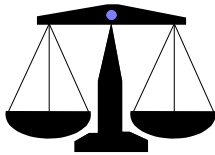


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
ROOM 1 and VIRTUAL PUBLIC HEARING**

**JANUARY 7, 2021
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

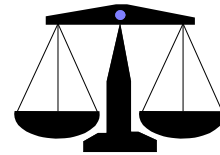
**HEARING EXAMINER
JOAN WOODARD**

**STAFF PRESENT
VLAD FINKEL
DAVID CALLAHAN
KATHRYN FORD**



**MINUTES
PREPARED BY:**

KATHRYN FORD
Recording Secretary



**MINUTES
REVIEWED BY:**

VLAD FINKEL
Planner



JOAN WOODARD
Hearing Examiner

The Official Record of Public Hearing is available on-line at
www.kcgov.us

Joan Woodard called the meeting to order at 6:00 p.m.

The Hearing Examiner explained that the purpose of the public hearing is to take testimony on the items that appear on the agenda.

The Hearing Examiner will review the testimony presented and make a written recommendation to the Board of County Commissioners, who will make the final decision.

The hearing was adjourned at 8.53 p.m.

HEARING EXAMINER MINUTES

JANUARY 21, 2021

CASE NO. CUP19-0004

Type: Conditional Use Permit, Upper Columbia Corporation of Seventh Day Adventist, for a Conditional Use Permit to The hearing will include the review of Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000. The proposal will be constructed over two phases, with the first phase being the school facility. The school facility will initially include grades K-8th, but will be expected to include Pre-K and possibly a future High School (grades 9th – 12th). The Applicant has estimated that the school will begin with 20 students and over the next five years they are anticipating the student body to increase to 100 students. The Applicant currently owns and conducts church services west of this site at an existing church facility located at 12940 N. Government Way. According to the narrative, upon completion of the first phase, the church congregation would temporarily hold their services in the gymnasium of the new school building. In the meantime, the existing facility is intended to be sold. The second phase would be the construction of the Place of Worship building, where the congregation would conduct their services on a permanent basis. The Applicant has estimated that the church congregation will start with 200 people and over the next five years they are anticipating the congregation to increase to 300 people. In addition to the School and Place of Worship uses, the Applicant is also proposing to use the facility for community educational and health related classes, with occasional free health clinics. Access to the site will be via new approaches from N. Rimrock Road and E. Lancaster Road, both being public roads in the jurisdiction of Lakes Highway District. Water will be provided by North Kootenai Water District. Wastewater treatment is proposed to be served by Hayden Lake Sewer District. The parcel number is 51N03W-05-6300 and described as: Tax # 25591 [SW-SW] in Section 05, Township 51 North, Range 03 West, B. M., Kootenai County, ID. The Hearing Examiner held a public hearing on September 17, 2020 and recommended denial. The Board held deliberations on October 8, 2020 and remanded the case back to the Hearing Examiner for RLUIPA consideration. (*Vlad Finkel-Planner*)

Staff Presentation: Director David Callahan addressed Hearing Examiner Woodard stating this remand hearing was due to the application review not including RLUIPA guidelines which was an oversight that he neglected to consider. The critical error is being corrected giving the Hearing Examiner the opportunity to consider all the guidelines for a recommendation which will go forward to the Board of County Commissioners.

Hearing Examiner Woodard stated there has been plenty of interest in this matter prior to the remand hearing this evening. She has decided to take any and all testimony from those attending and via Zoom who want to express their concerns.

Vlad Finkel, Planner, introduced the application providing a brief overview referencing a presentation. The Applicant is requesting a Conditional Use Permit to establish in Phase I a Private School and in Phase II a Place of Worship located on approximately 10 acres in the Agricultural zone. Access to the site will be by new approaches from N. Rimrock Road and E. Lancaster Road. He added public agencies have provided comment with conditions. Also, a breakdown of public comments submitted at different points in time throughout the process was presented. Mr. Finkel provided details regarding the differences in a zone change and conditional use permit application.

David Callahan, Director, added a Conditional Use Permit has been a planning tool for years to aid in zoning flexibility by contemplating a use that may or may not be approved.

The public hearing was paused at 6:17pm to correct a Zoom link connection and resumed at 6:29pm.

Applicant Presentation: Sandy Young, Applicant Representative, stated for the record due to the Zoom link they were not able to hear the Community Development presentation. Ms. Young began her testimony by providing details on the Comprehensive Plan compatibility of the site. The Country designation given in the Comprehensive Plan supports church sites. The site is at an intersection for access and use by the local residents with public agencies providing conditions for the use.

