



Notice of Hearing Examiner Decision

11/16/17

To: Interested Parties and Parties of Record

RE: Project Name: Living Hope Community Baptist Church
 Applicant: Living Hope Community Baptist Church
 P.O. Box 908
 Port Orchard, WA 98366
 Application: Conditional Use Permit
 Permit Number: 16 02134

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the above project.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf

The Decision of the Hearing Examiner is final, unless appealed, as provided under Washington law.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Owner/Applicant: Living Hope Community Baptist Church joe@alivinghope.net
Engineer: Kegel Engineering kegelengineering@gmail.com
Project Lead: Meg Sands
Kitsap County Prosecutor's Office
Kitsap County Assessor's Office
Kitsap County DCD Director
Kitsap County Health District
Kitsap County Public Works

Kitsap County Parks
Navy
DSE
Kitsap Transit
South Kitsap Fire District
South Kitsap School District
Puget Sound Energy
Water Purveyor
Sewer Purveyor
Point No Point Treaty Council
Suquamish Tribe
Puyallup Tribe
WA State Dept of Ecology – SEPA
WA State Dept of Transportation
Kitsap Sun
Interested Parties:

George Beitel George.beitel@wavecable.com

Rita Oldoren rita099@yahoo.com

James Davis davija@cshp.info

City of Port Orchard, Nicholas Bond nbond@cityofportorchard.com

Jessica Saltrones, office@milesyanick.com

**KITSAP COUNTY HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**In the Matter of Request for Conditional Use Permit
File No. 16 02134**

November 9, 2017

1. FINDINGS OF FACT

1.1 Proposal. The Applicant requests a Conditional Use Permit ("CUP") to construct a church and associated infrastructure in four phases. At full build-out the two-story church would be 38,000 square feet, and include a 400-seat worship center, staff offices, classrooms for children and adults, 118 parking spaces, and a playfield. The playfield will be used annually for a one week summer soccer camp. The Applicant/property owner, representative, and site location are as follows.

Applicant/Property Owner: Living Hope Community Baptist Church, P.O. Box 908, Port Orchard, WA 98366.

Engineer/Project Representative: Frederick A. Kegel, PE, PLS, 835 Kegel Lane SE, Port Orchard, WA 98367.

Site Location: The site is located at 2691 SE Sedgwick Road, Port Orchard, WA (Assessor No. 012301-4-038-2005).

1.2 Hearing. An open record public hearing was held on September 14, 2017. The Department of Community Development ("DCD") described the proposal through sworn testimony. As conditioned, DCD recommended approval. The Applicant further described the proposal through sworn testimony, generally supporting DCD's testimony, but identifying concerns on certain aspects of the proposed landscaping and traffic mitigation. The hearing was then opened up to public comment.

A neighbor raised a question on the proposal, and the City of Port Orchard provided detailed oral and written comment on transportation issues. The City raised concerns about not having received notice from DCD of the project, which is within its urban growth area. DCD and the Applicant addressed comment received. DCD recommended that the hearing be kept open for two weeks or more, consistent with the City's request, to allow the City the opportunity to review project materials and also for City and DCD officials who have been out of the office to confer and coordinate on transportation issues.

To provide the City of Port Orchard and the public an opportunity for further review and comment, the Examiner held the written record open through October 6, 2017. As a result of the continuance, several comments were received, including from the City, Applicant, and DCD.

During the extension period, the originally contemplated City/County clarification and/or consultation process did not occur. Also, having reviewed the parties' submissions, the Examiner had outstanding questions on traffic issues, so issued an order reopening the hearing on traffic issues only. DCD requested a list of Examiner questions, which was circulated to parties of record. The reopened hearing on traffic issues was held on October 26, 2017.

At the hearing, the Applicant, DCD and the City were able to confer while another matter on the agenda was heard. While not all outstanding issues were resolved, the parties proposed a new condition (Condition 20A) to require additional traffic analysis before phase three is constructed. Ms. Sands from DCD read the jointly proposed condition into the record (Exhibit 46). DCD, the City, and the Applicant all testified at the hearing, and a written comment letter from a neighbor, raising concerns on traffic issues, was received.

1.3 Administrative Record. Before the September 14, 2017 hearing, the Hearing Examiner reviewed Exhibits 1-32, which included the Staff Report. At the hearing, DCD proposed adding additional exhibits, including a power point and a comment letter (with attachments) from the City of Port Orchard, as Exhibits 33 and 34, respectively. Following the hearing, Exhibits 35-38 were submitted, which included Applicant, City and DCD comment letters and memos. The Examiner issued the Order Re-Opening Hearing (Exhibit 39) and Examiner Questions (Exhibit 40). Additional exhibits submitted included City written comment (Exhibits 41- 42), a neighbor comment on traffic concerns (Exhibit 43), a DCD memo on traffic issues (Exhibit 44), the original notice of application (Exhibit 45), the DCD-City-Applicant proposed condition (Exhibit 46), and the hearing sign-in sheet (Exhibit 47). The Examiner admitted all exhibits.

