

**MN**  
**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**PPC**

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772  
TTY: (301) 952-4366  
www.mncppc.org/pgco

February 21, 2017

Aster DeMissie Revocable Trust  
1201 Ingraham Street, NW  
Washington, DC 20011

Re: Notification of Planning Board Action on  
**Zoning CNU-24691-2016**  
**Hampshire View, Lot 4, Block 2**

Dear Applicant:

This is to advise you that, on **February 16, 2017**, the above-referenced application was acted upon by the Prince George's County Planning Board in accordance with the attached Resolution.

Pursuant to Section 27-228.01, the Planning Board's decision will become final 30 calendar days after the date of the final notice **February 21, 2017** of the Planning Board's decision, unless:

1. Within the 30 days, a written appeal has been filed with the District Council by the applicant or by an aggrieved person that appeared at the hearing before the planning Board in person, by an attorney, or in writing and the review is expressly authorized in accordance with Section 25-212 of the Land Use Article of the Annotated Code of Maryland; or
2. Within the 30 days (or other period specified by Section 27-291), the District Council decides, on its own motion, to review the action of the Planning Board.

Please direct any future communication or inquiries regarding this matter to Ms. Redis C. Floyd, Clerk of the County Council, at 301-952-3600.

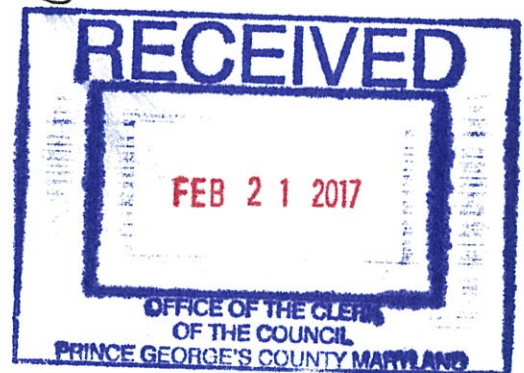
(You should be aware that you will have to reactivate any permits pending the outcome of this case. If the approved plans differ from the ones originally submitted with your permit, you are required to amend the permit by submitting copies of the approved plans. For information regarding reactivating permits, you should call the County's Permit Office at 301-636-2050.)

Sincerely,  
Alan Hirsch, Chief  
Development Review Division

By:   
Reviewer

Attachment: PGCPB Resolution No. 17-16

cc: Redis C. Floyd, Clerk of the County Council  
Persons of Record







# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

April 4, 2017

## DISTRICT COUNCIL NOTICE OF ORAL ARGUMENT HEARING

### COUNCIL ELECTED TO REVIEW

**TO: ALL PERSONS OF RECORD**

**RE: CNU-24691-2016 Hampshire View, Lot 4, Block 2  
Aster DeMissie Revocable Trust, Applicant**

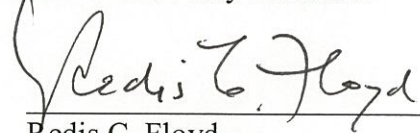
The District Council elected to review the above referenced case. The Oral Argument hearing has been scheduled for:

***MONDAY, MAY 8, 2017, 1:30 P.M.***  
***COUNTY COUNCIL HEARING ROOM – FIRST FLOOR***  
***COUNTY ADMINISTRATION BUILDING***  
***14741 GOVERNOR ODEN BOWIE DRIVE***  
***UPPER MARLBORO, MARYLAND 20772***

Testimony at the hearing will be limited to the facts and evidence contained within the record made at the hearing before the *Maryland-National Capital Park and Planning Commission*. Argument will be limited to thirty (30) minutes for each side, unless extended by the Chairman of the Council. There will also be a five (5) minute rebuttal for each side.

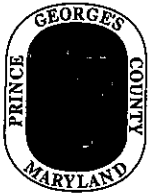
Please note that free parking and shuttle bus service is available at the Prince George's Equestrian Center parking lots.

If you have any questions, please call the Clerk's office at (301) 952-3600. In the event of inclement weather, please call 301-952-4810 to confirm the status of County Business.

  
Redis C. Floyd  
Clerk of the Council

cc: Derrick Leon Davis, Chairman  
Dannielle M. Glaros, Vice Chairwoman  
Deni Taveras, Council Member  
Alan Hirsch, Division Chief, M-NCPPC

**County Administration Building – Upper Marlboro, Maryland 20772**



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council  
(301) 952-3600

June 26, 2017

**RE: CNU-24691-2016 Hampshire View, Lot 4, Block 2  
Aster DeMissie Revocable Trust, Applicant**

## ***NOTICE OF FINAL DECISION OF THE DISTRICT COUNCIL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of the Council Order setting forth the action taken by the District Council in this case on June 19, 2017.

### ***CERTIFICATE OF SERVICE***

This is to certify that on June 26, 2017, this notice and attached Council Order was mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink that reads "Redis C. Floyd".

Redis C. Floyd  
Clerk of the Council

Case No. CNU-24691-2016  
Hampshire View, Lot 4 Block 2

Applicant: Aster DeMissie Revocable Trust

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL

ORDER CERTIFYING A NONCONFORMING USE

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board to approve Certification of a Nonconforming use for a three-unit multifamily apartment building in the Multifamily Medium-Density Residential (R-18) Zone, located on the east side of Red Top Road in Takoma Park, approximately 510 feet south of the intersection of Red Top Road and East-West Highway (MD 410), is hereby APPROVED.

As the basis for this final decision, and as expressly authorized by the Regional District Act within Title 22 of the Land Use Article of the Annotated Code of Maryland, and the Prince George's County Code, the District Council adopts the findings and conclusions of the Planning Board, as embodied within PGCPB No. 17-16.

The three-unit multifamily apartment building in the Multifamily Medium-Density Residential (R-18) Zone, located on the east side of Red Top Road in Takoma Park, approximately 510 feet south of the intersection of Red Top Road and East-West Highway (MD 410), shall be declared a Certified Nonconforming Use, subject to the following conditions:

1. Prior to certification of the Nonconforming Use, the Applicant shall revise the Site Plan to show the installation and location of a trash receptacle on the subject property. Unless the Applicant can demonstrate practical difficulty, or uniqueness of the subject property, the trash receptacle shall be installed and located out of the right-of-way of the subject property.

2. Prior to certification of the Nonconforming Use, the Applicant shall, in accordance with the 2010 Landscape Manual, revise Site Plan to enclose the trash receptacle with a six (6) foot tall sight tight enclosure, which shall be constructed

in accordance with County Code specifications. Materials for the 6 foot tall sight tight enclosure shall be pressure treated wood or engineered or composite treated wood. Color of the material or materials of the sight tight enclosure shall compliment the color of the rental property. The Applicant shall not be permitted to enclose the trash receptacle with any chain link fencing material to satisfy this condition. All trash receptacles, trash pads, trash/recycling collection, or storage areas shall be carefully located and oriented on the site to be as inconspicuous as possible.

3. Prior to certification of the Nonconforming Use, the Applicant shall provide a private and designated parking plan depicting numbered parking spaces to accommodate leasehold tenants, and to the extent feasible, designated visitor parking spaces. The parking plan shall also indicate parking plan enforcement, including, but not limited to, parking permits for leasehold tenants and/or visitors and towing enforcement for the parking plan. Alternatively, the Applicant may, in lieu of a private parking plan, participate in a County-based residential parking program.

4. Upon certification of the above conditions, by the Planning Board or its authorized designee, the three-unit multifamily apartment building in the Multifamily Medium-Density Residential (R-18) Zone, located on the east side of Red Top Road in Takoma Park, approximately 510 feet south of the intersection of Red Top Road and East-West Highway (MD 410), shall be declared a Certified Nonconforming Use.

5. Any violation of the conditions of approval of this Certified Nonconforming Use shall be subject to revocation in accordance with the Prince George's County Code.

ORDERED this 19<sup>th</sup> day of June, 2017, by the following vote:

In Favor: Council Members Davis, Harrison, Lehman, Patterson, Taveras, and Toles.

Opposed:

Abstained:

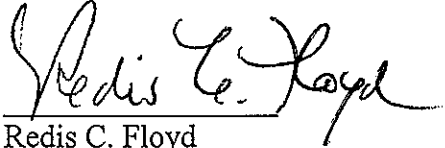
Absent: Council Members Franklin, Glaros and Turner.