Greg Embrey, Applicant Attorney, testified regarding the categories under RLUIPA for consideration. The first being the burden-protection against substantial burdens on religious exercise. This is a site for religious purposes and not a commercial use. He questioned if Kootenai County had a governing interest since there is no public safety involved in this application. The biggest concern expressed is traffic which is different than a compelling governmental

HEARING EXAMINER MINUTES
JANUARY 21, 2021

interest. Mr. Embrey provided traffic trip details with trip and noise issues being minimal for the use. He added the most compelling testimony is there are at least 4 other church sites built and permitted in the Agricultural Zone.

David Morgan, Pastor, stated their facility would not be promoting commercial activities just home schooling and church services. He added with the home schooling services the parents are also required to attend to learn and that reduces the coming and going traffic with no school buses involved. This is a facility that helps families and the community.

Exhibits: HE 2000 – Presentation submitted by Vlad Finkel.
HE 2001 – Late public comments submitted (P-168 to P-187)

Public Testimony: Comment Sheets submitted: 35, Applicant – 2 plus 2 via Zoom; In Favor – 7, Neutral – 0, Opposed – 24. The names and address of the individuals speaking or submitting comments are part of the record.

- Typically there are churches and schools in residential areas if done appropriately
- The building will be in character with the area
- The entire building will not be used at the same time
- Home schooled families are pleased with the teaching results
- Having this facility would be a very big asset in their community
- This hearing should be about RLUIPA due to the previous recommendation of denial
- Uses are based on a need and the community does not need this
- Drive to this site is greater for the congregation
- Site plan shows future expansion
- Most church parishioners do not come from this neighboring community
- No advantage of this service for the local residents
- Large site with traffic will increase the environmental contaminants going into the lake
- The current church is part of a larger community down the road about 2 miles
- No special kind of building will change the traffic and wall to wall asphalt
- The facility is wrong for the community, wildlife and the lake, they need to be responsible
- Light pollution and the water pressure is a problem
- Access to the site is not equipped to handle the additional traffic
- How does a multi-million dollar building not change a zone use
- Residents who purchased in the area did their due diligence to live in a rural quiet area not commercialized
- Best way to love thy neighbor is to listen to them
- Not questioning the mission of the church but the area they have chosen to build
- Consider reasonable growth
- The proposal is for the religious entity benefit not the general community
- County Commissioners are the stewards of the community residents and need to listen
- Views will be hindered by large structures on the site
- This is a commercial operation
- Why place an institutional building on the edge of a national forest
- Community want them to grow but not in an area not needed
- Opposition is not discrimination but a consistent response from this community
- Agricultural buildings are not even as large as this proposal
- The burden is on the community and not the church
- RLUIPA is insulting to the community and quietly threatening to the Commissioners
- Lancaster and Rimrock Roads have safety factors
- A 40,000 sq. ft. structure is not compatible with the area
- They can practice their teachings even if they do not build on this site
- No allowing the application would not stop their practice
- No special treatment should be given to a church designation for religion
- There are plenty of other areas that can accommodate the parishioners from Athol, Post Falls and CDA

HEARING EXAMINER MINUTES

JANUARY 21, 2021

- Young lives have been changed from the church influence
- They always promote the natural laws of health and lifestyle

Applicant Rebuttal: Greg Embrey, Applicant Attorney, addressed some public comment concerns stating that the current site is unable to expand and offer the programming capacity that they want to provide. Mr. Embrey suggested appropriate conditions can be crafted for a recommendation of approval.

Sandy Young, Applicant Representative, addressed the site concerns adding that the stormwater runoff, sewer and water issues are mitigated by agency guidelines in the conditions of approval. The public fears are understandable and reason bases an application on parameters and this has no agency issues. Ms. Young stated this is a reasonable use which is not including commercial development.

Brandt Hay, Applicant Architect, stated there is no attempt to conceal future expansion. The rendering shows what could be added for additional classroom use in the dotted outline. His job is to consider variables and expansion was noted on the plans as a courtesy.

Don Eckenroth, Applicant Board Member, added that they respect all who have spoken. All churches draw from their immediate areas, neighborhoods and wider outreach which is true of their church. He stated special events are held at most churches which is not unusual. Also, contaminates have been mentioned and every one living in the area contributes to contamination in one form or another. In conclusion, he added their current site has rented out on Sunday to help another church with their services due to Covid restrictions.

There being no further comments from the public, testimony was closed on this item at 8.53 p.m. The Hearing Examiner, Joan Woodard will review this case and submit her written report addressing the remand to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford, Recording Secretary