

Maryland-National Capital Park and Planning Commission
Prince George's County Planning Department
Development Review Division
301-952-3530



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SPECIAL EXCEPTION APPLICATION NO. 4392

Application	General Data
Project Name Westgate at Laurel	Date Accepted 9/12/00
	Planning Board Action Limit N/A
Location North side of Gorman Avenue (Route 198), approximately 152.73 feet west of Tenth Street	ZHE Hearing Date N/A
	Plan Acreage 9.187 Ac.
Applicant Westgate Apartments Investors LLC c/o UBF Brinson Realty Investors LLC 242 Trumbull Street Hartford, CT 06103	Zone R-18/R-55
	Dwelling Units N/A
Correspondent: Thomas H. Haller, Correspondent	Square Footage N/A
	Planning Area 60
	Council District 01
	Municipality None
	200-Scale Base Map 220NE07

Purpose of Application	Notice Dates
Enlargement/Extension of a Certified Nonconforming Apartment Complex	Adjoining Property Owners (CB-15-1998) 09/25/00
	Previous Parties of Record (CB-13-1997) N/A
	Sign(s) Posted on Site N/A
	Variance(s): Adjoining Property Owners N/A
Staff Recommendation	Staff Reviewer
APPROVAL	Tom Lockard
APPROVAL WITH CONDI- TIONS	
DISAPPROVAL	
DISCUSSION	
	X

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January 2, 2001

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Special Exception Application No. 4392**

REQUEST: **Enlargement/Extension of a Certified Nonconforming Apartment Complex**

RECOMMENDATION: **Approval, subject to condition**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. Location and Field Inspection: The subject property is located on the north side of Gorman Avenue (Route 198), approximately 152.7 ∇ feet west of its intersection with Tenth Street. It is improved with three multifamily buildings and a rental office, a bath house/recreation building containing a day care center, a swimming pool and associated parking. The site is surrounded on all sides by the City of Laurel.
- B. History: The subject apartment complex was built in 1965-1966, pursuant to a site plan which was approved in 1964. It was certified as a legal nonconforming use on May 16, 2000. That determination was based on a total number of 206 units, which was the number permitted in 1966 (9.4795 acres @ 21.78 units per acre). In fact, the number of units in the complex is now 218. The property became nonconforming in 1975, when the maximum density in the R-18 Zone was decreased to 12 units per acre. Although the applicant cannot pinpoint when the 218 units were established, they have provided apartment license applications from as long ago as 1970 which clearly show the number of units to be 218. The 1990 *Sectional Map Amendment for Subregion I* retained the site in the R-18 Zone.
- C. Master Plan Recommendation: The 1990 *Master Plan for Subregion I* recommends a high-urban residential density (17.0-48.4 dwellings/acre) for the site.
- D. Request: The applicant requests permission for an extension/enlargement of the nonconforming apartment complex to validate the additional 12 units that have existed on the site for at least 30 years. This would increase the number of permissible limits from 206 to 218.
- E. Neighborhood and Surrounding Uses: The site is surrounded by the following uses in the City of Laurel:

North - Office buildings in the O-B Zone.

East - Single-family residences in the R-55 Zone.

South - Across Gorman Avenue (MD 198) are single-family residences in the R-55 Zone.

West - Office buildings in the O-B Zone.

The neighborhood is defined by the following boundaries:

North - Brooklyn Bridge Road

East - Ninth Avenue

South - Gorman Road (MD 198)

West - Van Dusen Road

The surrounding neighborhood has developed in two distinct characters. The section south of West Street has developed as an office park, while north of West Street are single-family residences.

F. Specific Special Exception Requirements - Nonconforming Buildings, Structures, and Uses; Alteration, Enlargement, Extension, or Reconstruction (Section 27-384):

1. The alteration, enlargement, extension, or reconstruction of any nonconforming building or structure, or certified nonconforming use (except those certified nonconforming uses not involving buildings, those within the Chesapeake Bay Critical Area Overlay Zones as specified in paragraph 7, below, unless otherwise provided, and except for outdoor advertising signs), may be permitted subject to the following:

1. A nonconforming building or structure, or a building or structure utilized in connection with a certified nonconforming use, may be enlarged in height or bulk, provided that the requirements of Part 11 are met with respect to the area of the enlargement.

Finding: There is no enlargement in height or bulk proposed.

