

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of the)	NO. SUPT-99-0065
)	
Yelm Congregation of Jehovah's)	FINDINGS, CONCLUSIONS
Witnesses)	AND DECISION
)	
For Approval of a Special Use Permit.)	
_____)	

SUMMARY OF DECISION

The requested Special Use Permit for the construction of a church at 15012 Vail Road Southeast, Yelm, Washington, is GRANTED, subject to the conditions listed.

SUMMARY OF RECORD

Request:

The Yelm Congregation of Jehovah's Witnesses (Applicant) requested approval of a Special Use Permit to construct a 4,360 square foot building with 71 parking spaces on property located at 15012 Vail Road Southeast, Yelm, Washington. The property is zoned Rural Residential Resource – one dwelling unit per five acres (RRR 1/5) and a Special Use Permit is required for the development of a church in this zone.

Hearing Date:

An open record hearing on the request was held before the Hearing Examiner for Thurston County on January 3, 2000.

Testimony:

At the open record hearing the following individuals presented testimony under oath:

Amy Kurtenbach
Bernadette Sison-Clemente
Gary Duvall
Ty Flory
Mark Lahfdany
Richard Flory
Madeline Marsh
Jim Grant

Exhibits:

At the hearing the following exhibits were admitted:

EXHIBIT 1 Development Services Report

Attachment a Notice of Hearing

Attachment b Special Use Permit Application

Attachment c Supplemental Information to Application

Attachment d October 29, 1999 Letter from Yelm Kingdom Hall Building Committee

Attachment e Tree Preservation Plan
Attachment f Landscape Plan
Attachment g Site Plan (3)
Attachment h November 23, 1999 Mitigated Determination of Nonsignificance
Attachment i August 12, 1999 Letter from Environmental Health Department
Attachment j February 6, 1999 Memorandum from Roads and Transportation Services
Attachment k November 9, 1999 Memorandum from Roads and Transportation Services
Attachment l February 12, 1999 Letter from Department of Ecology
Attachment m Environmental Checklist

EXHIBIT 2 Full-sized Site Plan (REVISED) (3 pages)
EXHIBIT 3 November 30, 1999 Corrected Mitigated Determination of Non-Significance
EXHIBIT 4 E-mail Dated January 2, 2000 from “SMARKHAM”
EXHIBIT 5 August 10, 1999 Letter from Jack and Sue Markum
EXHIBIT 6 August 6, 1999 Letter from Madeline Marsh

Upon consideration of the testimony and exhibits submitted at the open record hearing, the following Findings and Conclusions are entered by the Hearing Examiner:

FINDINGS

1. The Applicant requested a Special Use Permit to develop a 4,360 square foot church, the Yelm Kingdom Hall, on property located at 15012 Vail Road Southeast, Yelm, Washington. The building will include a 161-seat auditorium, conference rooms, restrooms and a utility/storage room. To serve the development, the Applicant will provide 71 parking spaces. *Exhibit 1, Staff Report; Kurtenbach Testimony.*
2. The subject property is zoned RRR 1/5. In an RRR 1/5 zone the minimum lot size is five acres. The subject property is a 2.44 acre parcel and is considered a legal nonconforming parcel. Because of its nonconformity status, the property cannot be subdivided in any manner but it can be developed with the proposed Kingdom Hall. *Exhibit 1, Staff Report; Kurtenbach Testimony.* Churches are permitted in the RRR 1/5 zoning district with a Special Use Permit. *Exhibit 1, Staff Report; Kurtenbach Testimony.*
3. The Thurston County Comprehensive Plan does not specifically address churches in its land use chapter. However, the Thurston County Development Services Department used its discretion and reviewed the proposal with the surrounding properties and with

the general intent of an RRR 1/5 zone. The purpose of this zone is to maintain a rural character. The church can be developed in a manner that will be consistent with this character and not be detrimental to other properties. *Kurtenbach Testimony*. No adverse testimony with regard to the development of this site as a church was submitted at the hearing.