1.4 SEPA. DCD issued a Determination of Nonsignificance (DNS), with the SEPA comment period running concurrent with the Revised Notice of Application.¹ The DNS, which was not appealed, included the following comments and conditions:

Comments: The SEPA comment period previously occurred concurrent with the Notice of Application dated February 10, 2017. Comments were received about traffic concerns and headlight impacts from vehicles for evening activities.² The comments will be reviewed with regard to potential development impacts and addressed in the staff report.

Conditions:

1. The Living Hope Community Church project has been reviewed and will be conditioned to follow stormwater control per KCC Title 12.
2. Perimeter landscaping and installation of a six-foot site obscuring fence is required per KCC Title 17.385. Further, and in accordance with 17.381.050 (footnote 12), site obscuring vegetation and fencing shall be sufficient to screen the site from the neighboring properties.

¹ Exhibits 28 and 18. The DNS was issued August 2, 2017.

² The Applicant provided testimony disputing that there would be adverse headlight impacts. As the DNS was not appealed, the Examiner has no jurisdiction over it. However, DCD did clarify that Condition 2 was designed to address not only headlight issues, but larger compatibility concerns.

1.5 Pre-Hearing Public Notice and Comment. DCD provided notice of the CUP application and public hearing through mailing and publication.³ DCD also provided hearing notice by posting at the site.⁴ Several parties submitted comment. Adjacent property owner Ms. Oldoren did not object, but noted the presence of private wells on her property.⁵ Mr. Beitel supported the proposal, but expressed concern about access and traffic.⁶ Ms. Todd requested building elevations and drawings.⁷ And, Mr. Davis raised traffic impact concerns, with particular concern about Sedgewick Road's capacity.⁸

1.6 Pre-Hearing Agency Comment. The proposal was circulated within the County, and comment was received regarding regulatory compliance. There were no objections to approval, as long as applicable requirements are met.

1.7 Zoning/Plan Designations and Surrounding Land Uses. The Comprehensive Plan designation is Urban Low Density Residential⁹ and the Zoning designation is Urban Low Residential (minimum of five dwelling units per acre to a maximum of nine).¹⁰ The surrounding area is generally characterized by platted urban size lots of less than one-half acre, and typically less than one-quarter acre, developed with detached single-family residences. Annapolis Water District has a water tank on the far end of an adjacent 10.8-acre site to the north. West of the water district property is a church on a 4.96-acre site. The general area is zoned Urban Low Residential, the same as the subject property.¹¹ Within this zoning designation, height is limited to 35 feet, with side and rear 35 foot setbacks.

1.8 Site Physical Characteristics. The 4.84-acre site is a long, narrow rectangular shape, which is relatively level, but with slopes from the northwest corner down to the southeast. The site is now undeveloped, although a single-family home was previously located there. The south two-thirds has been cleared and has grown back with mostly scotch broom. The north one-third is forested with coniferous trees.

Other than being located within a Category I Critical Aquifer Recharge Area, critical areas are not present.¹² A hydrogeological report is not required as under the KCC, a church and its associated activities do not present a potential groundwater threat.¹³ As DCD testified, proposed Condition 25 ensures that remains the case.

³ Exhibit 32.

⁴ Exhibit 32.

⁵ Exhibit 9.

⁶ Exhibit 8.

⁷ Exhibit 17.

⁸ Exhibit 20.

⁹ Exhibit 12, Staff Report, and DCD hearing testimony.

¹⁰ Exhibit 10, Staff Report, and DCD hearing testimony.

¹¹ Exhibit 10, Exhibit 33, Staff Report, and DCD hearing testimony.

¹² Exhibits 11 and 13, and DCD hearing testimony.

¹³ KCC 19.600.620.

1.9 Project Details. The church and associated infrastructure would be constructed in four phases.¹⁴

Phase 1. Install three temporary modular buildings: a 2,000-square foot office, a 3,000-square foot worship building, and a 3,000-square foot classroom. Construct a permanent 1,200-square foot maintenance building. Construct the northern parking area with 27 parking spaces. Install landscaping for this phase of build out. Construct the stormwater pond for full build out.

Phase 2. Construct the first phase of the permanent church building, a two-story, 16,000-square foot building. The main floor and second floor are each approximately 8,000 square feet. The main floor will include an approximately 2,100-square foot 230-seat worship area. The Phase 1 worship building will be reconfigured for classroom and office use. The northern parking area will be expanded by 54 parking spaces for a total of 81 spaces. Additional landscaping will be installed near the newly developed area.

