

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

HARVEST CHINESE CHRISTIAN CHURCH, SP 2009-SU-066 Appl. under Sect(s). 3-C03 of the Zoning Ordinance to permit church with child care center. **(THE APPLICANT WITHDREW THE REQUEST FOR THE CHILD CARE CENTER)** Located at 6612 Cedar Spring Rd. and 15201 Lee Hwy. on approx. 4.05 ac. of land zoned R-C and WS. Sully District. Tax Map 64-2 ((2)) 5 and 6. (Indefinitely deferred from 10/6/09 at appl. req.) (Reactivated from in definitely deferred on 12/9/09) (Admin. moved from 3/3/10, 5/26/10, 7/14/10, 8/11/10, 9/15/10, and 11/3/10 at appl. req.) (Continued from 1/5/11) (Decision deferred from 3/16/11 and 4/20/11) 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 May 4, 2011; and

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

1. The applicant is the owner of the land.
2. This has been a very difficult application for everyone.
3. The Board appreciates the patience of the applicant in working through, as best we could, with the community and staff a number of issues that were presented.
4. As we run out of land in the County, the sites that are left are increasingly more difficult.
5. In the R-C District for non-residential special permit uses, we are required to give the application a rigorous review to make sure it meets certain criteria, and that rigorous review has taken place here.
6. To some extent, it is shown that this can be a very complicated analysis as to whether there is some sort of cumulative impact or threshold beyond which we are full up, and nothing more can go in.
7. The Board has seen the proposed development conditions change throughout this process and in general they have improved the application.
8. The building has been made substantially smaller since the beginning.
9. The development conditions address the appearance of the structure, and the type of exterior materials.
10. The coverage of the site has been addressed so that there will be 50 percent undisturbed open space.
11. The vegetation and parking issues have also been refined through this process.
12. Ultimately the Board has a staff report with a staff recommendation of approval, which is not always something that is achieved in the R-C District.
13. The Board has a lot of letters both for and against from nearby neighbors, residents around the application, from the Citizens Association, also from members of the church and the local community.
14. It is the Board's job to make a judgment call as to whether this application meets the applicable criteria.
15. The most difficult issue under Sect. 8-006, Number 4, "The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

16. Notwithstanding all the questions and discussion the Board had, staff had reached the conclusion, in order to make the favorable recommendation to the Board, that that standard had been satisfied.
17. The Board does not know what is going to happen on Lee Highway, but looking at the bigger picture, the approval of the KCPC, which has many, many thousand seats and cars, was the circumstance that changed the traffic in the neighborhood.
18. In the big picture, this particular facility isn't changing a whole lot, at least, to the volumes of traffic on Lee Highway.
19. The strip between the quarry and Cub Run, the parcels that are fronting on Lee Highway, in general, have been developing or redeveloping as non-residential uses, because that's really what the Ordinance is driving; there is no other place to put things except along an arterial.
20. We have approved several churches; several have been built; there's a couple others approved and not built; there's two schools; there's the swim club; and, perhaps other things that are going to happen.
21. This is a relatively small site with a relatively small number of cars in the middle of it.
22. The difficulty is there are also twenty some houses on Cedar Spring Road; they have no other way in and out except past this entrance.
23. The New Life facility may or may not be built; New Life is apparently pursuing other things as well.
24. From experience in the neighborhood, and particularly seeing the traffic on Sundays and hearing what people said about Cedar Spring Road, even though Condition 29 is unusual, something like 29 is probably needed or the residents of Cedar Spring are not really going to be able to get out.
25. If the people along Cedar Spring Road can get in and out, the Board tends to agree with staff that that condition is satisfied; it's principally a concern about the impact of this use, not on 29 necessarily, but on the houses on Cedar Spring that are more or less blocked by a clump of church traffic trying to get out onto Lee Highway where they can't get out anyway because of whatever else is going on.
26. The Board is disappointed still at the way in which a situation like this is analyzed, to some extent, because there doesn't seem to be enough coordination of the permanent ad hoc cone setups to either side of this; it is unsure how they got approved or how this situation is going to factor into that.
27. The applicant has agreed to Development Condition 29, and that is part of this package, that they understand that in order to get this, they're going to have to do it.
28. To the extent that their parishioners aren't going to be able to turn left either without some help; they probably need something like this.
29. If there isn't a police officer, it is not known what else is going to happen.
30. The applicant is being required to do a great deal of transportation improvements even though the site is relatively small; it is because of the proximity to a four-lane divided arterial with a lot of traffic.
31. There's going to be frontage improvements with the right turn. There's going to be the left turn lane from Lee Highway to turn left onto Cedar Spring, which isn't there now.
32. The addition of the left turn on 29 to turn left on Cedar Spring will be an improvement of the existing conditions on Lee Highway because right now the cars that turn left onto Cedar Spring, one car can pull into the median break but the other cars have to stop in the through lane with the heavy traffic not going 55 or 60 necessarily, but they're going pretty fast, and they don't expect they are going to have to stop in the through lane.

