



CERTIFICATION OF NONCONFORMING USE 22565-2002-U

Application	General Data
Project Name: Andrews Manor Apartments Location: The terminus of Maxwell Drive at its intersection with Morris Avenue, known as 6375 Maxwell Drive. Applicant/Address: Andrews Manor Associates C/O The Stephen A. Goldberg Company 1615 M. St., N.W. #850 Washington, D.C. 20036 Correspondent: William M. Shipp, Esq. Fossett & Brugger, Chartered 604 Ivy Lane, Suite 720 Greenbelt, MD 20770	Date Accepted 07/30/02
	Planning Board Action Limit N/A
	Tax Map & Grid 098 C-2
	Plan Acreage 20.44±
	Zone R-18
	Dwelling Units 414
	Square Footage N/A
	Planning Area 76B
	Council District 09
	Municipality None
	200-Scale Base Map 207SE06

Purpose of Application	Notice Dates
Certification of a nonconforming use for 414 apartment units in the R-18 Zone, bedroom percentages and parking.	Adjoining Property Owners (CB-15-1998) N/A
	Previous Parties of Record (CB-13-1997) N/A
	Sign(s) Posted on Site 11/04/02
	Variance(s): Adjoining Property Owners N/A

Staff Recommendation			Staff Reviewer: Tom Lockard
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

November 27, 2002

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Certified Nonconforming Use Application No. 22565-2002-U**

REQUEST: **Certification of a nonconforming use for 414 apartment units in the R-18 Zone, bedroom percentages, and parking.**

RECOMMENDATION: **APPROVAL**

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.

FINDINGS:

- A. **Location and Field Inspection:** The subject property is located at the terminus of Maxwell Drive at its intersection with Morris Avenue, known as 6375 Maxwell Drive. It comprises approximately 20.44± 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 1984 Sectional Map Amendment for Subregion VII.
- C. **Master Plan Recommendation:** The 1981 *Approved Master Plan for Subregion VII* 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 414-unit existing apartment development. The apartment development exceeds the current maximum density allowed in the R-18 Zone of 12 units per acre, providing 20.25 units per acre. In addition, it does not conform to the current bedroom percentage regulations. A maximum of 40 percent may be two bedroom units; here, 66± percent (272 of 414) are two-bedroom units. Finally, the complex is nonconforming as to the number of off-street parking spaces. Today's standards require 518 spaces; 474 spaces are provided.
- E. **Surrounding Uses:** The immediate area surrounding the property is characterized by residential developments (single-family dwellings) in the R-55 and R-R Zones. A large church and strip-commercial uses are located to the east along Allentown Road in the C-S-C Zone. The subject property adjoins the Capital Beltway to the north. Farther to the east, across Allentown Road, is Andrews Air Force Base in the I-1 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 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 1959; 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 water and sewer, according to WSSC. Aerial photos from November 1968 show the site to be developed with the existing apartment complex. 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 June 1975. (See the Division's letter to the applicant dated May 26, 2000)

The maximum allowed density for multifamily developments has been amended several times in the past 40 years. The subject property first became nonconforming in May 1975, with the adoption of Council Bill 51-1975, requiring a minimum lot area of 16,000 square feet with a maximum of 12 dwelling units per acre. The subject property is developed at 20.25 units per acre, well within the 24 dwelling units per acre permitted in 1959.

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 40 percent. Approximately two-thirds of the apartments in this complex are two-bedroom units, which was permitted at the time of construction.

The apartment complex is served by a total of 474 off-street parking spaces, which exceeds the one space per unit required in 1959. It was not until January 1, 1964, that the ordinance was amended to require 1.25 spaces per unit, or a total of 518 spaces in this instance.

G. Documentary Evidence: The applicant has submitted the following documentation, which establishes existence of the subject apartments prior to 1964 and continuous use since that time:

- 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

1975 to 2002.

2. A letter dated May 26, 2001, from the Prince George's County Department of Environmental Resources, Community Standards Division, verifying that the subject apartments are constructed under valid county permits and rental licenses have been issued since 1975.
3. Aerial photos of the site from November 1965, showing the site to be built out and occupied in its present configuration.
4. A letter from WSSC confirming that water and sewer service has been continuously provided to the site since 1959.
5. Affidavits from four long-time residents attesting to their continuous tenancy since 1966, 1970, 1971 and 1975.

CONCLUSION:

Based on the evidence submitted by the applicant and the lack of contradictory evidence from other sources, staff concludes that the subject apartments were constructed in accordance with the requirements of the Zoning Ordinance for the R-18 Zone, prior to its amendments in 1964, 1968 and 1975. The documentary evidence also demonstrates the continued use of the property since that time. Therefore, it is recommended that Application No. NCU-22565-2002-U be APPROVED as a certified nonconforming use.