Phase 3. Expand the existing 16,000-square foot church building constructed in Phase 2 by adding 14,000 square feet (7,000 square feet to the main floor and 7,000 square feet to the second floor), for a total of 30,000 square feet. This expansion will include approximately 2,000 square feet of office space and 12,000 square feet of classroom space. Construct the southern parking area, which will add 16 parking spaces for an overall total of 97. Begin grading for the playfield.

Phase 4. Expand the existing church building approximately 8,000 square feet for a total of 38,000 square feet; the single-story addition would be a multipurpose worship area with 400 seats for services and which also would be used as a gymnasium. Expand the northern parking area by 21 parking spaces for a total of 118 parking spaces. Install final landscaping of portions of the parking areas and around the building. Complete playfield construction. Remove all temporary modular buildings.

1.10 Utility and Public Services.

- **Water:** West Sound Utility District. Public water installation will be required at Phase 1. A binding water availability letter is required with Site Development Activity Permit ("SDAP") application.
- **Power:** Puget Sound Energy
- **Sewer:** West Sound Utility District. A binding sewer availability letter is required with SDAP application. The Utility District will review and approve the design. Before building permit issuance, the Health District must approve a Sewered Building Clearance. Public sewer installation is required with Phase 1.
- **Police:** Kitsap County Sheriff

¹⁴ Staff Report; *see also* Exhibit 22.

- **Fire:** Fire District No. 7. Adequate fire flow is required. With the SDAP, information such as water line size, location, hydrant location, and available fire flow will be required. For Phase 1, the installation of fire sprinklers in the 3,000-square foot modulars may be required based on the use and occupancy load. For phases 2-4, fire sprinkler installation will be required throughout the permanent building.
- **Schools:** School District No. 402

1.11 Stormwater. Stormwater quantity and quality control is proposed via a large infiltration pond, sized to collect runoff from the rooftop, asphalt paved parking lot, and concrete sidewalk impervious surface areas. Installation of stormwater treatment for full build-out is required.

1.12 Solid Waste. Solid waste will be appropriately handled. A minimum six-yard dumpster and at least 150 square feet of exterior recyclable materials storage space is required. The project will be conditioned to comply with relevant code and solid waste service provider (Waste Management) requirements. The solid waste area may need to be moved or revised to provide for the required 10-foot screening buffer along the property's east line. Solid waste handling provisions are required with Phase 1.

1.13 Internal Sidewalks. During Phase 1, a sidewalk from the right-of-way into the site and along the east side of the proposed permanent building and to the office modular will be constructed. During Phase 4, a sidewalk along the permanent building's west side and near the north end of the building that connects to the east sidewalk will be constructed. The Applicant raised concerns about providing sidewalks along the site's frontage. The Applicant did depict these on its proposed site plans, but DCD clarified that this is not a requirement, although the Applicant may provide same should it wish to do so.

1.14 Off-Street Parking. Individual seats rather than pews will be provided for congregation worship. The KCC requires 1 parking space for four seats.¹⁵ The Applicant has proposed the following.

Phase 1. 27 parking spaces are proposed; only 20 are required. Internal access will be paved on the project's south end, along the west side of the building area for the entire project, and the driving area between the modulars.

Phase 2. 81 total parking spaces are proposed; only 58 are required. The drive aisle along the building area's east side for the entire project will be paved.

Phase 3. 97 total parking spaces are proposed; only 58 are required. The south parking area will be constructed and the expanded parking area will be graveled.

Phase 4. 118 total parking spaces are proposed; only 100 are required. All parking areas will be paved.

¹⁵ KCC 17.435.030, now codified at KCC 17.490.030.

1.15 Lighting. Lighting has been proposed in the parking areas and next to or on the permanent building. Lighting shall be the minimum necessary for safety and security purposes and to be compatible with the surrounding residential uses.

1.16 Signage. A monument sign, not to exceed 50 square feet, is proposed near the entrance. Signage must comply with Ch. 17.510 KCC Sign Code, or the code in effect at the time of a complete sign permit application.

1.17 Access. Site access is from Sedgwick Road, also known as State Route 160, a paved state highway (Class 3). The Washington State Department of Transportation (WSDOT) has jurisdiction over access and requires an Access Connection Permit. A copy of this permit must be provided with the SDAP application. The Applicant will be required to comply with any mitigation WSDOT requires. During Phase 1, the Applicant shall construct site access and comply with any state mitigation requirements. If additional state mitigation requirements are imposed in subsequent phases, these requirements will be adhered to.

The City raised safety concerns due to the driveway widening and a separation distance, which is less than 330 feet. The City was concerned with a potential for vehicle queuing and back-ups onto Sedgewick Road, and that the widening could be an issue if sidewalks are added in the future. WSDOT was consulted, and did not identify any concerns.

A site access permit is required from WSDOT, so access will receive further review. WSDOT has indicated it will cooperate with both DCD and the City during its review process. DCD, including the County's Traffic Engineer, reviewed the project and was satisfied with the approach taken to access, although DCD emphasized that WSDOT makes the final decision on access to its highway. During hearing testimony, the Applicant noted the presence of a turn lane within Sedgwick Road, which would help prevent backups onto the Road, and DCD noted Condition 17 ensures adequate sight distance at the access point.