33. Creating a left turn lane for the Cedar Spring Road people to turn left will minimize the chances of people getting rear-ended as they're approaching the Pleasant Valley Road or going up to the Korean Church.
34. As part of this package, that transportation improvement of creating the left turn helps not only the applicant but the neighborhood.
35. Whoever is responsible for looking at intersections and turn lanes and all these timing of lights, or whatever can be done, this is a mixed up situation, and it is unsure that this is entirely the church's fault to be in the midst of it. Again, in terms of the proportions of it, this is a relatively small player in a big mix.
36. It is suspected that there could be further improvements.
37. What really made this application more difficult than it needed to be was the absence of inter-parcel access to the stop light, which is exactly where the access to this site should have been coordinated from the beginning.
38. You get rid of service drives but you still want people to access the stop light, and one of the reasons you don't have or don't want a lot of new entrances onto a highway is because there will be other ways to get to a safe point to turn left or right.
39. In this case, the service drive went away or never was built, but for whatever reason, the school is approved but, from one lot away, you can't get to the stop light.
40. One of the major changes made in this application from the beginning was that the child care center was deleted, and much of the concern in the neighborhood had to do with the conflicts between the morning commuter traffic, particularly on Lee Highway, and people coming and going to the child care using Cedar Spring Road and that intersection.
41. The applicant agreed to delete the child care component of this use, which had the effect of limiting largely the traffic situation to Sundays instead of everyday.
42. While Child care is important, on some sites it's more difficult than others. The deletion of the child care center had the effect that reducing the intensity of the use, reducing the impact of the use on the surrounding community.

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, Harvest Chinese Christian Church and is not transferable without further action of this Board, and is for the location indicated on the application, 15201 Lee Highway and 6612 Cedar Spring Road, and is not transferable to other land.
2. This special permit (SP) is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by Chi-Wen Kevin Liang, P.E., dated May 18, 2009, as revised through December 6, 2010 and signed December 9, 2010.

3. A copy of this special permit and the Non-Residential Use Permit (Non-RUP) 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 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, shall be in substantial conformance with these conditions. Minor modifications to the approved special permit 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 250 seats.
6. The design of the buildings shall be in substantial conformance with the architectural renderings included as Attachment 1 to these development conditions. In addition to the brick wainscot materials shown, all siding shall be made of Hardy Plank or similar type of materials on all sides of the building.
7. The building height shall not exceed 50 feet for the proposed structure shown on the SP Plat per the height definition in the Zoning Ordinance, except that steeples shall not exceed 60 feet in absolute height.
8. Irrespective of that shown on the plat, there shall be no child care center use outside of normal worship services.
9. An outdoor play area, a minimum of 2,520 square feet in size, shall be provided as noted on the SP Plat. No more than (25) children from the child care center shall occupy the outdoor recreation area at any one time. Notwithstanding what is shown on the plat, the play area and dumpster enclosure shall be fenced with a 6-foot high board on board fence or brick wall.
10. A minimum of 50% of the site shall be preserved as undisturbed open space as depicted on the SP Plat.
11. Parking shall be provided in the areas shown on the SP Plat and shall be a minimum of 101 spaces. All parking for the church shall be on site.
12. Tree Save Areas shall be preserved as depicted on the special permit plat.