4. The proposed Kingdom Hall will be consistent with the lot development standards for the RRR 1/5 zoning district. The proposed development will be set back more than 30 feet from the Vail Road Southeast right-of-way, at least six feet from the side yard property lines and at least ten feet from the rear property line. In addition, the proposed structure will not exceed the maximum lot coverage of 60 percent. In an RRR 1/5 zone there is no requirement for an open space dedication. *Kurtenbach Testimony; Exhibit 1, Staff Report*.
5. The proposed facility is outside any urban growth area and no city services are available to the site. *Kurtenbach Testimony*. The Applicant proposed an on-site septic system and a Group B public water system. The Thurston County Environmental Health Department has reviewed the plans and determined that these systems could adequately serve the site. *Exhibit 1, Attachment I; Duvall Testimony*.
6. The subject property will be served by an on-site stormwater management system, which has been reviewed and granted preliminary approval. There will be no increase in off-site flooding. *Exhibit 1, Attachment G; Exhibit 1, Staff Report; Exhibit 1, Attachment K; Clemente Testimony; Lahfdany Testimony*.
7. The Applicant has not provided a design for a sign or signs that would identify the site. However, the Development Services Department submitted that *TCC Chapter 20.40* and *TCC Chapter 20.54* regulate signs on street right-of-ways and for Special Use projects. The Department indicated that the proposal would have to comply with these standards. *Kurtenbach Testimony; Exhibit 1, Staff Report*.
8. Lighting will be provided for the parking lot. Testimony and evidence was submitted indicating there was concern with regard to the focus of the lighting and the potential of disruption to other properties in the area. *Marsh Testimony*. However, the Applicant submitted that the lighting will be designed in a manner which will shield direct light from adjoining streets and properties. *Floreys Testimony*.
9. The proposed church will not exceed the height limitations for the RRR 1/5 district. *Exhibit 1, Staff Report; Kurtenbach Testimony*.
10. The proposed use will include no residential dwelling units. The Applicant submitted no plans for “church sponsored uses” such as a daycare center or school. Any future proposals will require separate review. *Kurtenbach Testimony; Exhibit 1, Staff Report*.
11. The Applicant proposed to landscape the property consistent with the landscape plan that has been submitted (*Exhibit 1, Attachment F*). As depicted on the plan, a border of evergreen shrubs exists along the north and south property line and each side of the driveway as it extends to Vail Road. In addition, a significant number of mature trees will remain along Vail Road and around the parking lot. This landscaping is designed to

buffer the development and to provide consistency with the rural environment in the area. *Exhibit 1, Attachment F; Kurtenbach Testimony; Florey Testimony.*

12. The county representative submitted that the size of the proposed Kingdom Hall will be in scale with the existing rural land use patterns. The proposed Kingdom Hall will be a single-story, wood frame building, and in the opinion of the county representative, the design of the facility is compatible with the neighborhood character. *Exhibit 1, Staff Report; Exhibit 1, Attachment b.*
13. *TCC Chapter 20.44* requires minimum parking ratios for churches to be one space for each three seats or six feet of bench for fixed seating, or one space for each 150 square feet without fixed seating. The proposed number of fixed seats is 161. Using the TCC standards, 54 parking spaces must be provided. The Applicant proposed 71 parking spaces. This amount of parking exceeds what is required, but the county representative submitted that the proposed 71 spaces are reasonable for the proposed use. *Kurtenbach Testimony; Exhibit 1, Staff Report; Exhibit 1, Attachments F, G.*
14. The parking areas will be located to the east and west of the proposed Kingdom Hall. There will also be a row of parking spaces along the south of the portion of the development area. *Exhibit 1, Attachment G; Kurtenbach Testimony.*
15. Access to the subject property will be off Vail Road Southeast, which is designated as a rural arterial roadway on the Thurston County Arterial and Collector Road Map. The Applicant will dedicate sufficient land area to provide a 30 foot right-of-way on the east half of Vail Road Southeast along the property frontage. The internal private roadway will be 22 feet wide. *Exhibit 1, Attachments G, J, K.*
16. The congregation has approximately 130 members. Religious services for the congregation are held between 10:00 a.m. and 12:00 p.m. on Sundays, and between 7:30 p.m. and 9:30 p.m. on Tuesdays. Neither of these times are peak hours in determining traffic. *Exhibit 1, Attachment C; Kurtenbach Testimony.* The traffic study prepared for the proposal indicates that approximately 636 vehicular trips per hour on a Sunday morning and a 145 per hour on a Tuesday evening currently pass the site. The development would result in additional 120 vehicular trips per day on Sunday and Tuesday, and minor increases in vehicular trips on Monday, Wednesday, Friday and Saturday. *Exhibit 1, Attachment C.*
17. Based on the information of use of the site, including the time of services and the number of members, it does not appear that there will be significant impacts to the Vail Road or to other roads within the area. *Kurtenbach Testimony.* According to Thurston County Roads and Transportation Services, no traffic mitigation is needed other than compliance with the Thurston County Road Standards and frontage improvements requirements. *Exhibit 1, Attachment K.*
18. Thurston County was designated lead agency for review of environmental impacts resulting from the proposed Kingdom Hall. A Mitigated Determination of Nonsignificance (MDNS) was issued for the proposal on November 23, 1999. A revised MDNS was issued on November 30, 1999, which became final on December 14, 1999. *Exhibit 1, Attachment H; Kurtenbach Testimony.* No appeals of this MDNS were filed.