Vote: 6-0

COUNTY COUNCIL OF PRINCE GEORGE'S  
COUNTY, MARYLAND, SITTING AS THE  
DISTRICT COUNCIL FOR THAT PART OF  
THE MARYLAND-WASHINGTON  
REGIONAL DISTRICT IN PRINCE GEORGE'S  
COUNTY, MARYLAND

By:   
Derrick Leon Davis, Chairman

ATTEST:



Redis C. Floyd  
Clerk of the Council

**ITEM:**

**CASE: CNU-24691-2016**

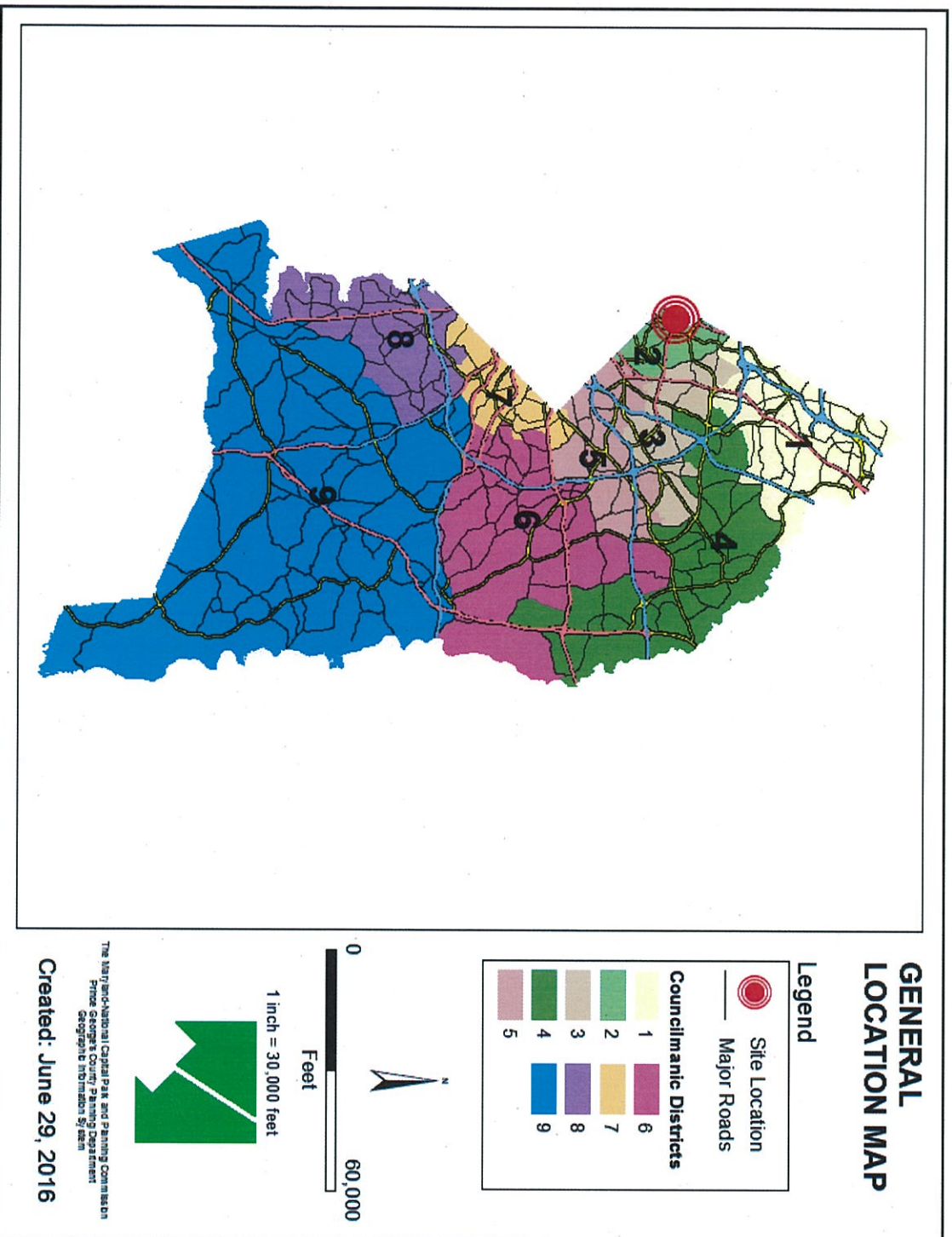
**HAMPSHIRE VIEW  
LOT 4, BLOCK 2**

**THE PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT**



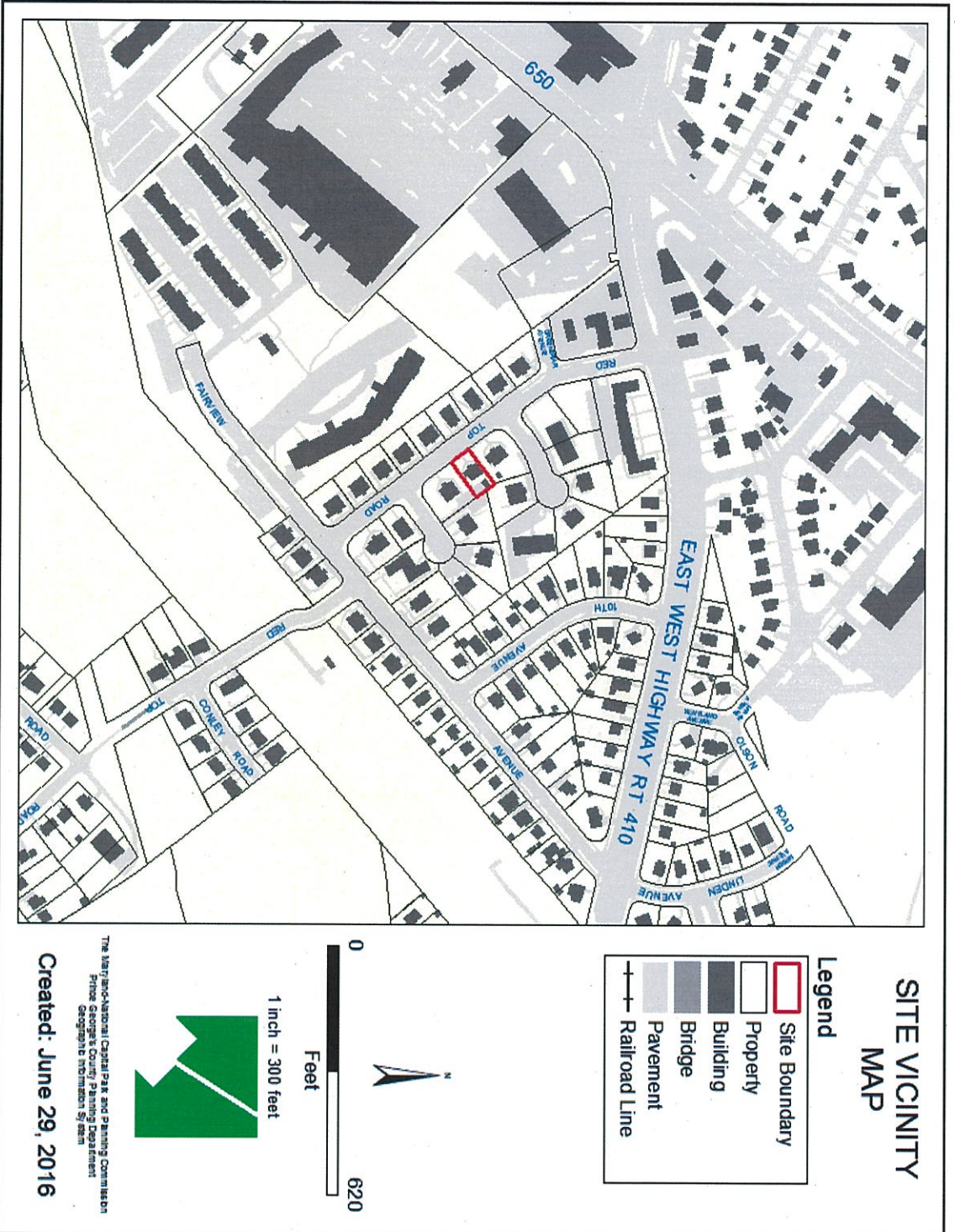


# GENERAL LOCATION MAP



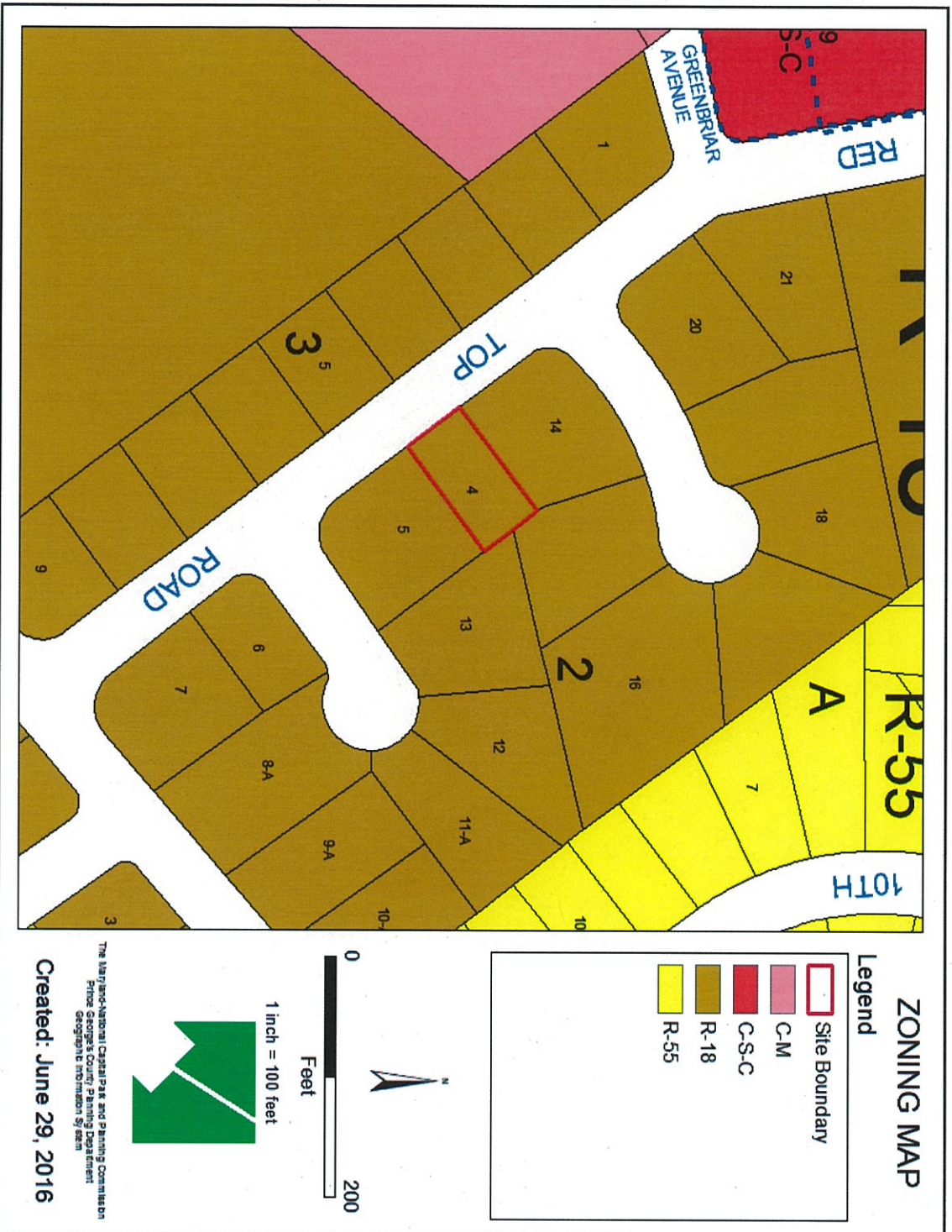
# SITE VICINITY

Case #CNU-24691-2016



# ZONING MAP

Case #CNU-24691-2016

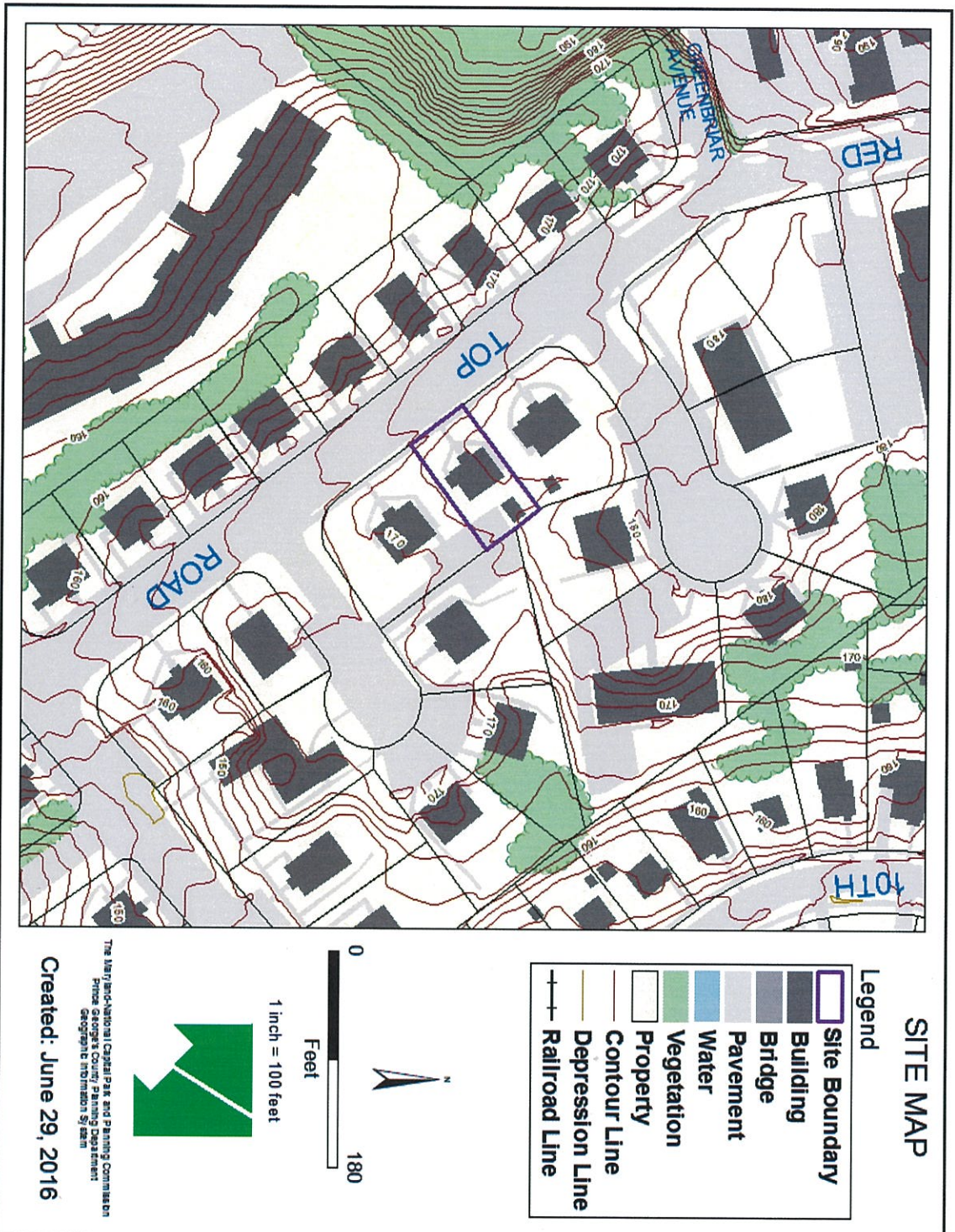


# AERIAL MAP

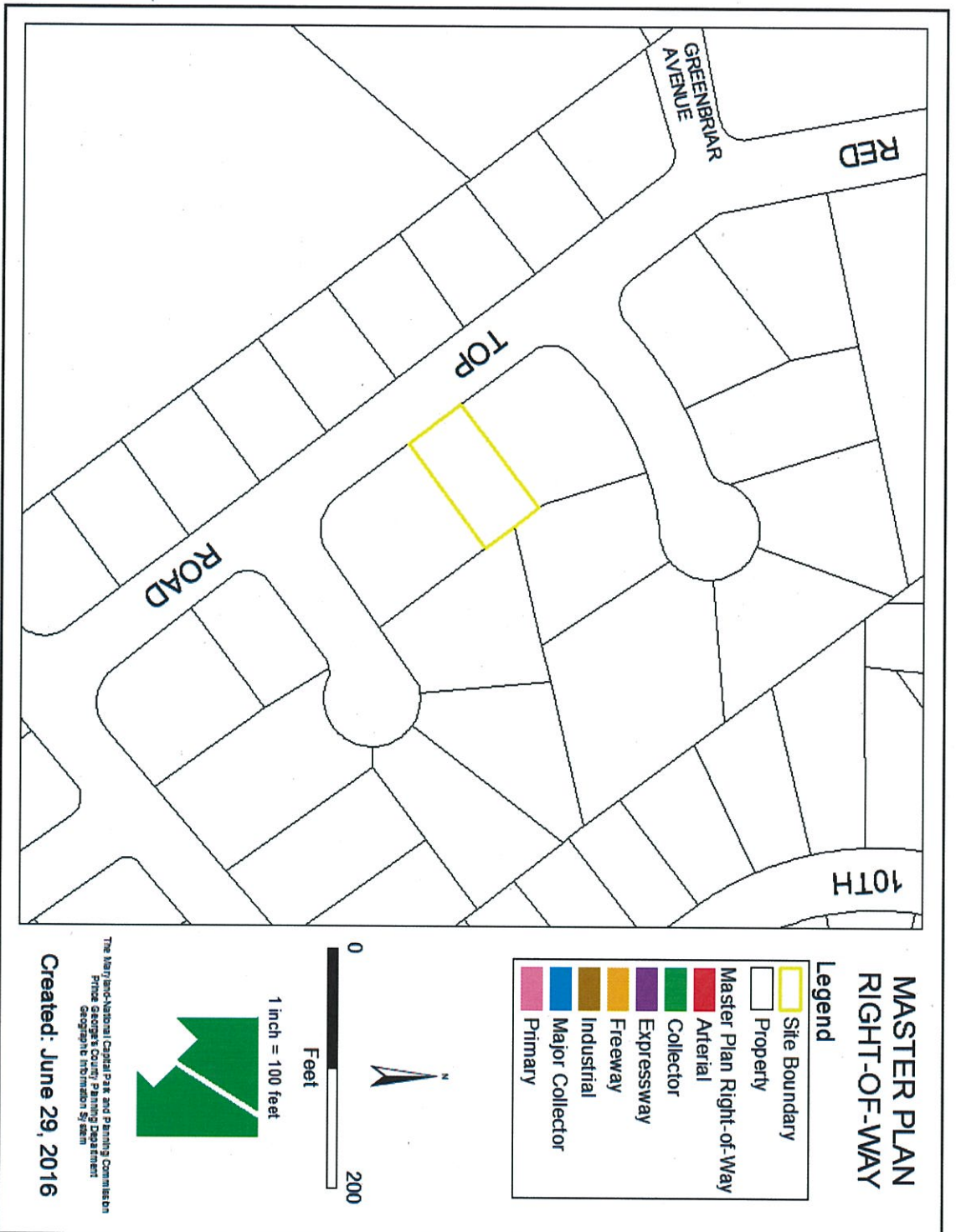


# SITE MAP

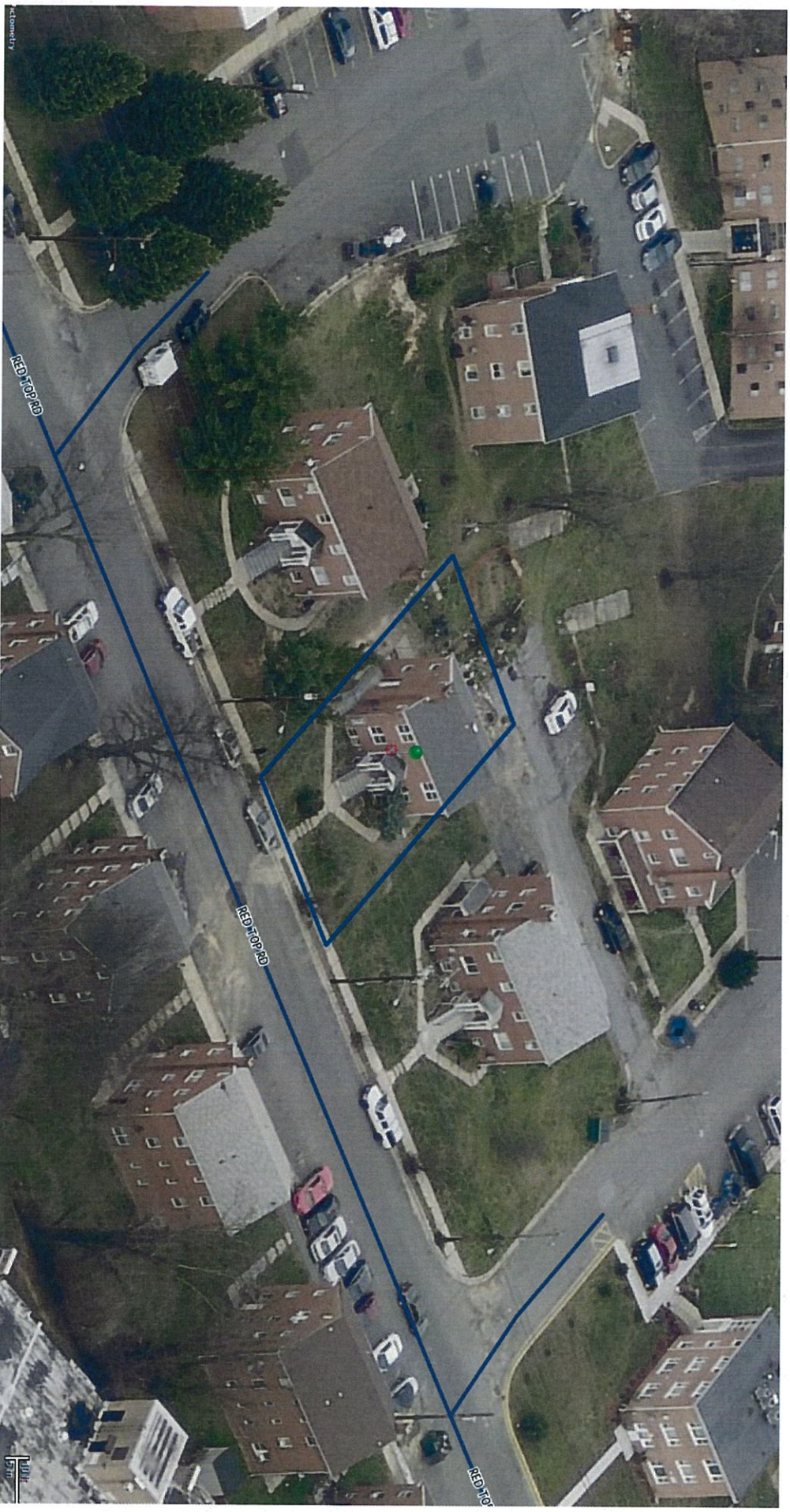
Case #CNU-24691-2016



# MASTER PLAN RIGHT-OF-WAY MAP



# BIRD'S-EYE VIEW WITH APPROXIMATE SITE BOUNDARY OUTLINED

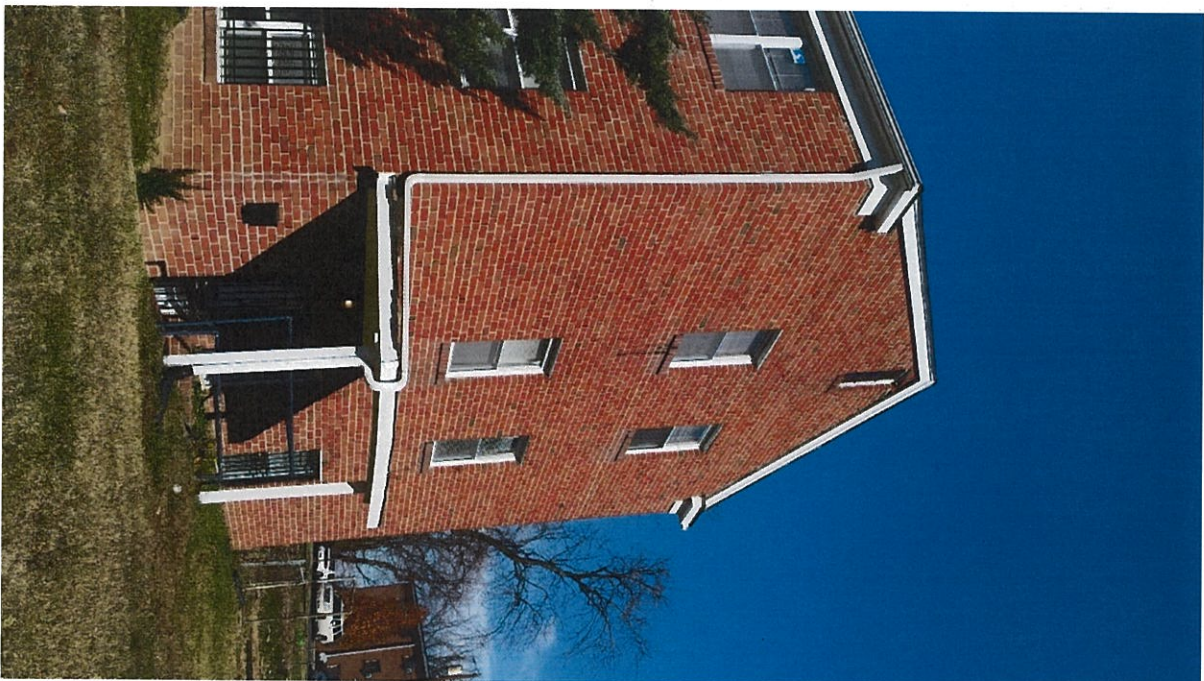


# FRONT ELEVATION

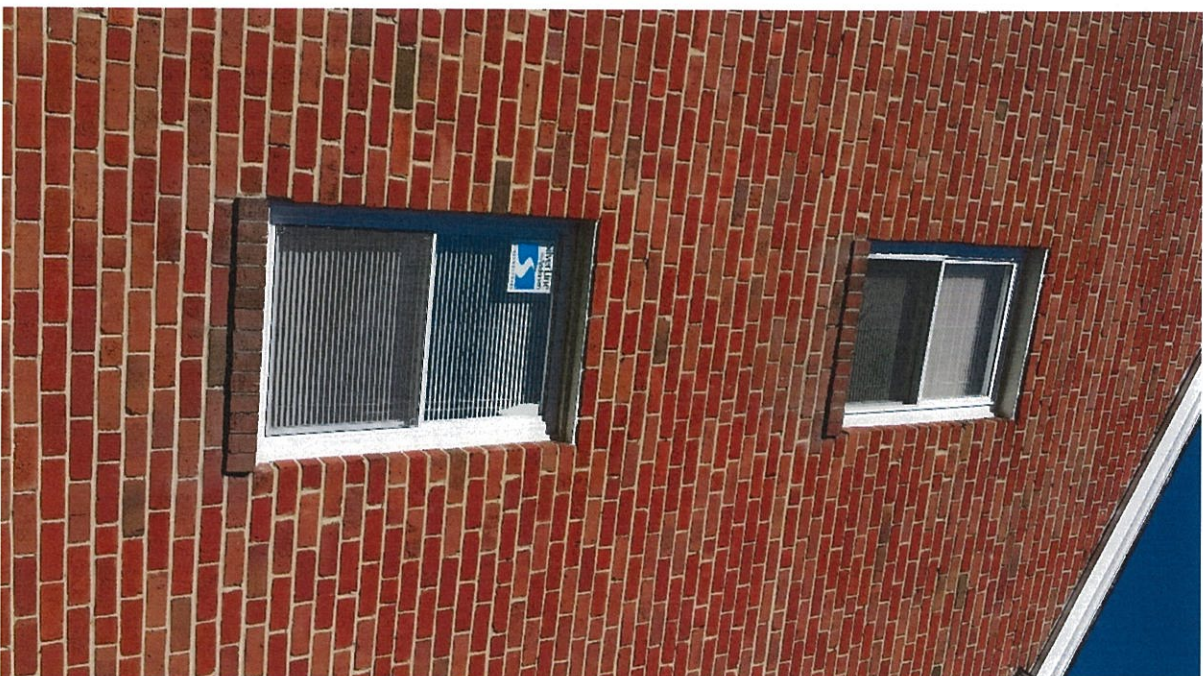




