

EXHIBIT NO. 1

3
2-22-03

Docket Item # 3
SPECIAL USE PERMIT #2002-0119

Planning Commission Meeting
February 4, 2003

ISSUE: Consideration of a review of a special use permit review for off-site church parking within 300 feet of the church property.

APPLICANT: Ethiopian Orthodox Tewahdo Hamere Nahe Kidane Mehret Church
By Harry P. Hart, attorney

LOCATION: 73-75 South Bragg Street

ZONE: OCM-100/Office Commercial Medium

PLANNING COMMISSION ACTION, FEBRUARY 4, 2003: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP #2001-0099)
2. The maximum number of church attendees on-site shall not exceed 72. (P&Z)(SUP #2001-0099)
3. The hours of operation shall be limited to 9:00 a.m. to 3:00 p.m. on Sundays. (P&Z) (SUP #2001-0099)
4. The applicant shall dedicate sufficient right-of-way and temporary construction easement to facilitate the completion of street improvements along the frontage of #73-75 South Bragg Street. (T&ES) (SUP #2001-0099)
5. The applicant shall construct curb/gutter, sidewalk and driveway aprons along the frontage of the property within twelve months of approval, or if the applicant submits plans for redevelopment of the lots within twelve months of approval, then at the time of redevelopment of the lots. All construction shall meet current City design standards. (City Council) (SUP #2001-0099)
6. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department regarding a security survey. (Police) (SUP #2001-0099)
7. Upon redevelopment of the subject site, the applicant shall provide all required parking on-site in full compliance with the zoning ordinance, and shall provide and implement a landscaping plan to the satisfaction of the Director of the Department of Planning and Zoning. (P&Z) (SUP #2001-0099)
8. The applicant shall require all church staff and parishioners who drive to the church to use off-street parking. (P&Z) (SUP #2001-0099)
9. Upon the loss of its existing parking agreement with the Days Inn, the applicant shall notify the Director of the Department of Planning and Zoning, and discontinue any approved Sunday services, provide an alternative parking arrangement that is satisfactory to the Director of the Department of Planning and Zoning or seek a parking reduction. (P&Z) (SUP #2001-0099)

10. **CONDITION RENEWED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (SUP #2001-0099)

11. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation process, to discuss all special use permit provisions and requirements. (P&Z)

DISCUSSION:

1. The applicant, Ethiopian Orthodox Tewahdo Hamere Nahe Kidane Mehret Church, represented by Harry P. Hart, attorney, is before the Planning Commission and City Council for review of the special use permit for the church located at 73-75 South Bragg Street.
2. The subject property consists of two lots of record with 100 feet of frontage on South Bragg Street, 190 feet of depth and a combined lot area of 19,000 square feet. The site is developed with a single family, two-story frame house at 73 South Bragg Street, and a one-story frame church at 75 South Bragg Street.

The surrounding land uses include an office building to the south, a parking lot to the west, residential townhouses to the north and the Days Inn to the east. Interstate 395 runs along the eastern border of the Days Inn and an automobile oriented shopping mall stands to the north of the residential townhouse development.

3. On November 17, 2001, City Council approved Special Use Permit #2001-0099 to allow the applicant to use off-street parking within 300 feet of the church property, at the Days Inn Hotel.
4. A citizen filed a complaint with the Department of Planning and Zoning on February 25, 2002, regarding church members parking on the street and causing traffic congestion on Saturday, February 23, 2002. Staff investigated the complaint and found that several violations of the Special Use Permit #2001-0099 had occurred on this date. Staff issued the applicant a ticket in March 2002 for violations of Conditions #2 (attendance on-site in excess of that permitted), #3 (church operating outside of permitted days), and #8 (church members parked on the street). No similar complaints have since been filed for the site.
5. Code Enforcement investigated a trash complaint on July 10, 2002 and violations were corrected on August 26, 2002. No other complaints have since been filed for the site.
6. Staff inspected the site in December 2002 and found no violations of the special use permit.
7. Zoning: The subject property is located in the OCM(100)/Office Commercial Medium zone. Section 4-1000 of the zoning ordinance permits a church in the OCM(100) zone. Section 8-200(A) requires one off-street parking space for each five seats in the principal auditorium of a church, and Section 8-200(C) allows churches to provide required off-street parking within 300 feet of the church with a special use permit.

8. Master Plan: The proposed use is consistent with the Alexandria West small area plan chapter of the Master Plan which designates the property for OCM(100) use.

