



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

CERTIFICATION OF A NONCONFORMING USE NO. 36887-2002-U

Application	General Data
Project Name: Eaton Square Apartments Location: North side of Sheriff Road, approximately 800 feet west of Harvey Drive, known as 7800 Sheriff Road. Applicant/Address: Sawyer Realty Holdings 9658 Baltimore Avenue College Park, Maryland 20740	Date Accepted: 11/05/02
	Planning Board Action Limit: N/A
	Plan Acreage: 2.64
	Zone: R-18
	Dwelling Units: 48
	Square Footage: 38,720
	Planning Area: 72
	Council District: 05
	Municipality: None
	200-Scale Base Map: 203NE07

Purpose of Application	Notice Dates
Certification of 48 Multifamily Dwelling Units	Adjoining Property Owners (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 1-10-03
	Variance(s): Adjoining Property Owners: N/A

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

February 5, 2003

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. 36887-2002-U**

REQUEST: **Certification of 48 Multifamily Dwelling Units**

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 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:**
- | | |
|--------|--|
| 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 submits the following information to document the existence of the subject use:

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.

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. Staff, therefore, recommends APPROVAL of this application.