19. Notice of public hearing was given in accordance with applicable ordinances. *Exhibit 1, Attachment A.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is granted jurisdiction to hear and decide applications for Special Use Permits pursuant to Chapter 36.70 of the Revised Code of Washington and Chapter 20.54 of the Thurston County Code. Chapter 36.70 RCW authorizes the Hearing Examiner to hear and decide cases in the manner determined by county ordinances and consistent with state law. Authority to approve permits of this type is granted to the Hearing Examiner under TCC 14.32.087 and TCC 21.87.010.

Criteria for Review:

Pursuant to *TCC Chapter 20.54*, for a Special Use Permit to be approved, it must be consistent with the following general standards:

1. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable Federal, State, Regional, and Thurston County laws or plans.
2. Underlying Zoning District. The proposed use shall comply with the general purpose and intent of applicable zoning district regulations and sub-area plans. Open space, lot, setback, and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in the chapter.
3. Location. No application for a Special Use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
 - a. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities or other matters affecting the public health safety and welfare.
 - b. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, or utilities existing or planned to serve the area.

TCC Chapter 20.54 also provides the following specific standards for churches:

1. The height limitations of the pertinent use district need not be observed; however, if the height limitation of such use district is to be exceeded, then each side yard shall be at least equal to width to the height of the building, spires, and towers.
2. Any dwelling located in conjunction with a church shall comply with the provisions governing residential uses of the use district in which it is located.
3. There shall be suitable sight-obscuring screening on any border of a parking lot adjacent to a church, which is located across the street from, or that abuts upon a residential use.

4. Church-sponsored uses requiring Special Use approval may be reviewed under the original conditional use application for the church, or as an amendment to an approved conditional or special use.

Conclusions:

