

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Custodio Lopez, Pastor  
Iglesia Bautista Biblica  
2426 E. Kinkaid Street  
Mount Vernon, WA 98273

**Agent:** Gary F. Howden  
P. O. Box 231  
Malo, WA 99150

**File No:** PL05-0301

**Request:** Special Use Permit

**Location:** 16839 Bennett Road within a portion of Sec. 11, T34N,  
R3E, W.M.

**Land Use Designation:** Rural Intermediate (RI)

**Summary of Proposal:** To construct a church in three phases over a 20-30 year period. Phase One would involve a 3,994 square foot building to be constructed in 2006. Phase two would be a 2,500 to 3, 000 square foot multi-purpose wing to be built in 5-8 years. Phase three would consist of a permanent 6,000 square foot sanctuary, seating 350 to 460 persons.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on September 14, 2005. Subsequent to the hearing the Examiner visited the site.

**Decision:** The application is approved, subject to conditions, including a limitation of 10 years for the entire project.

## FINDINGS OF FACT

1. Custodio Lopez (applicant) seeks a Special Use Permit to establish a church on property at 16839 Bennett Road in the Rural Intermediate zone. Lopez is the pastor of Iglesia Bautista Biblica.

2. The site is an essentially flat 3.5 acre parcel (P21416) within a portion of Sec. 11, T34N, R3E, W.M. It is located about 800 feet west of the intersection of Avon Allen Road and Bennett Road. The property has 238 feet of frontage on Bennett Road and is 630 feet deep. The parcel is rectangular in shape, and has a north/south configuration.

3. The property is presently in grass. The proposal is to develop the property in three phases. Phase I would involve early construction of the foundation for the first structure and the septic system for Phases I and II. Then, the initial building would be begun in the Spring of 2006 with the aim of occupancy by the Fall of 2006. The south parking area and landscaping along Bennett Road would be included in this phase.

4. Phase II would be the addition of a larger multi-purpose wing behind the initial building. This is planned for 5 to 8 years following Phase I.

5. Phase III would be the construction of a permanent sanctuary located to the east of the Phase I building. Seating would accommodate 350 to 400 persons. The full development of the site and buildings would occur over a 20-30 year period.

6. The Phase I building would be a 3,994 square foot structure which would initially house all church functions. In time, it would become a wing to the permanent sanctuary. The Phase I building would be a one-story frame structure, 40 foot deep and 99 feet across, built with lapped siding and a composition roof. It would be located 35 feet from the west property line, 150 feet from the south property line, 112 feet from the east property line, and 440 feet from the north property line. It is pictured with a pitched roof and a small steeple. The height to the roof line would be about 28 feet.

7. Parking for the Phase I building would be in a graveled lot constructed along Bennett Road in front of the building. The area would measure approximately 208 feet by 110 feet and would be able to accommodate 40 cars. A 10 foot planting strip along the south boundary of the property would separate the parking lot from the road. Medium ornamental trees (about six feet high) and low evergreen ground cover shrubs are planned for this strip. The initial Sunday morning attendance at the facility is estimated at 70 to 90 persons. Other services held on Sunday and Wednesday evenings are expected to be more lightly attended.

8. Traffic would enter from and exit to Bennett Road using a 20-foot wide ramp located at the southeastern corner of the property. A County road access permit for this (AC04-0327) has been issued. A second entry/exit ramp at the southwestern property corner may be constructed in the future as parking expands.

9. The sides of the lot would be kept open in 15-foot service corridors to accommodate utilities and biofiltration swales for the drainage system. The Phase II wing would be behind the Phase I structure, measuring perhaps 50 feet by 50 feet. Behind all structures would be a recreation area and the Phase I and II drainfield. The drainfield would be abandoned at Phase III and replaced with a larger pressurized system near the north boundary. During development, additional parking may be provided along the east side of the property in the area to be occupied by the sanctuary. At full development, the north portion of the property would become a second parking area. Eventually there would be parking for 126 vehicles, enough to accommodate 500 persons if there is an average of four persons per vehicle.

10. The subject property is located in an AO Flood Hazard Zone per FIRM Map 250 C, dated January 3, 1985. Because the area is in the flood plain, the main floor level of facilities will have to be four feet above the final site ground level. Because potential flood water velocities need to be analyzed, the final design and configuration of the foundation has not been determined. That work must be performed by a licensed structural engineer.

