

BOARD OF COUNTY COMMISSIONERS
MINUTES OF PUBLIC HEARING
March 11, 2021
Upper Columbia Corporation of Seventh Day Adventist

Commissioners Present: Chair Chris Fillios, Commissioner Leslie Duncan and Commissioner Bill Brooks

Commissioners via Conference: None

Commissioner Absent: None

Staff Present: David Callahan, Pat Braden, Vlad Finkel, Mary Shaw and Kathryn Ford



The purpose of the meeting was for the Board to conduct a public hearing as advertised in the *Coeur d'Alene Press*. Chair Fillios called the hearing to order at 6:00 pm. The members were polled for conflicts of interest. No conflicts were expressed.

CONFLICT(S): None

CHANGES: None

Case No. CUP19-0004, Upper Columbia Corporation of Seventh Day Adventist, for a Conditional Use Permit to establish a Private School and Place of Worship located on approximately 10 acres in the Agricultural zone. 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. The Hearing Examiner held a second public hearing on January 21, 2021 and recommended denial. (*Vlad Finkel-Planner*)

Staff Presentation: Vlad Finkel, Planner, addressed the Board referencing a presentation for the Conditional Use Permit to establish a Private School and Place of Worship located on approximately 10 acres in the Agricultural zone. The Comprehensive Plan designation is Country and the site has no current agriculture activities. He added the Applicant is proposing development in 2 Phases with the school being the 1st Phase and the Place of Worship for 200 to 300 parishioners in the 2nd Phase. The overall development would be on 4 acres with 6 acres left in the natural state. Mr. Finkel provided a brief background on the hearings. He stated the Board directed this application to be remanded back to the Hearing Examiner for further review regarding the RLUIPA requirements. The Hearing Examiner's first recommendation was denial. The Hearing Examiner held a second

public hearing taking additional testimony to consider RLUIPA guidelines. The Hearing Examiner's recommendation upon remand was denial.

Applicant Presentation: Sandy Young, Applicant Representative, stated the staff presentation covered the proposal. She referenced a presentation discussing three guiding regulations 1) The Kootenai County Comprehensive Plan as a guide; 2) The Kootenai County Zoning Ordinance is a regulation and 3) RLUIPA is the law. Ms. Young stated this application meets all Kootenai County conditions. The RLUIPA law briefly states you cannot impose a substantial burden except when there is a compelling interest. If there is a compelling interest found it shall be in the least restrictive manner. She provided a brief overview of why the church has a burden on the current site. Ms. Young stated for the record that the church could not expand at the current site and get what they have requested in this application with the approved conditions.

Greg Embry, Attorney, provided further details regarding RLUIPA law. He testified RLUIPA prohibits a land use burden 1) *The inadequacies on the current site with programs, safety and ADA compliance issues.* This would be a substantial burden on the churches exercise to suggest a remodel or add-on is an additional burden with parking, sewer, fire suppression, etc. It forces the burden and is compounded with any improvements; 2) *Interest of highest priority such as crime prevention, environmental, etc. would come from reporting agencies.* With this Application there were no issues raised by agencies; 3) *Least restrictive way possible.* If this did exist then denial is not the least restrictive and conditions of approval would be that remedy.

Exhibits: B 1000 – Presentation submitted by Vlad Finkel.
B 1001 – Presentation submitted by Sandy Young.
B 1002 – ASTR Directory submitted by Wendy Corkell
B 1003 – Traffic Trip Generation letter of 3-11-21 submitted by Sandy Young.

Public Testimony: Comment Sheets submitted: 28 + 19 Zoom = 47, Applicant– 5; In Favor-5 + 2 Zoom, Neutral– 0, Opposed–18 + 17 Zoom. The names and addresses of the individuals speaking or submitting comments are part of the record.

- Farming and Agriculture classes would be tough on this site with the poor soil
- Mayor of Hayden has not heard from the Applicant regarding remodeling the current site
- Remodeling the current site is not a burden
- A new site and building is much more expensive than remodeling
- Current site is newer and future plans should have been considered
- Nothing in their plan speaks about run-off
- Their current site is 10 acres and this site is 10 acres
- Rendering is a big as a grocery store
- Attempting to explain how a large scale facility fits into the neighborhood shows it is not compatible
- Church needs to grow and develop responsible
- The current church site is part of the community
- Roads cannot handle the increase in traffic
- Ten acres need a home and not a church
- Remodeling was approaching one million dollars so they looked into other options
- Community has met with the church and they believed their plan to remodel
- Are they being truthful and really know what they are doing
- Current membership data shows 346 which is more than they referenced in the application
- The fund raising has not reached their goal of \$100,000

- Seems like this is going to be used like a community center
- There is no noise ordinance in Kootenai County
- Neighbors have their homes as sanctuaries and that would be disrupted
- The facility is opposed and not the church
- Dereliction of duty by the County accepting this application and not following the Comprehensive Plan
- Rimrock area has marginal water pressure
- Area is clay and runoff runs into Hayden and Avondale Lakes
- Current site is newer and should have ADA
- County residents should be able to rely on the Comprehensive Plan where they live
- Residents have the courage and energy to fight for their neighborhood
- The type of development is opposed and not religion
- Large shops in the area are not remotely close to the 42,000 sq. ft. as proposed
- Most of the church members do not live near the site
- Neighbors are rural to be away from lots of noise, people and pollution effects
- Neighborhood will have the burden and not the church
- CUP's are used to circumvent zoning ordinances
- Right project in the wrong place
- Project is not a good example of wise planning with inconsistent land use
- Everyone in favor is somehow linked to the church and not the neighborhood
- This hearing is the only time the detail of having an agriculture studies were discussed
- Commissioners should be for the residents
- Building would be no more of an impact than 3 homes
- Testimony is passionate and should be guided by the law

A break in public testimony was taken at 7:28pm and resumed at 7:35pm.

Applicant Rebuttal: Sandy Young, Applicant Representative, addressed issues referenced in the public testimony. She stated the facility site or structure cannot be built without a stormwater plan that is approved. A trip generation letter was exhibited referencing traffic details. Ms. Young added there are guidelines to development regarding pollution, lighting, setbacks, etc. as well as 22 Conditions of Approval that must be followed. Ms. Young requested that Condition 8.19 and 8.22 be stricken from the Conditions of Approval referenced in the recommendation.

Commissioner Duncan inquired about future plans for the current location. Pastor David Morgan stated there were no definite plans. However, if the application were approved there are several church groups that have interest in purchasing the site. Commissioner Duncan asked what was the projected the cost of the new site provided by the Architect? Pastor Morgan stated there was no bid. Chair Fillios confirmed there was no bid cost for the 10 acre development. Pastor Morgan added the Committee asked the Architect to step down until a decision was made regarding their application.

Greg Embrey, Attorney, stated the substantial burden is cost every time a remodel is done. Having an entity go elsewhere to practice their religion is a burden. Mr. Embrey added a compelling interest must be factual and pointed out in tonight's decision. This is not an easy time with growth and does require identifying the compelling interest.

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Motion by Commissioner Duncan seconded by Commissioner Brooks, to close the public hearing and enter into deliberations to a date certain of March 18, 2021 at 9:00am and to include on the agenda schedule an Executive Session was approved for **Case No. CUP19-0004 Upper Columbia Corporation of Seventh Day Adventist** at 7:56 p.m.

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| Commissioner Brooks | Aye |
| Commissioner Duncan: | Aye |
| Chair Fillios: | Aye |

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| Decision: | Approved |
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Deputy Clerk's Signature: _____
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