STAFF ANALYSIS:

Staff supports the continued operation of the church located at 73-75 South Bragg Street. The special use permit is under review due to violations that occurred at the church in February 2002, as required in Condition #10 of the existing special use permit. At the time staff issued the church a ticket for these violations, the attorney for the applicant said that the violations were associated with a one-time special event and that the applicant would comply with the special use permit in the future. No further complaints have been filed against the church, and during inspections staff has found the applicant in compliance with the special use permit. Most notably, the applicant has filed the necessary paperwork to dedicate right-of-way and a construction easement to the City for street improvements, as required in Condition #4, and has paid the City to construct curb and gutter, a sidewalk and driveway aprons, as required in Condition #5. This work was underway during staff's site inspection in December 2002. There are currently no plans on file with the City to redevelop the subject site, and, consequently, Condition #7 has not yet been activated. This condition requires the applicant to provide on-site parking and a landscape plan upon redevelopment of the subject site.

Staff also recommends the renewal of the one-year review requirement and the addition of an employee training condition. This condition will help ensure that all church employees are familiar with the special use permit. With this and the existing conditions, staff recommends approval of the special use permit.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Mary Hashemi, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- F-1 Applicant is in compliance with all T&ES department recommendations related to SUP #2001-0099 for dedication of additional right-of-way and construction of required public street improvements.

Code Enforcement:

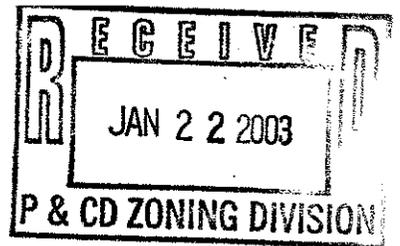
- F-1 A trash complaint for exterior trash was investigated on July 10, 2002. The violations were corrected on August 26, 2002.
- F-2 The requirement for a Fire Prevention Permit to operate a Place of public Assembly has not been met. The owner has applied for a Fire Prevention Permit and it has been assigned to a FM to inspect by 2-9-03.

Health Department:

- F-1 No comments.

Police Department:

- F-1 No comments.



HART, CALLEY, GIBBS & KARP, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

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OF COUNSEL
CYRIL D. CALLEY

RETIRED
ROBERT L. MURPHY, 2001

HARRY P. HART
MARY CATHERINE H. GIBBS
HERBERT L. KARP

September 10, 2001

Ms. Eileen Fogarty, Director
Department of Planning and Zoning
c/o Ms. Mary Hashemi
City Hall, Room 2100
Alexandria, VA 22314

Re: 73 and 75 S. Bragg Street, S.U.P. Review for Parking within 300 feet of Church
SPECIAL USE PERMIT #2002-0119

Dear Ms. Hashemi:

As you requested, the following are answers to the issues raised by Staff in our call last week. The only member of the church that continues to be at the site during the week is Reverend Tadesse Sisay, the pastor and president of the Ethiopian Orthodox Tewahdo Hamer Nahe Kidene Mehret Church ("the Church"). The Church still has services only on Sundays from 9 a.m. until 3 p.m., and the maximum occupancy of the church remains 72. Reverend Sisay's representative went to the Days Inn to confirm the parking agreement and the Days Inn referred to its July 21, 2001 letter as a continuing agreement which is open ended and does not need written confirmation unless the Church requests a change in the days parking is needed. A copy of that letter is enclosed for your records.

In addition, you mentioned that the Church's temporary occupancy permit was expired. The Church has obtained a permanent occupancy permit from Code Enforcement. The Church also filed its application for a fire prevention permit as required by their Special Use Permit and is waiting for its issuance. As you may be aware, the City has approved a plat consolidating the two lots into one lot of record, with the dedication of 9 feet at the S. Bragg Street property line to the City for public street purposes. The dedication is also required by the Special Use Permit.

I hope this answers your immediate questions regarding this review. If you have any additional questions, please do not hesitate to contact me.

Very truly yours,


Mary Catherine Gibbs

Enclosure

cc: Rev. Tadesse Sisay

Sep 19 02 11:53a

P. 1



July 31, 2001

Rev. Tatlesso Sisay
 Minister of the Church
 The Ethiopian Orthodox Tewahdo Hamare Naho
 Kidene Mehret Church
 4901 Seminary Road #1509
 Alexandria, Virginia 22304

Dear Rev. Sisay:

Thank you so much for your letter outlining your parking needs as a new "neighbor" to the Days Inn - Alexandria Landmark. Miguel Gonzalez, the General Manager and I have discussed your request and can confirm that you have permission to utilize 20 parking spaces in the rear of the building on Sunday's.

If at any time you require parking other than Sunday's please let me know so that I can advise the Front Desk and Management Staff so that they will always be aware of what is going on.

Rev. Sisay, please do not hesitate to call upon me for any other assistance I may be able to provide.