# EAST SIDE ELEVATION



# EAST SIDE DETAIL



# REAR ELEVATION



# REAR HVAC DETAIL



# WEST SIDE ELEVATION



# SITE PLAN

Case #CNU-24691-2016



~ Vicinity Map ~  
Scale: 1" = 2,000'

Tax Map: 41 Grid: B-1  
ADC PG County Street Map #0 Grid: F-13  
2007 Sheet # 208NE01 Zoning: R-18  
Tax Account # 160872  
Street Address: 6815 Red Top Road  
Takoma Park, MD 20912

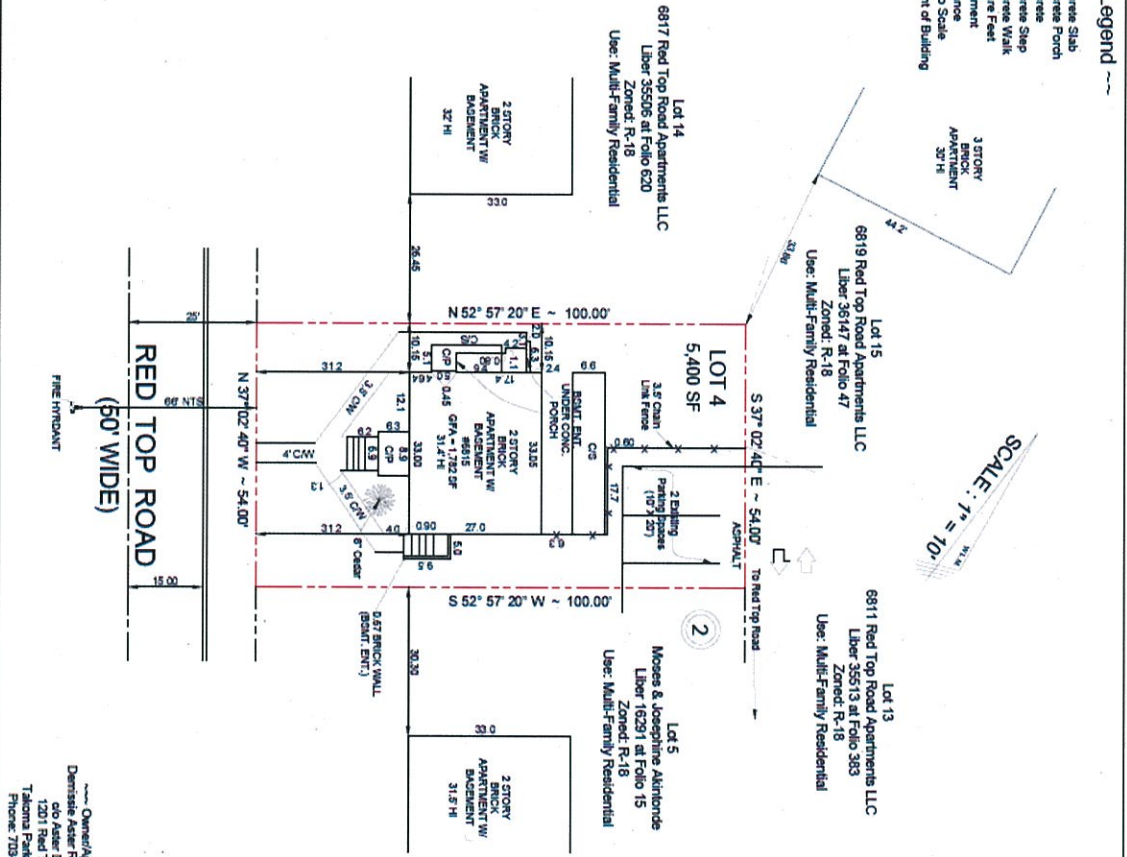
### Zoning Ordinance in 2016

R-18 (Medium-Density Residential)  
Lot Coverage- 30%  
Front Building Line- 15 Feet  
Front Yard- 20 Feet  
Side Yard- 20 Feet  
Rear Yard- 20 Feet  
SF  
Basement Maximum Building- 40 Feet  
Green Area (Less than 4 stories)- 7%  
Density Requirement- 12 Units per Acre  
Parking- 1.5 X 20 Spaces per 1 Bedroom Unit  
2.5 Parking Spaces per 1 Bedroom Unit

### Zoning Ordinance in 1992

Regulation requirements from the date the property became nonconforming  
R-18 (Medium-Density Residential)  
Lot Coverage- 30%  
Front Building Line- 15 Feet  
Front Street Line- 75 Feet  
Front Yard- 25 Feet  
Side Yard- 10 Feet per side (2 Side Yards Required)  