Existing vegetation shall be used to meet the required transitional screening requirements along the southern and northern lot lines. In addition to the trees preserved in Tree Save Area 1 along the southern lot line, supplemental vegetation shall be planted generally between the south side of the church building and the Tree Save Area. If determined necessary by staff from the Urban Forest Management Division (UFMD), DPWES to further supplement existing vegetation, vegetation may be planted in the Tree Save Areas, but only the species and in the numbers and locations as determined by UFMD.

13. The barrier requirement shall be waived along all lot lines in favor of existing conditions and proposed vegetation.

14. 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 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 clearing and grading shall be clearly marked for this meeting and during all phases of construction. No construction equipment or supplies shall be located within any Tree Save Areas.

15. 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.
16. 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 and grading as determined in the previous development condition and require that the 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 located 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.
17. 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-foot high, fourteen gauge welded wire attached to six-foot steel posts driven eighteen-inches into the ground and placed no further than ten 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 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.

18. 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.

19. 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.

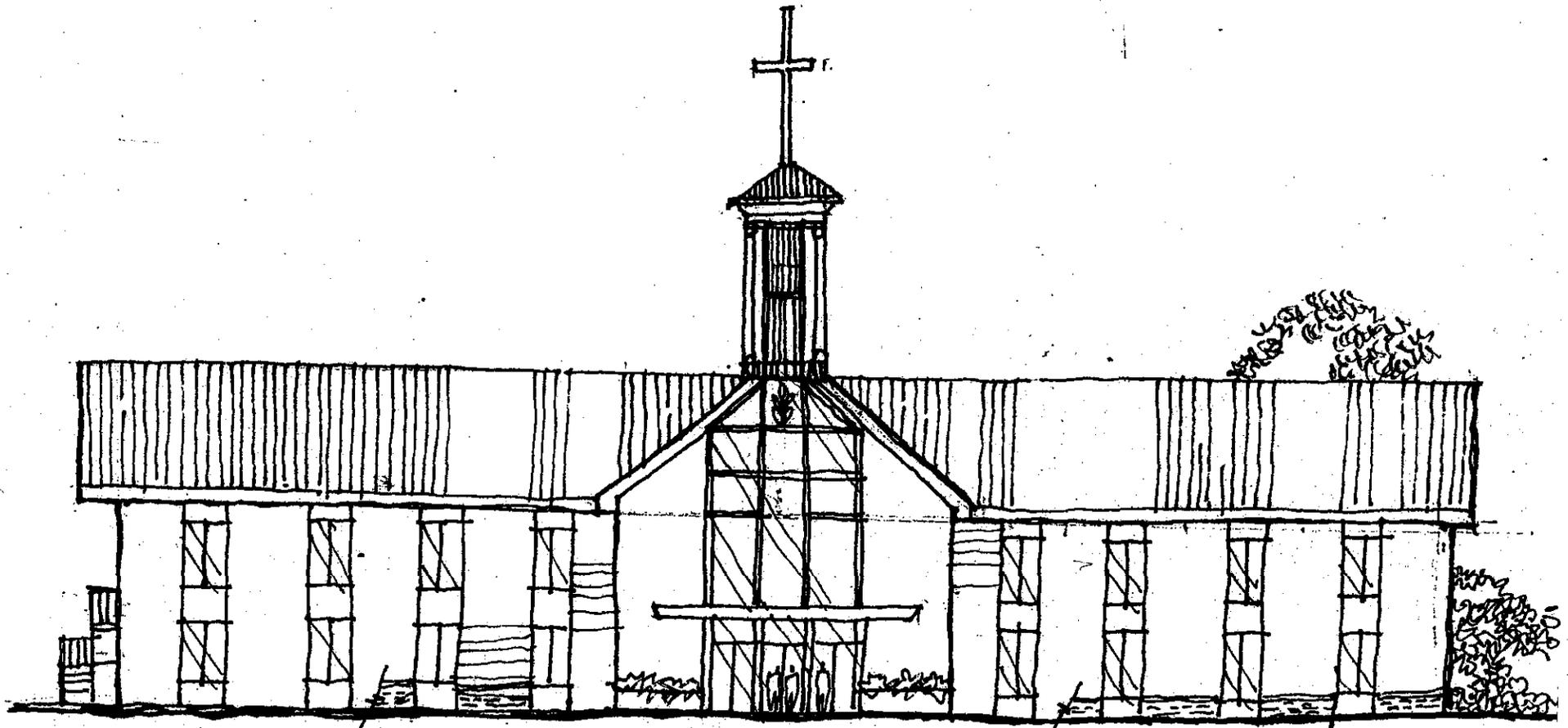
20. The applicant shall meet the requirements of the Tree Conservation Ordinance pursuant to County Code, Chapter 122.
21. Prior to issuance of a Non-RUP, the applicant shall construct all road improvements to include, but not limited to, constructing a third eastbound thru-lane, an eastbound right-turn lane onto Cedar Spring Road from Lee Highway, an eastbound 5-foot wide on-road bike lane and a 10-foot wide paved trail along the site's Lee Highway frontage. Other road improvements include constructing a raised median between eastbound and westbound Route 29 traffic lanes, a westbound left-turn lane and corresponding taper and closure of the existing median break east of the proposed left-turn lane 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 as determined by FCDOT and VDOT.
22. Adequate outfall shall be demonstrated in accordance with the Public Facilities Manual (PFM), as determined by DPWES, at the time of site plan review.
23. Stormwater Management (SWM) measures may be provided via a dry detention pond 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 Tree Save Areas (to be known as perpetually undisturbed open space) shown as Tree Save Area 1 and Tree Save Area 3. 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.
24. 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 cut off when the site is not in use, except for security lighting. Lighting shall not be installed in landscape islands and all parking lot lighting shall be bollard-style with a maximum height from ground to top of luminary of 4 feet. No uplighting of landscaping, signage or architecture shall be provided.
25. The applicant shall obtain a sign permit for any proposed sign in accordance with the provisions of Article 12 of the Zoning Ordinance, and the lettering on the sign shall also be provided in English.
26. The use of loudspeakers shall not be permitted outside the building.
27. A minimum of forty-five (45) minutes shall be provided between the completion of one service and the commencement of the next service.