1.18 Transportation Impacts and Scope of Uses.

1.18.1 DCD only requires a full traffic impact analysis when a proposed project generates over 10 PM peak hour trips, a trigger consistent with Institute of Transportation Engineer ("ITE") recommendations.¹⁶ As the project's traffic impact analysis calculated only four PM peak hour trips, this threshold was not met.

1.18.2 The City questioned the trip calculation. If trips are calculated based on square footage, PM peak hour trips would be greater than that forecasted (the City indicated in testimony figures would range from 16-153 peak PM trips,¹⁷ based on the ITE Manual, 5th Edition). The County Traffic Engineer and DCD testified that the more accurate approach in this case is based on the nature of the congregation and planned activities.

1.18.3 This is a situation where most traffic will occur on Sundays, when services are held. Traffic at these hours is light, so would not significantly impact intersections

¹⁶ Exhibit 36, p. 2.

¹⁷ But, for further detail, see Exhibit 41 (City comment), along with earlier comments (Exhibits 34 and 35).

or road segments which are nearing or at capacity during the PM peak hour. The Applicant clarified that PM peak hour trips would not be significant, as only the pastor and part-time secretarial assistants and volunteers are on site during those hours. The Applicant stated that the estimated four PM peak hour trips is conservative, as these individuals usually travel during the day, rather than at the PM peak hour. Any evening meetings (*i.e.*, leadership meetings) would take place after that peak period, typically from about 7-9 PM.

1.18.4 The City requested clarification on the scope of uses, given different documents contain different descriptions. The City was particularly concerned that if the uses expand, PM peak hour trips could also expand, creating an impact considerably more than four PM peak hour trips, and without a full traffic impact analysis (the analysis only addressed the first two phases) and review processes in place, it would lose its opportunity to ensure the impacts are mitigated.

1.18.5 DCD and the Applicant confirmed that the Staff Report description is accurate. The Applicant confirmed there is no school and the classrooms are primarily for Sunday church and Sunday school. The grass field is a playfield, not a soccer field. It is being used only one week a year for a soccer camp.¹⁸ DCD expressed concern about listing every possible church use or activity given how congregation needs change over time. However, the Applicant confirmed the project would not entail any uses which would serve as major trip generators during the PM peak hours, and confirmed the range of uses would not exceed the scope in the Staff Report.

1.18.6 If trips remain as contemplated, then there is not a sufficient nexus between this project and exacerbated conditions on the nearby intersections and street segments the City is concerned with, to impose mitigation.¹⁹ However, the City was concerned that without a cap or a mechanism for further review, impacts could gradually escalate, causing intersections and road segments to fail, and placing the burden for that failure on subsequent projects.²⁰

1.18.7 The Applicant indicated that he had anticipated completing an updated traffic impact analysis before phase three, and that is now an explicit requirement (jointly proposed Condition 20A). This requirement to complete a second traffic impact analysis before phase three is constructed is coupled with the code definition of a major revision, which includes criteria on traffic impacts.

A “major” revision means any expansion of the lot area covered by the permit or approval, or any proposed change whereby the character of the approved development will be substantially altered. A major revision exists whenever

¹⁸ The soccer camp is an accessory church use with the CUP. It can accommodate approximately 100 participants. The church has provided the camp for years, and once the playfield is completed, plans to continue it.

¹⁹ The City indicated that its comfort levels would increase if the projects it has identified as needed within the 20 year planning period were also in the County's plan. Presumably, the City and County will continue to coordinate on these issues.

²⁰ For detail on intersection/road segments of concern, *see e.g.*, Exhibit 40, Attachment, summarizing City/County comment on various intersections, Exhibit 41 (City comment), Exhibit 44 (DCD memo), and Exhibit 38 (Applicant's traffic engineer memo).

intensity of use is substantially increased, performance standards are reduced below those set forth in the original permit, detrimental impacts on adjacent properties or public rights-of-way are created or substantially increased, including increased trip generation of ten percent or more, or the site plan design is substantially altered, including dimensional or gross floor area increases of ten percent or more.²¹

1.18.8 With these protections, a significant expansion of PM peak hour trips without further review and mitigation is unlikely. To ensure this, the Examiner added Conditions 20B and 20C, which require the updated traffic impact analysis to be circulated to the City for comment, require a CUP amendment if there is a significant increase in PM peak hour traffic, restrict the CUP to the uses described in this decision and the Staff Report, and reference KCC requirements on when a major CUP revision is triggered.