Rear Yard- 20 Feet  
Between Maximum Building- 40 Feet  
Floor Area Ratio- 0.5 FPAI  
Building Height- 3 stories or 40 Feet  
Accessory Building Height- 15 Feet  
Density Requirement- 1 Dwelling Unit per 625 SF of Net Lot Area  
Parking- 1.5 X 20 or 200 SF  
1 Parking Space per 1 Bedroom Unit

- ~ Legend ~
- C/S Concrete Slab
  - C/P Concrete Poth
  - Con. Concrete
  - C/SHP Concrete Slip
  - C/W Concrete Walk
  - SF Square Feet
  - Bent Basement
  - Ent. Entrance
  - NTS Not to Scale
  - HI Height of Building



- ~ NOTES ~
1. Existing Zone of Lot: R-18
  2. Total Area of Lot: 5,400 SF
  3. Existing & Requested Use: Residential Apartments (3 Units, 2 Two Bedroom Units and 1 One Bedroom Unit)
  4. Parking Requirements:  
1-Parking Space Per Unit (3 Units) = 3 Spaces  
Total No of Proposed Spaces = 2 Spaces (10' X 20')
  5. Provide 8' Long (Timber or Concrete) Wheel Slope at Each Parking Space
  6. Existing Parking Area is Asphalt
  7. Total Gross Floor Area: 1,762 Square Feet
  8. Existing Water and Sewer Designations are: W-3 & S-3