11. Weekly services would be held on Sunday morning from 9:30 a.m. until 12:30 p.m.; on Sunday evening from 6:00 p.m. until 8:30 p.m.; and on Wednesday evening from 6:45 p.m. until 8:30 p.m. A small staff would occupy the Phase I building during normal business hours from Thursday through Saturday from 9:00 a.m. to 4:00 p.m. The staff is expected to grow to 5 to 8 persons as the site development progresses.

12. The application states that traffic impacts are expected to be minimal since the peak usage by the church would occur during off-peak periods on Bennett Road. During normal weekly daytime periods there would be only occasional single-car entries and exits. Heavier traffic would be expected approximately ½ hour prior to and following services. Public Works expressed no concerns about traffic.

13. Water would be provided to the project by Public Utility District #1. Initially fire protection water would be obtained from an existing hydrant at the intersection of Bennett and Avon Allen roads. A new fire hydrant would be installed near the entrance to the property as a part of Phase II.

14. Water, electric and fuel gas services are available in the right-of-way between Bennett Road and the south boundary of the property. Telephone service is available from the opposite side of the road.

15. Sanitary waste is to be disposed of by a gravity flow on-site septic system. The initial system has been designed and a permit has been issued. (SW05-0199).

16. An engineered drainage system has been designed to limit the discharges from the property to pre-development rates. Since it would eventually be converted to asphalt, the 40-car south parking lot was considered as impervious surface for drainage

planning. As noted, biofiltration swales would be installed on the perimeters of the site to provide filtration for oils from parking areas that may in time be paved. The system design provides three alternative means of rain water detention: a pond, a gravel detention/infiltration bed, or an underground vault. Effluent would be metered through orifices in a central catch basin that discharges to an existing 18' line of Drainage District #19. Oil reaching the catch basin would be collected by a skimmer in the basin. The Drainage District's line is a buried culvert running westerly from the east side of the property to the Schoolhouse Slough, roughly 300 feet west of the property. Ultimate discharge is to Padilla Bay.

17. The detention system would be phased to support the progress of development on the site. It would probably include a combination of underground storage/infiltration and a detention pond. Drainage District #19 has provided a letter stating that "any extra water run-off for the proposed Iglesia Bautista Biblica (church) construction project . . . will directly flow into the Schoolhouse Slough which has ample capacity and will not overload the present system and will not form any wetlands."

18. Portions of the east and west boundaries have been fenced by adjoining property owners with low fencing (3 to 4 feet high). Low fencing with low flood water impedance would be added on the northern boundary and the northwest part of the west boundary to define property limits. In later years, gates may be installed across the access drives to the north parking lot to preclude unauthorized after-hours use of the area by non-church persons.

19. There will be modest short-term disturbance during construction, but over time the project is not likely to create pollution, odor, or undue noise. Activities on the site will be largely confined to indoor areas.

20. The applicant estimated that up to 1,000 cubic yards of material would be graded and filled during site preparation. All soil would remain on site. No soil would be imported. Cuts would be only for bioswales and run-off conveyance. Disturbed areas not converted to impervious surface would be reseeded in grass. Phase I would result in about 17% of lot coverage in impervious surface.

21. Critical areas review was approved at the time of septic permit issuance. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued for the project on July 11, 2005.

22. The property in the immediate neighborhood is in residential and agricultural use. There is also commercial activity in the near vicinity. The applicant provided a letter stating that there are no water wells near the property according to Department of Ecology records.

23. Agency comments on the proposal identified no reasons for disapproval so long as conditions of approval ensuring compliance with County regulations are imposed.

24. Planning and Development Services Staff analyzed the project in light of the criteria for Special Use Permits set forth at SCC 14.16.900(2)b)(v) and found that, as conditioned, the proposal would be consistent with the criteria. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

25. While the Staff recommended approval of the proposal, they were concerned that a 20 plus year development schedule is too long. Regulations can change significantly over such a period. The result of such a long schedule would be to vest the project to rules that would likely be long-gone by the time the development was completed. Accordingly, the Staff's recommendation calls for a development schedule limited to 10 years. The 10 year time limit would apply to the initial building, parking and recreation areas, storm water detention, landscaping and septic locations. Buildings other than that described for Phase I would not be approved in this permit action, but would be approvable if developed within the 10 years. The Phase II and III structures would require a special use permit modification at such time as they were specifically described and ready to build. If they were not described within 10 years, they would have to be the subject of new applications and would be approvable only if the Codes in place at the time of applications support the church expansion sought.