Sincerely,


 Patti Burnomant
 Director of Sales

CC: Miguel Gonzalez, General Manager



ALEXANDRIA DEPARTMENT OF
PLANNING AND ZONING
301 King Street, Room 2100
Alexandria, Virginia 22314

NOTICE OF VIOLATION

**YOU ARE CHARGED WITH VIOLATING THE
ALEXANDRIA, VIRGINIA ZONING ORDINANCE**

3-22-02 Friday 12:52
Date ticket served Day of Week Time AM/PM

Location of Violation: 113-75 Bragg St.
Date of Violation: Feb. 23, 2002

Ord. Section: _____

Description of Violation: Violations
of conditions # 2 (church
had 100 plus people on-site
on Feb. 23, 2002) # 3 (church
operating on a Saturday, &
8 (church members parked on
the street).

Penalty \$: 50.00

1st 2nd
 3rd/MORE _____

**IF THE VIOLATION IS NOT CORRECTED BY
10 Days AN ADDITIONAL MONETARY
PENALTY WILL BE ASSESSED.**

Mary V. Hashemi 4/1/02
Inspector's Signature ID Number

I personally observed or investigated the commission of the violation noted above and/or violation was based upon signed affidavit.

- VIOLATORS COPY - WHITE
- CITY ATTORNEY COPY - YELLOW
- FINANCE COPY - PINK
- PLANNING AND ZONING COPY - ORANGE

COM 2002-0150

NOTICE SERVED ON:
SUP 2001-0099

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY _____
NAME

POSITION

OTHER _____

ADDRESS

CITY/TOWN STATE ZIP

SIGNATURE DATE

I hereby acknowledge receipt of this Notice of Violation. Signature is not an admission of guilt.

PERSON REFUSED TO SIGN DATE _____

CERTIFICATE OF SERVICE

Mailed/posted a true copy of this notice to the last known home or business address of the respondent or the respondent's agent

Bud Hart (Applicant's Attorney)
Name of Person or Business Served

307 N. Washington St.
Address of Service

Alexandria, VA 22314
City/State

Posted true copy of this notice at the site of the infraction

The undersigned states that he/she is an employee of the City of Alexandria Department of Planning and Zoning and knows this Certificate of Service to be true to the best of his/her knowledge.

Signature Mary V. Hashemi
Print Name Mary Hashemi
Date 3-22-02 Phone # 703-838-4666

WARNING

YOU ARE REQUIRED TO RESPOND TO THIS NOTICE OF VIOLATION WITHIN 15 DAYS OF THE DATE OF SERVICE IN ONE OF THE FOLLOWING WAYS

Z-02

NO. 2318

1. TO PAY PENALTY AND WAIVE YOUR RIGHT TO A HEARING:

- Check the "Admit Violation" or "No Contest" box below;
- Make personal check, cashier's check, certified check or money order payable to City of Alexandria. Do not send cash through the mail;
- Print violation notice number on the check or money order;
- Payment may be made by mail, or in person, at the Treasury Office, City Hall, 301 King Street, Room 1510, Alexandria, Virginia, between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4949.

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and:
(a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or
(b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.

- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE ORDINANCE:

- You have the right to appeal the interpretation of the zoning ordinance upon which this violation is based to the Board of Zoning Appeals within 30 days in accordance with 15.2-2311 of the Code of Virginia. The interpretation shall be final and unappealable if not appealed within 30 days.

FOR INFORMATION CONCERNING THIS TICKET CALL PLANNING AND ZONING AT 703-838-4688

FAILURE TO RESPOND AS PROVIDED ABOVE WILL RESULT IN THE ISSUANCE OF A SUMMONS TO APPEAR IN COURT AND ANSWER TO THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT VIOLATION NO CONTEST CONTEST IN COURT

Name (print) _____
Street Address _____
City _____ State _____ Zip _____

I hereby certify under penalty of law, that I have answered as indicated above, and corrected or made substantial efforts to correct the violation that I have admitted or for which I have pleaded no contest.

Signature _____ Date _____

APPLICATION for SPECIAL USE PERMIT # 2002-0119

[must use black ink or type]

PROPERTY LOCATION: 73-75 S. Bragg St.

TAX MAP REFERENCE: 046.00-01-05 ZONE: OCM-100

APPLICANT Name: Ethiopian Orthodox Tewahdo Hameel Nabe
Kidane Mehret Church
Address: _____

PROPERTY OWNER Name: _____

Address: _____

PROPOSED USE: Consideration of a review of a special use permit
Review for off-site church parking within 300 feet of the church
property.

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Print Name of Applicant or Agent

Signature

Mailing/Street Address

Telephone #

Fax #

City and State

Zip Code

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____

Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: 2-4-03 Recommended Approval UC

ACTION - CITY COUNCIL: 02-22-03PH--CC approved the Planning Commission
recommendation. (Separate Motion)