  9. This Site is Not within the Chesapeake Bay Critical Area
  10. There is Not a 100 Year Flood Plain on this Site.
  11. There are No Wetlands on this Site
  12. There are No Historic Sites on or in the Vicinity of this Site
  13. There are No Cemeteries on or Contiguous to this Site.
  14. There is no Aviation Policy Area on the Site.
  15. Existing Building Constructed in 1951
  16. Apartments became nonconforming on January 1, 1964
  17. Lot Coverage  
Building: 695 Square Feet  
Porch: 198 Square Feet  
Asphalt Parking: 630 Square Feet  
Total: 1,693 Square Feet or 31% Lot Coverage  
Total Green Area: 3,717 Square Feet or 69%

Owner/Applicant  
Demisee Aser Revocable Trust  
c/o Aser Demisee  
1201 Red Top Road  
Takoma Park, MD 20912  
Phone: 703-282-8349

CNU-24691-2016-U	
USE AND OCCUPANCY PLAN	
Lot 4 Block 2	
Hampshire View	
Pir Brook WWV 17 at Plat. No. 5	
TOWN ELECTION DISTRICT	PRINCE GEORGES CO., MD
DATE: 5/29/2016	SCALE: 1" = 10'
SHEET: 1 OF 2	
DESIGNED BY: M. L. LEBRON, INC.	
CHECKED BY: M. L. LEBRON, INC.	
APPROVED BY: M. L. LEBRON, INC.	

