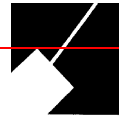


Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3470



Comment [COMMENT1]: WHEN INSERTING
INFORMATION AT THE @ SIGN
REMEMBER TO USE INDENT FOR SECOND
LINE - NOT TAB. ALSO, IT WILL LOOK
LIKE THE TEXT IS GOING WACKO, BUT
DON'T WORRY - IT IS FINE.

Certification of Nonconforming Use CNU-8323804-2000U Variance CNU-8323804-2000U

Application	General Data
Project Name: Washington Heights Apartments Location: Southeast corner of Capital View Drive and Nalley Road, known as 1101 Capital View Drive. Applicant: Ralph D. Rocks/William L. Kahler Nalbel Ltd. Partnership Suite 600 8027 Leesburg Pike Vienna, Virginia 22182	Date Accepted: 9-28-00
	Planning Board Action Limit: N/A
	ZHE Hearing Date: N/A
	Plan Acreage: 13.24+ acres
	Zone: R-18
	Dwelling Units: 287
	Square Footage: N/A
	Planning Area: 72
	Council District: 7
	Municipality: None
	200-Scale Base Map: 202NE 7

Purpose of Application	Notice Dates
Certification of 287 Multifamily Dwelling Units	Adjoining Property Owners: N/A (CB-15-1998)
	Previous Parties of Record: N/A (CB-13-1997)
	Sign(s) Posted on Site: 11-10-00
	Variance(s): Adjoining: 12-6-00 Property Owners

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

x			
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December 6, 2000

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Certified Nonconforming Use Application No. 8323804-2000 -U**
VCNU-8323804-2000 -U

REQUEST: **Certification of 287 Multifamily Dwelling Units and reduction of green area from**
required 60 percent to 50 percent of net lot area

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 301-952-3280 for additional information.

FINDINGS:

- A. Location and Field Inspection: The subject property is located on the southeast corner of Capital View Drive and Nalley Road, between Capital View Drive and Hill Oaks Road. The property is developed with a 287-unit apartment complex known as the Washington Heights Apartments. This development consists of eight, three-story brick structures and a large paved parking lot. A playground and basketball court are also provided on this property.
- B. History: The apartments were constructed in 1968 pursuant to Special Exception No. 1862.
- C. Master Plan Recommendation: The 1993 Master Plan for Landover and Vicinity recommends urban density residential development (12.0 - 16.9 dwelling units per acre).
- D. Request: The subject use became nonconforming on May 6, 1975 pursuant to Council Bill 51-1975 which changed the density requirements from 2,000 square feet per acre to 12 units per acre. Use and Occupancy permits were last issued for this use in 1970. The applicant now wishes to validate the existing development through the certification process.

The applicant is making improvements to the property which necessitate a reduction in green area. Section 27-442(c) Table II sets forth a minimum green area requirement of 60 percent of the net lot area. The applicant wishes to provide 50 percent green area and therefore, requests that a variance be granted.

- E. Surrounding Uses:

North - Townhouses in the R-T and R-18 Zones

East - Parking for FedEx Field to the east and northeast in the R-M Zone. Farther east is FedEx Field in the R-M and L-A-C Zones.

South - Across Hill Oaks Road are townhouses in the R-T Zone and parking for FedEx Field to the southeast in the R-M Zone.

West - Undeveloped land in the R-55 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 copies of HUD Housing Assistance contracts from 1968 to present, Partnership Operation Statements and Income Tax returns as evidence of continuous operation of the subject use. It is clear from these documents that this nonconforming use has not ceased to operate for more than 180 consecutive calendar days since the time the use became nonconforming (May 6, 1975).

H. Variance:

The subject property previously existed as a 287-unit multifamily housing development for low-income families under a rent supplemented program administered by the U.S. Department of Housing and Urban Development. The owner is currently implementing an \$11,000,000 renovation that will change this development to a market rate community. Staff also notes that the District Council enacted legislation (CB 95-2000), which allowed for a change to the parking lot and access, provided there was a minimum 30 percent reduction in the number of existing bedrooms during the renovation. Existing bedrooms are being reduced by nearly 40 percent. The purpose of this legislation, as described in the summary section of CB-95-2000, is to facilitate the process for redevelopment of the Washington Heights Apartments.

The conversion to a market rate project necessitates additional parking on the site, and parking is being increased from 360 to 501 parking spaces. This increase in parking makes it impossible to maintain the existing 60 percent of required green area. Green area coverage at post development will be approximately 50 percent. At the time of the original development and construction, it was satisfactory to provide parking at a rate of approximately one space per dwelling unit. Such a parking ratio, though allowable pursuant to the nonconforming status, is not competitive for a multifamily development in the open market.

Section 27-230 provides that the Planning Board may grant a variance when the Board finds that:

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

Comment: The shape of the property is a major constraint to compliance with the green area requirement. The parcel is triangular shaped and contains existing buildings which limit options for redesign in this redevelopment process. The redevelopment cannot occur without the increase in parking and the areas in which parking can be provided in appropriate proximity of the dwelling units is constrained by an inability to move existing buildings. An additional access point is being provided to make some of the newly proposed parking functional.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

Comment: The strict application of the green area requirement will result in peculiar and unusual practical difficulties to and exceptional or undue hardship upon, the owner of the property. Providing this additional parking is essential to converting the development and enhancing its appearance in the community. The property is too remote from the existing Metro and lacks direct public transportation to various employee centers. An analysis of the expected market indicates the renovated facility will be attractive to couples, single individuals, and small families. Sufficient parking is no longer considered an amenity in choosing where to rent an apartment, but rather a standard that must exist for a multifamily community to be

competitive. Thus providing less parking, by maintaining the existing percentage of green area, would result in an unusual practical difficulty for the Applicant. Removing any of the existing buildings in order to provide the parking while maintaining the existing percentage of green area would amount to an exceptional or undue hardship. The number of dwelling units as well as the number of bedrooms on the property is being significantly reduced and a further reduction would negatively impact the proposed redevelopment.

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

Comment: The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan. The 1993 Master Plan for Landover and Vicinity recommends urban density residential development (12.0 - 16.9 dwelling units per acre). The visual impact of less green area is being balanced with a renovation of the site and a reduction on the population on the property. A purpose of providing green area at a location is for the enjoyment of residents. In this instance, the population of the site subsequent to the renovation is projected to be reduced approximately 48 percent. The requested variance to reduce green area from 60 percent of the site to 50 percent amounts to a 10 percent reduction. On a 13.24 acre site such a reduction is not significant.

I. Conclusion

The applicant has provided the documentary evidence necessary to grant the requested certification. This proposal, which includes a variance to reduce green area on the site, is part of a redevelopment effort that will provide significant improvements to this multifamily development. A 10 percent reduction in the green area is a small concession given the proposal to upgrade and beautify this property. The findings for both the nonconforming use and variance have been met. Staff recommends APPROVAL of CNU-8323804-2000 -U and VCNU-8323804-2000 -U.