2. A certified nonconforming use may be extended throughout a building in which the use lawfully exists, or to the lot lines of the lot on which it is located, provided that:

1. The lot is as it existed as a single lot under single ownership at the time the use became nonconforming; and

Finding: The subject property, although smaller in area due to right-of-way takings for MD 198 through the years, remains a single lot under single ownership since 1975 when the apartment complex became nonconforming.

2. The requirements of Part 11 (Parking) are met with regard to the extended area.

Finding: The 12 additional apartment units necessitate an additional 30 parking spaces. The site plan approved pursuant to the certification of nonconforming use shows a total requirement of 258 spaces for the 206 units, 288 parking spaces are provided. Therefore, the requirements of Part 11 are met.

3. **A certified nonconforming use may be reconstructed**

Finding: The applicant is not proposing to reconstruct any part of the nonconforming use.

4. **When not otherwise allowed, a certified nonconforming use may be other wise altered by the addition or relocation of improvements . . .**

Finding: The applicant is not proposing the addition to or relocation of improvements.

5. **Any new, or any addition to, or alteration or relocation of an existing building or other improvement . . .**

Finding: The applicant is not proposing any new, additions to, alterations or relocations of existing improvements.

6. **The District Council may grant this Special Exception for property within a one hundred (100) year floodplan . . .**

Finding: The site is not within a floodplain.

7. **In a Chesapeake Bay Critical Area Overlay Zone . . .**

Finding: The site is not in a Chesapeake Bay Critical Area Overlay Zone.

- b. **Applications for this Special Exception shall be accompanied by a copy of the Use and Occupancy Permit for the certified nonconforming use, as provided for in Section 27-241(b).**

Finding: The permit has been submitted with this application.

- c. **In a Chesapeake Bay Critical Area Overlay Zone . . .**

Finding: The site is not in a Chesapeake Bay Critical Area Overlay Zone.

- G. Landscape Manual Requirements: The site is exempt from the requirements of the Landscape Manual since no new buildings or parking spaces are proposed.

- H. Zone Standards: The subject apartment complex does not meet most of today's standards for development in the R-18 Zone. This is why it is a nonconforming use. It does, however, meet the standards that were in place for that zone when the complex was built in the mid-Sixties.

- I. Sign Regulations: No signs are shown on the site plan, however, two signs of up to 48 square feet each are allowed by the Zoning Ordinance. If this special exception is approved, no signs will be permitted unless they are shown on the approved site plan.

10. Other Issues: The site plan submitted with the special exception shows a row of 18 parking spaces along MD 198, south of Building #8202. These spaces are dimensioned with a length of 19.5 feet. In order to meet the requirements in place when this use was legally established, they must be shown at a length of 20 feet.

- K. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**

Finding: With the recommended condition, the proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. These purposes generally seek to protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County. Approval of this application will merely serve to legitimize a situation which has apparently existed on the site for more than 30 years. During this time, there has been no apparent degradation to the health, safety or welfare of the inhabitants of the County, nor will there be one if this situation is allowed to continue.

- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

Finding: With the recommended condition to bring the parking design back into conformance with the prior standard, the proposal conforms with the requirements and regulations of the Zoning Ordinance.

- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**

Finding: The proposed use will not impair the integrity of the 1990 *Master Plan for Subregion I*, which recommends a high-urban residential density (17.0-48.4 dwellings/acre) for the site.

- (4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Finding: Special exception uses are those uses which are deemed compatible in the specific zone they are allowed, absent site-specific evidence to the contrary. In the subject case, impacts to adjacent properties and the health, safety and welfare of residents and workers in the area are not apparent. The apartment complex has apparently existed at 218 units for more than thirty years without proving to have an adverse impact or being detrimental to the surrounding area..

- (6) The proposed site plan is in conformance with an approved Tree Conservation Plan.**

Finding: The site is exempt from this requirement. A letter of exemption, dated August 7, 2000 was issued because the proposed development does not have 10,000 square feet of woodland, and the site does not have a previously approved Tree Conservation Plan.

CONCLUSION:

Only a minor site plan revision is needed to ensure that this proposal conforms to all the requirements of the Zoning Ordinance. Therefore, staff recommends APPROVAL of SE-4392, subject to the condition that the site plan shall be revised prior to the issuance of permits to show the parking spaces south of Building #8202 dimensioned at 20 feet in length.