THIS SITE PLAN  
IS THE PROPERTY OF  
M. L. LEBRON, INC.  
AND IS NOT TO BE  
REPRODUCED OR  
TRANSMITTED IN ANY  
FORM OR BY ANY  
MEANS, ELECTRONIC  
OR MECHANICAL,  
INCLUDING PHOTOCOPYING,  
RECORDING, OR BY  
ANY INFORMATION  
SYSTEM, WITHOUT  
PERMISSION IN WRITING  
FROM M. L. LEBRON, INC.  
1201 RED TOP ROAD  
TAKOMA PARK, MD 20912  
PHONE: 703-282-8349



# SITE PLAN NOTES

Case #CNU-24691-2016

Prince George's County Zoning Ordinance, in effect 1989

Section of Ordinance	Requirement	Provided	Conforms
Section 17.21	Min. 1,000 SF area per unit	1,020 SF	Yes
Section 17.21	Min. 8,000 SF net lot area	8,400 SF	No
Section 17.22	Max. 50% lot coverage (for buildings including accessory buildings)	19%	Yes
Section 17.31	Min. 25' front building line	31.2'	Yes
Section 17.32	Min. 25' corner side yard at building line	54.2'	Yes
Section 17.41	Min. 50' front yard	N/A	No
Section 17.42	Min. 50' rear yard	54.2'	No
Section 17.43	Min. 10' rear yard	31.2'	Yes
Section 17.44	Min. 10' rear yard (2,000 sq. ft. or less)	10.15'	Yes
Section 17.45	Min. 20' rear yard	41.5'	Yes
Section 17.61	Min. 40' between multi-family buildings	N/A	No
Section 17.62	Min. 10' between multi-family buildings	N/A	No
Section 17.7	3 parking units	3 spaces	Yes
Section 17.7	Total spaces provided	3 spaces	Yes
Section 17.7	Min. 10' X 20' parking space or 20' X 10' X 20'	10' X 20'	Yes
Section 17.8	Min. 12.5' front area yards	0.16'	Yes
Section 17.9	Max. building height of 3 stories or 47'	2 stories	Yes
Section 17.9	Max. 10' accessory buildings	N/A	Yes

Section of Ordinance	Requirement	Provided	Conforms
Section 27-41(a)	Max. 60%	N/A	No
Section 27-41(b)	3 bedroom apartments	N/A	No
Section 27-42(a)	Max. 10%	N/A	No
Section 27-42(b)	Min. 16,000 SF net lot area	8,400 SF	No
Section 27-42(c)	Max. 30% lot coverage	31%	No
Section 27-42(d)	Min. 70% open area for building less than 4 stories	69%	No
Section 27-42(e)	Min. 125' or width at front building line	54'	No
Section 27-42(f)	Min. 125' or width at front street line	54'	No
Section 27-42(g)	Min. 50' front yard	31.2'	Yes
Section 27-42(h)	Min. 50' front yard	66-2.00'	Yes
Section 27-42(i)	Min. 10' min. one yard	20.95'	No
Section 27-42(j)	Min. 50' corner side yard at building line	10.15'	Yes
Section 27-42(k)	Min. 60' from setback	N/A	No
Section 27-42(l)	Min. 50' rear yard	41.5'	Yes
Section 27-42(m)	Max. 60' building height for lot or tract having net area less than 1 acre	31.4'	Yes
Section 27-42(n)	Min. 50' between multi-family buildings	N/A	No
Section 27-42(o)	Min. 12.5' lot per acre	23.1 lot per acre	No
Section 27-42(p)	Min. setbacks for accessory buildings	N/A	No
Section 27-42(q)	60' from front street line	N/A	No
Section 27-42(r)	2' rear of line	N/A	No
Section 27-42(s)	Max. 15' high for accessory building	N/A	No
Section 27-42(t)	3.5' X 15' parking space	10' X 20'	No
Section 27-42(u)	2.00 spaces/1 bedroom	1.64 - 2.20 spaces	No
Section 27-42(v)	2.00 spaces/2 bedroom	2.60 - 3.10 spaces	No
Section 27-42(w)	3.00 spaces/3 bedroom	0.00 - 0 spaces	No
Section 27-42(x)	Total spaces provided	7 spaces	Yes
Section 27-42(y)	1 loading space for 100-500 data plus 1 space additional	N/A	No
Section 27-42(z)	Total spaces required	N/A	No
Section 27-42(aa)	Total spaces required	N/A	No

Table of Development Statistics in 1989

Section of Ordinance	Requirement	Provided	Conforms
Section 17.7	Min. 10' X 20' parking space or 20' X 10' X 20'	10' X 20'	Yes
Section 17.8	Min. 12.5' front area yards	0.16'	Yes
Section 17.9	Max. building height of 3 stories or 47'	2 stories	Yes
Section 17.9	Max. 10' accessory buildings	N/A	Yes

Table of Development Statistics in 2016

Section of Ordinance	Requirement	Provided	Conforms
Section 17.7	Min. 10' X 20' parking space or 20' X 10' X 20'	10' X 20'	Yes
Section 17.8	Min. 12.5' front area yards	0.16'	Yes
Section 17.9	Max. building height of 3 stories or 47'	2 stories	Yes
Section 17.9	Max. 10' accessory buildings	N/A	Yes

The purpose of this report is to provide information for the applicant for an existing 3-story multi-family apartment building in the R-10 Zone. The building was constructed in 1961, based on a lot size of 4,400 sq. ft. The property is currently zoned R-10. The applicant is seeking a change in zoning to R-10B, which would allow for a higher density of multi-family units. The proposed development consists of 7 multi-family units, each with 3 bedrooms and 2 bathrooms. The total floor area is 10,000 sq. ft. The project is located at 1201 Road Top Road, Takoma Park, MD 20912. The applicant is requesting a rezoning from R-10 to R-10B. The rezoning is necessary to allow for the proposed development. The rezoning is in the public interest because it will provide for the needs of the community and the area. The rezoning is also in the public interest because it will provide for the needs of the area and the community. The rezoning is in the public interest because it will provide for the needs of the area and the community. The rezoning is in the public interest because it will provide for the needs of the area and the community.

Owner/Applicant  
 Dennis R. Ruppel  
 1201 Road Top Road  
 Takoma Park, MD 20912  
 Phone: 703-282-8946

CNL24691-2016J  
 USE AND OCCUPANCY PLAN  
 1201 Road Top Road  
 Takoma Park, MD 20912

DATE: 07-26-2016 SCALE: 1"=10' SHEET 2 OF 2

M. A. WERONIA, INC.  
 1201 Road Top Road  
 Takoma Park, MD 20912  
 Phone: 703-282-8946



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THE PRINCE GEORGE'S COUNTY PLANNING BOARD OF  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

HAMPSHIRE VIEW, LOT 4, BLOCK 2  
Certification of Nonconforming Use, CNU-24691-2016

T R A N S C R I P T  
O F  
P R O C E E D I N G S

COUNTY ADMINISTRATION BUILDING

Upper Marlboro, Maryland

January 26, 2017

VOLUME 1 of 1

BEFORE:

- ELIZABETH M. HEWLETT, Chairman
- DOROTHY F. BAILEY, Vice-Chairman
- A. SHUANISE WASHINGTON, Commissioner
- WILLIAM M. DOERNER, Commissioner
- MANUEL R. GERALDO, Commissioner

COPY

**Deposition Services, Inc.**  
12321 Middlebrook Road, Suite 210  
Germantown, MD 20874  
Tel: (301) 881-3344 Fax: (301) 881-3338  
info@DepositionServices.com www.DepositionServices.com



OTHERS PRESENT:

CHRISTINA POMPA, Staff, Zoning Section

DEBRA BORDEN, Acting Planning Director

C O N T E N T S

SPEAKER

PAGE

Douglas Wiitala

9

COPY



1 percentages. The use became nonconforming on January 1,  
2 1964, when the density change from 1,800 square feet to  
3 2,000 square feet of net lot area per unit. The apartment  
4 building does not meet bedroom percentage requirements which  
5 changed in 1968.