1.19 Landscaping/Compatibility with Surrounding Neighborhood.

1.19.1 The KCC requires landscaping on at least 15% of the site.²² Proposed landscaping is estimated to exceed 30%, half of which is the playfield. However, due to the narrow lot dimensions, the size of the permanent building and one-way drive aisles, only minimal side yard area is available for landscaping to address compatibility concerns with the surrounding residential neighborhood.

1.19.2 Partly due to these limitations, DCD determined that a functional screening buffer was necessary to protect existing and future residences. The KCC explicitly authorizes DCD to increase buffer and landscaping to address such compatibility issues, and to obtain a CUP, the Applicant has the burden to demonstrate the use is not materially detrimental or incompatible with uses in the immediate vicinity.

1.19.3 DCD recommended that a 25-foot screening buffer be retained on the playfield's west, north, and east sides using the existing trees. Evergreen trees will be planted in areas void of trees to provide an effective screening buffer. The Applicant objected, preferring to clear and re-vegetate the area, stating its approach would cost less, and raising feasibility concerns. DCD testified that it took this approach as it is consistent with Comprehensive Plan Policy T-104, which provides, "[r]etain native vegetation as a priority." DCD consulted with its engineer, who confirmed, through sworn testimony, that from an engineering standpoint, grading the playfield area and maintaining the surrounding existing vegetation was feasible.

1.19.4 DCD recommended that the landscaping screening buffer along the entire west property line consist of two rows of effective screening vegetation/trees triangulated on 10-foot centers and a six-foot solid board fence, except adjacent to the playfield. This side was a particular concern as the homes are closer to the use and the site's narrow rectangular shape has made use separation and impact mitigation more of a challenge. The KCC provides

²¹ KCC 17.550.040(B)(2).

²² KCC 18.385.025, now codified at KCC 17.500.025.

DCD with discretion to make that determination and to increase vegetation requirements to ensure the use is properly mitigated.²³

1.19.5 The Applicant raised concerns about the added cost associated with two rows of trees, as opposed to one. DCD testified that the use proposed exceeds the size of surrounding residential homes by over a multiple of ten and will functionally operate as a commercial use in what is a single family residential area. Also, during certain periods (Sundays most often) vehicle trips will be concentrated, and an extra row of trees will reduce dust and attenuate noise.

1.19.6 The SEPA review requires that "obscuring vegetation and fencing shall be sufficient to screen the site from the neighboring properties."²⁴ DCD testified that while the MDNS mentions impacts from car headlights as a potential issue, an impact the Applicant disputed, the mitigation was designed to address compatibility overall, including noise and dust. The DNS did not define how to achieve "obscuring vegetation and fencing." However, under the current KCC, two tree rows would be required on both sides of the site.

This type of landscaping is intended to provide a solid sight barrier between totally separate and incompatible land uses such as residential and commercial or industrial uses. (1) Required along the perimeters of ... commercial ... and public facility development, which abut different uses and/or zones. The buffer shall provide one hundred percent sight-obscuring screening between different uses or zones and shall consist of: (a) Three offset rows of evergreen trees planted ten feet on center and ground cover; or (b) A six-foot screening fence and two offset rows of evergreen trees planted ten feet on center, and ground cover.²⁵

Thus, while tree installation does present an added cost for the Applicant, on the other hand, to help address compatibility concerns, the approach is consistent with code, and is a reasonable mitigation measure. The measure protects against material detriment to the residences located on the church's west side, which are closer to the use than along the site's east property line. DCD could have, but did not recommend including a condition requiring an additional row of trees on both sides of the property.

1.19.7 DCD recommended a minimum ten-foot screening buffer that provides effective screening and a six-foot solid board fence shall be provided along the entire east property line, except adjacent to the playfield. The Applicant did not raise concerns with landscaping measures on this portion of the site.

1.19.8 Landscape installation will be phased. However, key components, including those occurring at the project's entrance and measures designed to ensure compatibility with adjacent residential uses, occur with Phase 1. For example, Phase 1 includes installing the landscape buffer within the front yard setback area along the south property line, rain garden landscape features, landscaping around the stormwater pond and maintenance building, and the

²³ KCC 17.410.050(A)(12), applying to uses listed in Table 17.410.040(A).

²⁴ Exhibit 28.

²⁵ KCC 17.500.027(B).

east and west perimeter screening buffering landscaping, along with fence installation. Additional detail is contained within the Staff Report and project conditions.

2. CONCLUSIONS OF LAW

2.1 Hearing Examiner Review Authority.

The Hearing Examiner has review authority for this CUP application.²⁶ The Hearing Examiner may approve, approve with conditions, or deny a CUP.²⁷ The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision.

2.2 Conditional Use Permit Requirements.

2.2.1 A CUP must comply with the following:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of this title [Title 17];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.²⁸

2.2.2 The CUP meets these criteria. The Staff Report identifies relevant comprehensive plan policies.²⁹ In summary, within the County's urban growth areas, development is to be supported by adequate urban infrastructure, and designed to address wastewater, vegetation retention, transportation, and stormwater impacts. The policies support efficiently providing urban services as infill development occurs on vacant and underutilized lands. The CUP is consistent.