26. There were a number of letters written in opposition to the proposal. The opponents expressed concern about traffic, noise, drainage and impacts on views. Also requested was consideration of the flood plain location and evaluation of the appropriateness of septic systems where the water table is high. The applicant provided persuasive rebuttal to all the points raised.

27. The concerns expressed were not supported by compelling data. The applicant's materials and the County's review provided a preponderance of evidence supporting the project.

28. The Examiner recognizes that the proposal represents a change from the past dominance of agricultural use in the neighborhood, but in this area there appears to be a pattern of gradual transition. The subject proposal is a relatively low-intensity use that is consistent with that pattern. The Rural Intermediate zoning provides for a broad array of non-agricultural uses by Special Use Permit. SCC 14.16.300(3),(4). Churches are among the uses specifically allowed.

29. Any conclusion herein which may be deemed a finding is hereby adopted as such.

## CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this appeal.

2. Notice of the application was properly published on June 23, 2005. There was no showing that anyone was prejudiced by any defect in notice.

3. The requirements of SEPA have been met. It was not demonstrated that the project will, more likely than not, result in significant adverse environmental impacts.

4. SCC 14.16.300(4)(g) allows churches in the Rural Intermediate zone as Hearing Examiner Special uses.

5. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(2)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy of surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

6. Under the facts, the project, as conditioned, will be consistent with the above criteria.

7. Any findings herein which may be deemed conclusions are hereby adopted as such.

## **CONDITIONS**

1. The project shall be constructed and operated as described in the application materials, except as the same may be changed by these conditions.

2. The applicant shall obtain all other required permits, including building permits, prior to use of the church facility.

3. The project shall be started within two years of the date of this permit or the permit shall become void. If the use is vacated for a period of at least one year, the permit shall become void.

4. This permit approves development phasing for Phases I – III that is limited to 10 years from the date of permit approval. The initial building, parking and recreation areas, storm water detention, landscaping and septic installations are considered to be part of the phased construction. Buildings, other than the Phase I structure, have not been specifically described and are not to be considered approved under this permit. These structures will require approval by special use permit modification if described within the 10 year development time frame. If they are described thereafter they will be subject to new applications, governed by the Codes in place at the time the applications are filed.

5. The requirements of the public water letter from PUD #1, dated May 16, 2005, shall be met prior to approval of building permits.

6. Provisions for fire flow shall conform to the International Fire Code 2003 Edition and the Skagit County Fire Marshal Procedures Concerning Fire Flow and Placement of Fire Hydrants. As the project is now proposed, the fire flow available per PUD fire flow analysis is adequate. In future phases or if the building exceeds 4,000 square feet, additional fire flow may be required. An additional fire hydrant may be required.

7. The information required per SCC 14.24.340(3)(c) shall be provided to the satisfaction of the County.

8. The applicant shall comply with all applicable State and County regulations, including but not limited to the Drainage Code – Chapter 14.32 SCC, Performance

Standards for Noise and Light – SCC 14.16.840, Chapter 173-60 (noise), Chapters 173-201A and 173-200 (water quality).

9. The Health Department shall be contacted for review of any proposed kitchen facilities. These facilities shall be approved and inspected by the Health Department before approval of building permits.

10. Likely flood water velocity and behavior shall be studied by a licensed structural engineer and his findings shall be incorporated into the final foundation design and configuration.

11. Approval of this Special Use does not support a future land division.

12. All planning review fees shall be paid prior to permit issuance

13. Planning and Development Services shall be notified within 30 days after any change in ownership of the subject parcel by letter referencing PL05-0301.

14. Failure to comply with all conditions may result in permit revocation.

### **DECISION**

The requested Special Use Permit is approved, subject to the conditions set forth above.

  
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Wick Dufford, Hearing Examiner

Date of Action: November 8, 2005

Date Transmitted to Applicant: November 8, 2005

### **RECONSIDERATION/APPEAL**

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.