6 A use and occupancy permit number 685263-U was  
7 issued in 1969 to William Robey (phonetic sp.) for  
8 apartments at this location, so it's assumed that the  
9 apartments were constructed in compliance with the R-18 Zone  
10 regulations in effect at the time of construction. Two off  
11 street parking spaces are available for the subject  
12 property, however, District Council resolution 82-1970  
13 waived the off street parking requirements for this property  
14 and other properties in the Hampshire View subdivision.

15 When the applicant applied for a use and occupancy  
16 permit in May 2016, the permits review section staff could  
17 not verify that the nonconforming use had not ceased to  
18 operate for more than 180 consecutive days between the time  
19 the use became nonconforming and the date when the  
20 application was filed.

21 The applicant purchased the property in April of  
22 2015. The building contained three apartments but according  
23 to the statement of justification, was a damaged foreclosure  
24 property. The units were uninhabitable and needed  
25 significant renovation. Immediately after the applicant

1 purchased the property in May of 2015, she sought permits  
2 and hired contractors and the proposals and change orders  
3 and receipts and proof of payment are included in the backup  
4 to the Staff Report.

5           Construction and renovations started shortly  
6 thereafter. Per the statement of justification, during  
7 construction the applicant's father had passed away and  
8 obviously the applicant had to attend to family  
9 responsibilities and during that time that she was away from  
10 the project the electrician and HVAC contractors took  
11 payments without finishing their contracted work.

12           The applicant went through some complaints with  
13 the Maryland Department of Labor, Licensing and Regulation  
14 against the HVAC contractor. The applicant hired an  
15 attorney to help seek completion of the HVAC work and  
16 ultimately due to nonperformance, the applicant had to  
17 purchase additional HVAC equipment and hire a new contractor  
18 to complete the installation. That information is also in  
19 the backup.

20           Final renovation was completed on the unit in May  
21 2016 and the applicant applied for U&O permit from DPIE but  
22 was denied because the property does not conform to present  
23 zoning regulations.

24           One thing to note, of the 15 properties on the  
25 northeast side of Red Top Road containing multifamily

1 apartment buildings, all but four of the properties have  
2 been issued certified nonconforming use status.

3           There is significant evidence in the record which  
4 is on pages 7 and 8 of the Technical Staff Report and the  
5 backup that supports the request for nonconforming use  
6 status. And there --

7           MADAM CHAIR: Ms. Pompa, let me just stop you for  
8 a second, because you've done a great job of talking about  
9 all the attempts to fix the property and the attempts --

10           MADAM VICE CHAIR: Challenges.

11           MADAM CHAIR: -- conform with the Code  
12 requirements and whatnot. So I see that it was legal when  
13 it was constructed in 1951, became nonconforming in 1964.  
14 There is a two prong test, you know, legal when it  
15 commenced, didn't cease operating for more a period of more  
16 than 180 days, that's pursuant to 27-244, unless the  
17 cessation was beyond the applicant's control or for the  
18 purpose of correcting code violations. And when you got to  
19 page 7 not only do we have the report that you just  
20 presented but you have the common fixture inspections from  
21 WSSC and numerous proposals, change orders and things,  
22 permits, mechanical permits all that, to support the efforts  
23 and the cessation was due to bringing the property up into  
24 compliance. So I think it meets the criteria of beyond the  
25 applicant's control, it meets the criteria of 27-

1 244(b) (2) (B), as you set forth in your report.

2 Was there anything else you needed to add to that?

3 MS. POMPA: Well, I think for this application,  
4 just to be clear, there are like three time frames which  
5 each have different, they meet the Code in different ways.  
6 And we can basically show continuous use up until July 30,  
7 2014, based on the aerial photographs, the WSSC letter, et  
8 cetera. And then we have the period that was out of the  
9 applicant's control before she bought the property and then  
10 we have the period when she bought it where she was bringing  
11 the building into code compliance.

12 So I do think it's a unique application because  
13 you have three different things going on, but I do think the  
14 applicant or the application does meet the three tests  
15 required in the Zoning Ordinance.

16 MADAM CHAIR: Is that it?

17 MS. POMPA: That can be it.

18 MADAM CHAIR: Oh no, I didn't --

19 MS. POMPA: I'm happy to make that it.

20 MADAM CHAIR: -- you paused, I didn't know if you  
21 were done?

22 MS. POMPA: Well, I think I just summarized --

23 MADAM CHAIR: Okay.

24 MS. POMPA: -- what I was going to say in a little  
25 more detail. I know this was, there was a significant

1 backup for this in the Staff Report.

2 MADAM VICE CHAIR: Very helpful.

3 MS. POMPA: If you all have more questions I'm  
4 absolutely happy to answer them.

5 MADAM CHAIR: Your report and your verbal report --

6 MADAM VICE CHAIR: Very good.

7 MADAM CHAIR: -- were both very good.

8 MADAM VICE CHAIR: Right.

9 MADAM CHAIR: And I just think the record is  
10 replete with evidence here and then when you look at  
11 (b) (2) (B) of 27-244, those three time frames that you talked  
12 about meet the specific criteria set forth there.

13 MS. POMPA: I would agree.

14 MADAM CHAIR: But I wanted to make sure you had  
15 said all that you needed to say?

16 MS. POMPA: No, I'm perfectly happy with what's in  
17 the record.

18 MADAM CHAIR: Okay. All right. Are there  
19 questions of Ms. Pompa on this?

20 (No audible response.)

21 MADAM CHAIR: Okay. We do have someone signed up  
22 and I may not pronounce this correctly. Douglas Wiitala?

23 MR. WIITALA: You pronounced it.

24 MADAM CHAIR: I did? Okay. Do you want to come  
25 to the podium, please?

1 MR. WIITALA: Hi everyone, thanks for hearing me.

2 COMMISSIONER WASHINGTON: Can you just adjust the  
3 microphone?

4 MADAM CHAIR: Yes. For everyone here the  
5 microphone is adjustable to you so that we can hear you,  
6 because we're all being recorded. Okay. So please state  
7 your name and address for the record.

8 MR. WIITALA: My name is Douglas Wiitala, my  
9 address is 6815, 6519 Devine Street, McLean, Virginia.

10 MADAM CHAIR: Okay.

11 MR. WIITALA: I purchased this property in  
12 December and have spent a lot of time cleaning it up and it  
13 looks great inside. The former owner she did a lot of work  
14 to renovate it. We didn't see any pictures of the inside,  
15 but it really does look great and I have spent nights and  
16 weekends since then cleaning up the unit, putting a new roof  
17 on it, redoing the parking lot and just and also installing  
18 a fence that's underway. So there's some things that I have  
19 been doing to help get the property in shape and improved.  
20 So that's all I have to say and I agree with everything  
21 that, and Ms. --

22 MADAM CHAIR: Pompa.

23 MR. WIITALA: Yes.

24 MADAM VICE CHAIR: Did you say there things that  
25 you are doing now or they are completed?



1 MR. WIITALA: Well there's still things that I'm  
2 doing right now.

3 MADAM VICE CHAIR: This?

4 MR. WIITALA: Like installing a fence around the  
5 property, just for a little bit of, not a tall fence, you  
6 know, a short one just for a bit of privacy and so people  
7 don't kind of walk through the building, as well as a new  
8 awning to one of the units, a new roof there as well as roof  
9 repair. And yeah, I've been painting a lot, I've been doing  
10 a lot of things inside as far as cleaning up, cleaning up  
11 the property, spending a lot of time, nights and weekends,  
12 just kind of improving the property a little bit, cleaning  
13 it up.

14 COMMISSIONER DOERNER: Sir, you're not the  
15 original applicant that we're talking about in the report  
16 that purchased the property in April 2015? You purchased it  
17 in December 2015? Or 2016?

18 COMMISSIONER WASHINGTON: 2016.

19 MR. WIITALA: 2016. Yes, I just purchased the  
20 property a month ago.

21 COMMISSIONER DOERNER: Is that in the Staff  
22 Report?

23 MS. POMPA: It's not because I was not aware that  
24 the property had transferred. I did not, I talked to the  
25 applicant yesterday and she informed me the property

1 transferred on December 29th.

2 MADAM CHAIR: On what date?

3 MS. POMPA: December 29, 2016.

4 MADAM CHAIR: Okay.

5 MADAM VICE CHAIR: Because I noticed that you kept  
6 saying she and then --

7 MADAM CHAIR: Yes.

8 MADAM VICE CHAIR: -- yes, I was wondering about  
9 who that was?

10 MS. POMPA: Correct. And that's --

11 COMMISSIONER WASHINGTON: Is there any implication  
12 for us in terms of acting?

13 (No audible response.)