2.2.3 As mitigated, the project includes adequate utility infrastructure to support the use, measures are in place to ensure stormwater is properly managed, vegetation is retained to the extent feasible, on site pedestrian circulation is provided for, and site access is conditioned to adequately address public safety. Certain types of church uses can have greater PM peak hour trips and thus exacerbate intersection and road segment congestion. However, as this use is proposed and mitigated (including through Conditions 20A-20C), the surrounding transportation infrastructure is sufficient to support the project, so Plan consistency is achieved.

²⁶ KCC Sections 17.410.010(C) and 21.04.100.

²⁷ KCC 17.550.030(A).

²⁸ KCC 17.550.030(A).

²⁹ Exhibit 29, pp. 5-7.

2.2.4 The CUP is conditioned to ensure compliance with Title 17 and other applicable code requirements. This includes meeting landscaping, setback, height, and all other code requirements. No relevant code provision was identified which would not be complied with. The Applicant has met its burden to demonstrate Title 17 compliance.

2.2.5 The proposal is compatible with surrounding existing and planned uses. And, as mitigated, the proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity. All impacts identified have been addressed and mitigated with appropriate mitigation and/or code requirements.

2.2.6 Due to the parcel's narrow shape, and presence of the surrounding residential community, uses located particularly close to the larger and more intensive church use on one side of the site necessitated additional mitigation. DCD properly increased vegetative screening to ensure continued compatibility and avoid material detriment. The required setbacks, when coupled with the vegetative screening and fencing (supplemented on the side located closest to neighboring residences), ensure impacts on neighbors will not be significant, and the use will be compatible with surrounding uses. This is an issue the KCC places particular importance on.

Any such use shall not be materially detrimental to any adjacent (existing or future) residential development due to excessive traffic generation, noise, light or other circumstances. The director may increase setback, buffer and landscaping standards or impose other conditions to address potential impacts.³⁰

The landscaping approach is thus consistent with KCC requirements providing DCD with discretion to increase landscaping to avoid detrimental impacts, as well as with the CUP criteria requiring compatibility and avoidance of material detriment.

2.2.7 With respect to the traffic, the added Conditions 20A-20C are consistent with the testimony from the Applicant and DCD, which confirmed the Staff Report accurately depicted the use and its phasing. To ensure the project impacts and uses remain as described, an updated traffic impact analysis will be circulated to the City for comment before Phase 3 is constructed. The added conditions, along with KCC's minor/major revision process, ensure that in the unlikely event that there could be significant traffic impacts at full build out which could cause material detriment or incompatibility issues with uses in the immediate vicinity, such impacts would be subject to further City/DCD review, and additional mitigation imposed.

2.2.8 Given these added protections, coupled with the testimony and comment from DCD and the Applicant, the Examiner concludes that traffic impacts to intersections and road segments proximate to the project have been adequately addressed, and the project will not cause material detrimental or conflicts with lands within the project's immediate vicinity.

2.2.9 Consistent with the KCC, conditions are imposed to ensure all code requirements are met, and impacts are adequately addressed. As a result, the use is consistent

³⁰ KCC 17.410.050(A)(12), applying to uses listed in Table 17.410.040(A).

with the existing character, appearance, quality of development, and physical characteristics of the property and immediate vicinity.

2.2.10 As conditioned and proposed, the church meets all CUP criteria, so should be approved, subject to the below conditions.

DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP, provided the following 60 conditions are adhered to.

Development Services and Engineering.

Engineering

1. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to plan acceptance.

Stormwater

2. The information provided demonstrates this proposal is a Major Development as defined in KCC Title 12, and as such will require anSDAP from Development Services and Engineering.

3. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with KCC Title 12 effective at the time the CUP application was deemed complete, May 16, 2016. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.

4. Should the proponent propose phasing of the project, a phasing plan shall be submitted to Development Services and Engineering for review and approval. The phasing plan shall, as a minimum, address the following items:

Time tables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization of that specific phase.

The extent of drainage improvements to be installed during the various phases.

5. The site plan indicates that greater than one acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Josh Klimek at 360-407-7451, email joshklimek@ecy.wa.gov. This permit is required prior to issuance of the SDAP.

6. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as an Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The Applicant shall contact Ecology to determine if the facility is regulated under the UIC program.
7. The design of the infiltration facilities will be in accordance with Section 7.3.4 of the Kitsap County Stormwater Design Manual.
8. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.
9. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.
10. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.
11. If the project proposal is modified from that shown on the submitted site plan dated May 23, 2017, Development Services and Engineering will require additional review and potentially new conditions.

