment building.
6. A real property data search from the Maryland Department of Assessments and Taxation that the primary structure was built in 1941.

The applicant has also submitted a survey of the property as required. The survey, however, does not provide up-to-date street names. The property is shown as being on the corner of Oliver St. and Natoli Place. The correct location is the corner of Queensbury Road and Natoli Place. The applicant must revise the survey to show the correct street name. The applicant does not provide a valid use and occupancy permit issued prior to the date the use became nonconforming.

#### **CONCLUSION:**

The applicant has submitted documentation supporting his contention that the use predates the date when it was rezoned from Residential "C" to the R-18 Zone. Further, the combination of tax assessment information, apartment licenses, and sworn testimony from neighbors establishes that the use has been in continuous operation since the rezoning. Staff, therefore, recommends APPROVAL, subject to the condition that the survey be revised to show the adjoining street names as Queensbury Road and Natoli Place.