14 COMMISSIONER WASHINGTON: No? It makes no  
15 difference? Okay.

16 MS. BORDEN: Just to clarify, Debra Borden, Acting  
17 Planning Director. No, it doesn't make any difference  
18 because the CNU runs with the property. It doesn't have  
19 anything to do with who the property owner is.

20 COMMISSIONER WASHINGTON: Great. Thank you.

21 MADAM VICE CHAIR: Okay.

22 MADAM CHAIR: Okay. Are there any questions of  
23 Mr. Wiitala? Did I say it right?

24 (No audible response.)

25 MADAM CHAIR: Okay. Are there questions?

1 (No audible response.)

2 MADAM CHAIR: Thank you.

3 MR. WIITALA: Thank you.

4 MADAM CHAIR: Good luck with the property.

5 MR. WIITALA: Thank you very much.

6 MADAM CHAIR: Is there a motion?

7 COMMISSIONER WASHINGTON: Madam Chair, I move that  
8 we adopt the findings of staff, which include the  
9 substantial evidence submitted by the applicant and approve  
10 CNU-24691-2016.

11 COMMISSIONER GERALDO: Second.

12 MADAM CHAIR: We have a motion and a second, is  
13 there any discussion?

14 (No audible response.)

15 MADAM CHAIR: All in favor?

16 VOICES: Aye.

17 MADAM CHAIR: Opposed?

18 (No audible response.)

19 MADAM CHAIR: The ayes have it. Thank you.

20 (Whereupon, the proceedings were concluded.)

21

22

23

24

25

DIGITALLY SIGNED CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Planning Board in the matter of:

HAMPSHIRE VIEW, LOT 4, BLOCK 2

Certification of Nonconforming Use, CNU-24691-2016



By: \_\_\_\_\_

Date: May 2, 2017

Diane Wilson, Transcriber

**STATEMENT OF JUSTIFICATION**

**Nonconforming Use Certification**

**3-Unit Multifamily Apartment Building**  
**8615 Red Top Road, Takoma Park, MD**

**CNU 24691-2016**

I. Applicant

Aster Demissie Trustee

II. Location

The property address is 6815 Red Top Road, Takoma Park, MD. The property is located on the east side of Red Top Road between East West Highway and Fairview Avenue.

III. Development

The property is improved with a 3-unit apartment building that was constructed in 1951. There are two, 2-bedroom apartments, and one, 1-bedroom apartment in the building.

IV. Zoning History

The property was placed in the "A" Residential Zone when it was first included in the Regional District in 1928. The Zoning Ordinance was amended in 1947, and the property was placed in the "C" Residential Zone. In November 1949, when the comprehensive zoning of the County took place, the property was placed in the new Multifamily Medium Density Residential (R-18) Zone. The site was recorded in the Land Records of Prince George's County as Lot 4, Block 2 of Hampshire View in 1950 and was 5,400 square feet in area. The apartments were constructed in 1951 when the development standards at that time allowed density based on 1,800 square feet of gross lot area per dwelling unit, which would have permitted 3 units. The complex became nonconforming on January 1, 1964 when the Zoning Ordinance was amended to require 2,000 square feet of net lot area per dwelling unit in the R-18 Zone, which would only permit 2 units.

V. Permit History

Rental Housing licenses were issued by Prince George's County for various owners of the building from 1970 until 2014. The last rental license for the property was issued to Jaeson Abraham c/o Robtco Property Management and expired July 30, 2014. The licenses consistently show 3 apartments in the building.

Use and Occupancy Permit No. 685263-U was issued in 1969 to William Robey for apartments.

# 2

VI. Request

The applicant requests certification of a nonconforming use for three (3) units in a multifamily apartment building built in 1951. Because the development regulations were changed or adopted after the apartment use was lawfully established, the building became nonconforming.

VII. Surrounding Uses

- North - Property in the R-18 zoning district containing multifamily apartment buildings
- South - Property in the R-18 zoning district containing multifamily apartment buildings
- East - Property in the R-18 and R-55 zoning districts containing multifamily apartment buildings and single family homes
- West - Property in the R-18, C-M, and C-S-C zoning districts containing multifamily apartment buildings and commercial uses

Of the 15 properties on the northeast side of Red Top Road containing multifamily apartment buildings, all but 4 properties have been issued certified nonconforming use status.

VIII. Certification Requirements

Certification of a nonconforming use requires that certain findings be made. First, the use must either predate the pertinent zoning regulation or have been established in accordance with all regulations in effect at the time the use began. Second, there must be no break in operation for more than 180 days since the use became nonconforming.

Section 27-244 of the Zoning Ordinance sets forth the following specific requirements for certifying a nonconforming use:

(a) In general.

- (1) 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) or the District Council certifies that the use is conforming and not illegal.

(b) Application for use and occupancy permit.

- (1) The applicant shall file an application for a use and occupancy permit in accordance with Division 7 of this Part.
- (2) Along with the application and application and accompanying plans, the applicant shall provide the following:

- (A) 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;
- (B) Evidence that the nonconforming use has not ceased to operate for more than one hundred eighty (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 one hundred eighty (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;
- (C) Specific data showing:
  - (i) The exact nature, size, and location of the building, structure, and use;
  - (ii) A legal description of the property; and
  - (iii) The precise location and limits of the use on the property and within any building it occupies
- (D) 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.

IX. Analysis

The apartment building was constructed in 1951. When the applicant applied for a use and occupancy permit in May 2016, the Permit Review Section Staff could not verify that the nonconforming use had not ceased to operate for more than 180 consecutive days between the time the use became nonconforming and the date when the application was filed. Therefore, in accordance with Section 27-244(f), the Planning Board must determine whether, in fact, the use was legally established prior to the date it became nonconforming and that it has been in continuous operation since that time.

The applicant has submitted the following documentary evidence in support of the application for certified nonconforming use:

1. M-NCPPC aerial maps dating back to 1965
2. Maryland State Department of Assessment and Taxation Property record
3. Prince George's County Rental Housing Licenses covering the period from 1970 through July 30, 2014
4. A use and occupancy permit for the property dated 1969
5. A site plan prepared by W.L. Meekins, Inc.
6. A letter from WSSC citing the water meter installation date and continuous service statement
7. Valid renovation permits
8. Invoices and canceled checks for renovation expenses

The applicant purchased the property in April 2015. The building contained 3 apartments but was a damaged foreclosure property. The units were uninhabitable and needed renovation. In May 2015, the applicant sought permits and hired contractors (see receipts); construction/renovation started shortly thereafter. During construction, the applicant's father passed away and the applicant had to attend to family responsibilities. During the time the applicant was away, the electrician and HVAC contractors took payments without finishing the work. In November 2015, the applicant filed a formal complaint with the Maryland Department of Labor, Licensing, and Regulation (DLLR) against the HVAC contractor. In December 2015, the applicant hired an attorney to help seek completion of the HVAC work. The applicant received an acknowledgement of the formal complaint to DLLR on March 2, 2016.

Construction was finally completed in early May 2016 at which time the applicant applied for a use and occupancy permit. By way of the memorandum from Mary Hampton of the M-NCPPC Permit Review Section dated May 31, 2016, the applicant found out that a certification of nonconforming use was needed.

In July 2016 W.L. Meekins, Inc. was hired to prepare a use and occupancy plan.

In October 2016 the application for certified nonconforming use was submitted to M-NCPPC for pre-review.

Consistent with Section 27-244(b)(2)(B) of the County Code, the gap in operation of the nonconforming use from roughly July 30, 2014 to the present was:

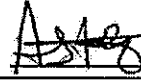
1. Beyond the owner's control prior to April 24, 2015 – the date the property was purchased; and
2. For the purpose of correcting Code violations and making the 3 apartment units habitable.

X. Conclusion

The applicant bought a damaged property as is foreclosure from the bank which requires extensive work to renovate and restore the building up to the required code. Applicant is a single mother struggling to improve her life by working hard to support herself and her family. The process has been a challenge to complete the renovation of the property. Applicant did the renovation process for this property (as mentioned on Page 1 point 2nd) by pulling all required permits for renovation including an inspection on every completed phase of renovation. Applicant hired & paid an electrician and mechanical contractors for this renovation. But they ran away without finishing the renovation and an applicant left with all the unfinished work, stress, confusion and frustration. Then, the applicant had to rehire new contractors to finish the same renovation. After all these hardships and rehiring new contractors increased her expenses which made this renovation out of budget. Based on the evidence submitted by the applicant, together with the lack of contradictory evidence from other sources, and as there is no evidence to suggest a lapse of continuous multifamily dwelling apartment use when the use became nonconforming, it is requested that Certification of Nonconforming Use Application No. CNU-24691-2016 be approved as a certified nonconforming use.



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Aster Demissie", written over a horizontal line.

By: Aster Demissie, Trustee  
6815 Red Top Road, Takoma Park