28. The applicant shall appoint a parking coordinator to ensure that the parking lot adequately provides for necessary parking and that the church parking does not take place into the surrounding neighborhood streets. If a problem is detected, then the church shall implement one or a combination of the following steps:
- a. Car pooling;
 - b. Announcements by the church pastor requesting car pooling after a problem is detected or for special events or services for which a large turnout is expected;
 - c. Staggering of church services, or holding more than one Easter and Christmas service;
 - d. Arranging for parking at an appropriate alternate facility and providing transportation from such facility to the church;
 - e. Any other measure necessary to prevent parking from spilling into the residential neighborhood;
 - f. The applicant shall post the parking restrictions in their church bulletin each week to inform the congregation of these requirements.
29. A police officer shall be employed by the applicant to direct traffic in and out of the application property on Sundays at the intersection of Lee Highway (Route 29) and Cedar Spring Road, if approved by the Fairfax County Police Department and VDOT.
30. Notwithstanding the white pines depicted on the plat, the approval of species for new plantings shall be made by the Urban Forestry Management Division, Department of Public Works and Environmental Services.

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. 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. Smith seconded the motion, which carried by a vote of 5-1. Ms. Gibb voted against the motion. Mr. Beard was absent from the meeting.



FRONT ELEVATION
11-201

RECEIVED
Department of Planning & Zoning

SEP 02 2010

Zoning Evaluation Division

BRICK WAINSCOTT w/
SIDING,
10,650 SF
Total ~~11,300~~ SF. SLAB ON GRADE
2-STORY, NO BASEMENT

ATTACHMENT 1