Traffic and Roads

12. The Applicant shall submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project.
13. All rights of access for adjoining properties currently in existence shall be preserved. Any amendment to the existing easement rights of adjoining property owners shall be properly executed and recorded prior to SDAP acceptance.
14. Sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act per WSDOT standard plans at the time of construction.

15. The property owner shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the accepted construction plans. In addition, Development Services and Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.

16. A WSDOT Access Connection Permit is required for access to State Route 160 (Sedgwick Road). The Applicant shall provide a copy of the permit with the SDAP application materials.

17. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of the site access and State Route 160. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the Kitsap County Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.

18. All work, equipment and materials for traffic signal and street lighting installations shall meet and be in compliance with all requirements of the Kitsap County Road Standards, Project Contract Provisions of Plans and Specifications accepted for construction by Kitsap County, MUTCD Manual on Uniform Traffic Control Devices, NEMA National Electrical Manufacturer's Association, NEC National Electrical Code, WSDOT Standard Specifications and Standard Plans, and the Occupational Safety and Health Administration (OSHA).

19. Before SDAP acceptance, the Applicant shall submit a set of drawings to WSDOT for review. The Applicant shall notify Development Services and Engineering in writing when the plans have been submitted to WSDOT. Development Services and Engineering shall coordinate with WSDOT to determine if WSDOT has any comments to the submittal, but responsibility for obtaining concurrence from WSDOT lies with the property owner.

20. Final plan approval will require documentation of WSDOT approval for impacts to and any required mitigation on State Route 160. The WSDOT point of contact is Dale Severson at (360) 357-2736:

Washington State Department of Transportation
Olympic Region Development Services Attn: Dale Severson
PO Box 47440
Olympia, WA 98504-7440

20A. A new traffic impact analysis shall be submitted for Phases 3 and 4 at the time of SDAP application or building permit application for Phase 3. If the traffic impact analysis triggers a SEPA threshold requirement or creates an adverse impact, a revised SEPA review shall be conducted.

- 20B. DCD shall provide a copy of the new traffic impact analysis to the City of Port Orchard Development Director and provide the City an opportunity to review and comment on the new traffic impact analysis. The comment period shall be a minimum of two weeks, unless DCD and the City agree upon a different time period. If there is a significant change in PM peak hour traffic, this will trigger a major revision and require a CUP revision, per KCC 17.550.040(A)(2).
- 20C. The scope of uses this CUP authorizes is limited to those described in this decision and in the Staff Report.

Solid Waste

21. Prior to SDAP approval, Waste Management (360) 674-3166 shall be contacted for information on implementing the solid waste/recycling storage requirements influenced by the service provider (e.g. dumpster size and location) for the project. Pay particular attention to the access requirements of collection trucks. Documentation shall be provided from the solid waste/recycling service provider that its requirements for this project have been met.
22. The SDAP submittal shall show solid waste dumpster location, method for securing the enclosure gates in an open position and pad sizes on the civil plans submitted for approval. Details of the enclosure, including interior dimensions, building materials and lighting, must be included with the civil plans prior to final approval. These details may be architectural drawings attached to the civil plans. Provided area must accommodate a minimum six-yard dumpster.
23. The SDAP submittal shall show at least 150 square feet of exterior recyclable materials storage space for the project. Describe collection containers and show their locations, method for securing the enclosure gates in an open position and pad dimensions on the civil plans submitted for approval. Details of the enclosure, including interior dimensions, building materials and lighting, must be included with the civil plans prior to final approval. These details may be architectural drawings attached to the civil plans. Recyclable materials storage space and containers shall be provided during Phase 1 construction.
24. If using a compactor, liquid wastes generated as a result of compaction must not discharge into the stormwater system per BKCBH Ordinance No. 1996-11, Section IV.2.a.

Environmental Review.

25. No uses that are identified as “activities with potential threat to groundwater” at KCC 19.600.620 shall occur without amending this CUP.

Planning/Zoning.

26. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
27. Drive aisles and parking areas shall be paved in each phase as detailed on the plans set (Exhibit 24). This information shall also be provided on the SDAP.