1. The Applicant requested a Special Use Permit to develop a 4,360 square foot church, the Yelm Kingdom Hall, on property located at 15012 Vail Road Southeast, Yelm, Washington. The building will include a 161-seat auditorium, conference rooms, restrooms and a utility/storage room. To serve the development, the Applicant will provide 71 parking spaces. *Finding of Fact No. 1.*
2. The proposed use will comply with the Thurston County Comprehensive Plan and all applicable Federal, State, Regional, and Thurston County laws and plans. The Comprehensive Plan does not specifically mention churches, but the proposed development will be consistent with the rural character of the area and churches are generally compatible with residential uses. *Findings of Fact No. 2 – 17.* No testimony indicating that the proposal would not be consistent with applicable plans and laws was submitted.
3. The proposed use will comply with the general purpose and intent of the RRR 1/5 zoning district. The subject property is a legally existing nonconforming lot and special uses are permitted on nonconforming parcels. The proposed Kingdom Hall will be consistent with the lot, setback, and bulk requirements of the zoning district. No open space dedication is required. *Findings of Fact No. 2, 4.*
4. The proposed Kingdom Hall is appropriate for the subject property. The proposed wood-frame structure will be one-story and compatible with the neighborhood character. The stormwater will be managed on site and the lighting will be designed to have minimal off-site impacts. The proposed use will not adversely impact traffic conditions or off-site parking. The Kingdom Hall will not result in substantial or undue adverse effects on adjacent properties or adversely affect the public health safety and welfare. *Findings of Fact No. 6 – 8, 12 – 17.*
5. The proposed Kingdom Hall will be adequately served by and will not impose an undue burden on any of the improvements, facilities, or utilities existing or planned to serve the area. It will be served by an on-site septic system and a Group B water system constructed for the use of the development. Stormwater will be managed onsite. *Findings of Fact No. 5 – 6.*
6. The Applicant did not propose to exceed the height limitation of the RRR 1/5 zoning district. No residential dwelling or church sponsored uses are proposed. *Findings of Fact No. 9 – 10.*
7. A landscaping plan has been submitted to ensure that the site retains its rural character. *Findings of Fact No. 11.* Any changes to the landscaping plan will be subject to county approval.

DECISION

The requested Special Use Permit to construct a church with associated parking in the RRR 1/5 zoning district is **APPROVED**, with the following conditions:

1. Prior to, or in conjunction with, the issuance of any permits, all requirements of the Thurston County Environmental Health Department, the Thurston County Roads and Transportation Department and the Thurston County Development Services Department shall be satisfied. All mitigating measures of the Mitigated Determination of Nonsignificance shall be satisfied.
2. No more than two signs with a total combined surface area of 32 square feet shall be allowed on the property. All signage shall be consistent with the design standards in Chapters 20.40 and 20.54.040(5c) of the Thurston County Zoning Ordinance with the exception of the square footage limitations as specified.
3. No more of the site shall be covered by buildings, structures, paved roads or paved parking areas than shown on the site plan without prior approval of Thurston County Development Services.
4. The Applicant shall not exceed the maximum parking spaces as shown on the site plan. The size, layout, and marking of the spaces shall conform to the requirements of the Thurston County Zoning Ordinance, Chapter 20.44. Double parking of vehicles is prohibited. Off-site parking is prohibited. Overflow parking areas have not been proposed on the site plan, and therefore, are prohibited.
5. The Applicant submitted a tree removal plan (Attachment E) which identifies the trees to remain onsite. Prior to any land clearing activities, all trees to remain shall be clearly marked. The Applicant submitted a landscaping plan which shows the area to be planted to supplement the buffer. Should the Applicant need to remove any of the trees as identified in Attachment E as a result of construction, the Applicant shall submit a revised landscaping plan that must receive the approval of Thurston County Development Services. The existing natural vegetation or understory shall remain on-site outside of those areas identified on the site plan for the future location of the stormwater pond, church, parking lot and drainfield. All proposed landscaping must be in place prior to occupancy and must be maintained by the property owner so long as a church is located on-site.
6. Lighting shall be designed and shall function in a manner which shields direct light from adjoining streets and properties. Lighting is allowed only when the Kingdom Hall is in use. Motion detectors shall be used for security lighting.

As an alternative to the above lighting requirements, the Applicant can submit a lighting plan that is consistent with the site and neighborhood character, subject to County approval.
7. All development on the site shall be in substantial compliance with the approved site plan as approved by the Hearing Examiner.

8. The Group B water system for the Kingdom Hall must be completed and approved prior to the issuance of building and/or sewage system permits.
9. Any increase in the maximum daily attendance of 160 persons per day and/or addition of a kitchen, daycare, school, or other such facilities will require additional review of sewage disposal and water supply issues by the Public Health Department.

Decided this 19th day of January, 2000.

James M. Driscoll
Hearing Examiner for Thurston County

Property owners affected by this decision may request a change in valuation for property tax purposes from the Thurston County Assessor.

TCC 20.60.020(3)(j)

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