

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MAHEDERE-SEBEHAT LEDETA LEMARIAM ETHIOPIAN ORTHODOX TEWAHEDO CHURCH OF ARLINGTON, VIRGINIA, SP 2010-MA-041 Appl. under Sect(s). 3-203 of the Zoning Ordinance to permit a place of worship. Located at 4214 Pine La. on approx. 4.54 ac. of land zoned R-2. Mason District. Tax Map 72-1 ((1)) 64. (Admin. moved from 8/11/10, 9/22/10, and 10/27/10 at appl. req) Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 15, 2010; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The Board has a favorable staff recommendation.
3. The rationale in the staff report is adopted.
4. This started out as a very difficult application, but as it has come through the process, it has cleared the necessary hurdles.
5. Stormwater was going to be a very difficult issue, but with the development conditions, if it turns out that they can't quite do what has been proposed, they are going to have to come back for an SPA.
6. The Department of Public Works and Environmental Service will be evaluating this, but as the development conditions are drafted, it's sufficient.
7. The facility itself, the building, parking, the underground stormwater, and the street improvements take up the lion's share of what is left on the site outside of the Resource Protection Area.
8. The applicant has represented that this is sufficient for their needs.
9. Staff has indicated that it meets the criteria in the Ordinance.
10. It is in compliance with the Comprehensive Plan.
11. While this is not the first church in the neighborhood, we have other churches throughout the County that are certainly compatible with a predominately residential neighborhood, and we have neighborhoods with multiple churches.
12. It does behoove the applicant to try and coordinate the comings and goings with both the adjacent church and the church on the corner, maybe even staggering services 15 or 30 minutes, which the Board is not going to tell you to do that exactly in the development conditions, but if you stagger the services a few minutes, that may spread out the comings and goings enough that it is better for everybody.
13. The Board does not think anybody in any of these churches is going to want all the traffic dumping out at the same moment onto Lincolnia Road.
14. With the imposition of the development conditions, the impacts are sufficiently mitigated.
15. The structure shown in the drawings is attractive, and at this height it is not necessarily going to be out-of-scale with the surrounding neighborhood, or really inconsistent with many other churches that have been approved in residential areas.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This approval is granted to the applicant only, Mahedere-Sebehat Ledeta LeMariam Ethiopian Orthodox Tewahedo Church of Arlington, Virginia and is not transferable without further action of this Board, and is for the location indicated on the application, 4214 Pine Lane, and is not transferable to other land.
2. This special permit amendment is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by William D. Hume, P.E., Bury + Partners Engineering Solutions, dated March 1, 2010, as revised through December 2, 2010.
3. A copy of this special permit amendment and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted uses.
4. This special permit amendment is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Public Works and Environmental Services (DPWES) pursuant to this special permit amendment, shall be in substantial conformance with these conditions. Minor modifications to the approved special permit amendment may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.
5. The seating capacity in the main area of worship shall be a maximum of 337 seats.
6. The design of the buildings shall be in substantial conformance with the architectural renderings included as Sheet A2-01, Church Building Elevations of the Special Permit Plat.
7. The building heights shall not exceed 60 feet for any the proposed structures shown on the SP Plat per the height definition in the Zoning Ordinance, except that domes and towers shall not exceed 62 feet in absolute height.
8. A minimum of 51% of the clear height of the lower level cellar/basement space shall be underground in order to be considered as cellar space in accordance to Sheet A4 of the SP Plat.
9. The Applicant shall comply with DPWES should it determine that a potential health risk exists due to the presence of asbestos containing rock on the application property. The Applicant shall:
  - a) Take appropriate measures as determined by the Health Department to alert all construction personnel as to the potential health risks, and

- b) Commit to appropriate construction techniques as determined by DPWES in coordination with the Health Department to minimize this risk. Such techniques may include, but are not limited to, dust suppression measures during all blasting and drilling activities and covered transportation of removed materials presenting this risk, and appropriate disposal
10. Environmentally sustainable elements shall be incorporated into the proposed structures. These elements may include, but are not necessarily limited to, high-efficiency mechanical systems, use of materials with recycled content, a high performance and insulated building envelope, water efficient fixtures, low volatile organic compounds in paints, sealants and finish materials, construction waste management and storage and collection and recyclables.
11. The Resource Protection Area (RPA) shall be preserved as undisturbed open space. There shall be no clearing or grading of any vegetation within the RPA except for dead or dying trees and shrubs. Play equipment, fencing and a patio and/or deck may be provided at the rear of the rectory, however there shall be no structures or fences located at a distance further than 25 feet from the rear (south) of the proposed rectory or within the RPA.
12. Prior to any land disturbing activities, a pre-construction conference shall be held on-site between DPWES, including the Urban Forester, and representatives of the applicant to include the construction site superintendent responsible for the on-site construction activities. The purpose of this meeting shall be to discuss and clarify the limits of the Resource Protection Area (RPA), clearing and grading, areas of tree preservation, tree protection measures, and the erosion and sedimentation control plan to be implemented during construction. The limits of the RPA and the limits of clearing shall be clearly marked for this meeting and during all phases of construction.
13. The applicant shall conform strictly to the limits of clearing and grading subject to allowances for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. For each phase of development, a grading plan which establishes the limits of clearing and grading necessary to construct the improvements planned for that phase shall be submitted to DPWES, including the Urban Forest Management Division (UFMD), for review and approval. The extent of clearing and grading for each phase of construction shall be the minimum amount feasible as determined by DPWES. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the SP Plat, they shall be located in the least disruptive manner necessary as determined by UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.
14. The applicant shall submit a Tree Preservation Plan as part of the first and all subsequent site plan submissions or grading plan submissions, whichever occurs first. This plan shall designate the limits of clearing as determined in the previous development condition and require that the Resource Protection Area (RPA) and areas outside of the limits of clearing and grading be preserved and labeled as "perpetually undisturbed open space." There shall be no mowing of grass or structures in the perpetually undisturbed open space. This plan shall be prepared by a professional with experience in the preparation of tree preservation, such as a certified arborist or landscape architect, and shall be subject to the review and

approval of the UFMD, DPWES. The tree preservation plan shall be prepared in conformance with the requirements of the Public Facilities Manual (PFM) and shall be submitted for review by UFMD. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

15. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four- (4) foot high, fourteen (14) gauge welded wire attached to six -(6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart. Tree protection fencing shall be erected along the limits of clearing and grading wherever construction activities are proposed adjacent to areas to remain undisturbed. Super silt fence may be approved by UFMD to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees. All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved.

Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFMD, DPWES.

16. The applicant shall root prune and mulch, as needed to comply with the tree preservation requirements of these conditions. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
  - Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
  - Root pruning shall take place prior to any clearing and grading, or demolition of structures.
  - Root pruning shall be conducted with the supervision of a certified arborist.
  - Immediately after the Phase II erosion and settlement (E&S) control activities are complete, mulch shall be applied at a depth of three (3) inches within designated areas without the use of motorized equipment.
  - Mulch shall consist of wood chips, shredded hardwood and/or pine bark mulch. Hay or straw mulch shall not be used within tree preservation areas.
  - An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
17. The applicant shall retain the services of a certified arborist or landscape architect to monitor all construction and demolition work and tree preservation efforts in order to ensure

conformance with all tree preservation conditions, and UFMD, DPWES approvals. The applicant shall actively monitor the site to ensure that inappropriate activities such as the storage of construction materials, dumping of construction debris and traffic by construction equipment and personnel do not occur within the designated tree save areas. During any clearing of tree/vegetation/structure removal on the applicant property, a representative of the applicant shall be present to monitor the process and ensure that the activities are conducted in conformance with these conditions and as approved by UFMD, DPWES. The applicant shall restore understory plant materials, leaf litter and soil conditions to the satisfaction of UFMD, DPWES if these are found to be damaged, removed or altered in any manner not allowed in writing by UFMD, DPWES. The monitoring schedule shall include weekly inspections during demolition activities and once monthly inspections during construction activities. This schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by UFMD, DPWES.

18. The applicant shall meet the requirements of the Tree Conservation Ordinance pursuant to County Code, Chapter 122.
19. Existing vegetation along the southern, southeastern, and southwestern lot lines shall be preserved and maintained and shall satisfy Transitional Screening 1 (TS1). TS1 shall be provided along the northeastern and northwestern lot line, except it may be modified along the western lot line adjacent to the turn around with additional plantings to meet the intent of Transitional Screening 1 as determined by UFMD;
  - Landscaping shall include substantial ornamental and shade trees, shrubs, foundation and understory plantings in order to soften the impact of the proposed use and screen the dwelling and proposed church structure.
  - The number, size, species and location of plantings shall be provided in consultation with UFMD and DPWES. All vegetation shall be maintained in good condition and any dead or dying vegetation shall be replaced with like kind as determined by the Urban Forester.
20. The barrier requirement shall be waived along the southern, southeast and southwest lot lines (south of the RPA). The existing vegetation shall be used to satisfy the barrier requirement along these lot lines. Barrier F (a 6-foot high board-on-board fence), subject to sight distance, shall be provided along the eastern and western lot lines north of the RPA, in a location as determined in consultation with UFMD.
21. Parking shall be provided as depicted on the special permit plat, and shall consist of a minimum of 132 parking spaces. All parking shall be on site.
22. Peripheral parking lot landscaping shall be waived along the south side of the parking lot in favor of existing vegetation. All other parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
23. Prior to issuance of a Non-RUP, the applicant shall construct all road improvements to include a proposed stub out along the western end of Pine Lane and a tie-in to the right-of-way onto Outlet Road in consultation with the Fairfax County Department of Transportation (FCDOT), and as approved by the Virginia Department of Transportation (VDOT). The applicant shall

provide all ancillary easements, including emergency vehicle and sidewalk easements.

24. Adequate outfall shall be demonstrated in accordance with the Public Facilities Manual (PFM), as determined by DPWES, at the time of site plan review.
25. Stormwater Management (SWM) measures may be provided via an underground detention facility as shown on the SP Plat as determined by DPWES. The majority of Best Management Practices (BMPs) shall be met through a conservation easement placed over the RPA. The remainder of required BMP will be met through natural or structural systems. If a modification of the PFM to permit the proposed stormwater management/best management practices as shown on the SP Plat is not granted by DPWES and SWM/BMP facilities in substantial conformance with the SP Plat cannot be provided, then a special permit amendment (SPA) shall be filed to provide water quantity and quality control measures in accordance with the PFM as determined by DPWES.
26. All proposed lighting shall be provided in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of the Zoning Ordinance. All lighting shall be full cut-off luminaires, shall be controlled by timers and shall be turned off when the site is not in use, except for security lighting, and in no event later than 11:00 p.m., except for up to 10 special occasions per year. Lighting shall not be installed in landscape islands. No uplighting of landscaping, signage or architecture shall be provided.
27. The applicant shall obtain a sign permit for any proposed sign in accordance with the provisions of Article 12 of the Zoning Ordinance.
28. The use of loudspeakers shall not be permitted outside the building.
29. The residential structure on site shall only be occupied as a rectory for the place of worship use.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and been diligently prosecuted. Establishment of Phase I shall establish the use as approved pursuant to this special permit amendment. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Beard seconded the motion, which carried by a vote of 6-0. Mr. Byers was not present for the vote.