28. Each phase shall comply with the minimum number of parking spaces required by KCC 17.435 based on the planned number of congregation seats. The ratio shall be at least one parking space per four seats. If the vehicle occupant load is not high enough to meet the available parking onsite, the number of congregation seats shall be decreased accordingly or shuttle services or other alternative transportation options shall be provided.
29. Wheel stops shall be installed in all parking spaces.
30. Wheel stops and/or curbing in all parking areas shall be required to prevent potential damage to landscaping. Wheel stops and/or curbing shall be depicted on the construction plans or SDAP.
31. A final landscape plan shall be submitted with the SDAP. The landscape plan shall clearly detail the landscaping and fencing for each phase. The plan shall differentiate between existing vegetation to remain and new plantings. The final landscape plan shall conform to the requirements of KCC 17.385 and conditions of approval.
32. Landscaping shall be installed and maintained in conformance with the requirements of KCC 17.385. Landscaping shall be installed and inspected prior to requesting a final inspection of each phase.
33. To ensure survivability of the required landscaping, a bond for a two-year period shall be required prior to final SDAP construction inspection and approval for each phase. The bond shall be 100% of the planting and installation cost. A bid for the landscaping and installation cost shall be provided prior to final SDAP approval.
34. The survivability bond shall be extended for two-year periods if any replanting is required.
35. A 25-foot screening buffer of existing trees shall be retained on the west, north, and east sides of the playfield. Evergreen trees shall be planted in areas void of trees to provide an effective screen during Phase 1.
36. The screening buffer along the entire west property line shall be two rows of screening vegetation/trees triangulated on ten-foot centers and a six-foot solid board fence, except adjacent to the playfield.
37. The screening buffer along the entire east property line to the point of access and the sidewalk shall be one row of screening vegetation/trees planted on ten-foot centers and a six-foot solid board fence, except adjacent to the playfield.
38. The landscape buffer, perimeter screening buffer, proposed landscape areas south of the permanent building, rain garden landscape features, landscape islands/areas in the Phase 1 parking area, and landscaping around the stormwater pond and maintenance building shall be planted during Phase 1.
39. Installation of the proposed and required fencing along the east and west property lines shall occur during Phase 1. Installation of the proposed fence around the playfield shall be at the

Applicant's discretion, unless approval is granted for less than a 25-foot screening buffer, then a six-foot solid board fence that connects to the existing fence and extends north to and along the north property line shall be required during Phase 3.

40. Artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from surrounding properties. No more than one foot-candle of illumination shall leave the property boundary. Lighting shall be the minimum necessary for safety purposes and be compatible with surrounding properties. Light standards (poles) shall not exceed 20 feet in height.

41. Any and all signage design and location (including exempt signs) shall comply with KCC 17.510 Sign Code or the code in effect at the time of a complete sign permit application, and be reviewed and approved by DCD prior to installation. Signage may require a separate permit.

42. The recipient of any CUP shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared by the Department and recorded at the Applicant's expense.

43. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not be, and is not to be, construed as approval for more extensive or other utilization of the subject property.

44. This CUP approval shall automatically become void if no development permit application is accepted as complete by DCD within three years of the Notice of Decision date or the resolution of any appeals.

45. The decision set forth herein is based upon representations made and exhibits contained in the project application 16 02134 Living Hope Community Baptist Church CUP. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

46. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

47. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

Fire.

48. Fire flow in the amount of 1,313 gallons per minute at 20 pounds per square inch for a minimum of two hours shall be required for the project. This is based on the proposed building of 38,000 square feet and constructed of Type V-B construction. Any changes to the structure will require a recalculation of fire flow. International Fire Code (IFC) 508.5 as amended by Kitsap County.

49. Water line size and location and the location of fire hydrants shall be shown on SDAP plans. A letter of water availability indicating available fire flow from the water purveyor shall be submitted to the Kitsap County Fire Marshal's office prior to the approval of any building permits.

50. A minimum of two onsite fire hydrants shall be installed. One of the required fire hydrants shall be within 50 feet of the fire department connection for the fire sprinkler system.

51. A Post Indicator Valve (PIV) shall be installed if exterior access is not provided to the fire sprinkler riser room.

52. An addressable fire alarm system shall be installed to monitor the fire sprinkler system. If the occupant load of the building is 1,000 occupants or more, a voice evacuation fire alarm system shall be installed.

53. In Phase 1, the 3,000-square foot modulars may be required to have fire sprinklers installed based on use and occupancy load.

54. Beginning with Phase 2 construction of the church building, fire sprinklers shall be installed throughout the building.

Health District.

55. This project shall be served by public water and sewer.

56. A binding sewer letter shall be submitted with the SDAP.

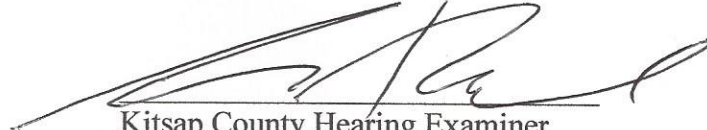
57. Prior to Building Permit issuance, an approved Sewered Building Clearance shall be obtained from the Health District. To obtain an approved Sewered Building Clearance the sewer main shall be extended, or a bond shall be posted to ensure that the project cost is covered.

58. A binding water letter shall be submitted with the SDAP.

59. The existing septic tanks shall be pumped and decommissioned to code.

60. The existing well shall be decommissioned by a certified well driller prior to Building Permit final. A Sewered Building Clearance may be issued so long as the well decommissioning application has been submitted to the Health District.

THIS DECISION is entered this 9th day of November, 2017.

A handwritten signature in black ink, appearing to read 'S. Drummond', is written over a horizontal line.

Kitsap County Hearing Examiner
Susan Elizabeth Drummond