

June 13, 1996

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON

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REPORT AND DECISION OF THE KING COUNTY HEARING EXAMINER.

SUBJECT: Department of Development and Environmental Services File No. B94C0257

RIVER OF LIFE FELLOWSHIP  
Application for Commercial Building Permit  
Appeal of SEPA Threshold Determination

Applicant: River of Life Fellowship  
10410 SE 216th Street  
Kent, Washington 98031

Appellant: Affected Citizens of 103rd Place SE  
% Charles Goll  
21347 - 103rd Place SE  
Kent, Washington 98031

Location: On the south side of SE 216th Street at 103rd Place SE

PRELIMINARY MATTERS:

Application submitted:	December 30, 1994
Notice of appeal received by Examiner:	April 12, 1996
Statement of appeal received by Examiner:	April 12, 1996
Department Preliminary Report issued:	May 20, 1996

EXAMINER PROCEEDINGS:

Pre-hearing Conference:	May 2, 1996
Hearing Opened:	June 3, 1996
Hearing Closed:	June 3, 1996

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Churches
- Environmental policy - threshold determination criteria
- Landscaping
- Noise
- Parking

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. River of Life Fellowship has applied to the King County Department of Development and Environmental Services for the issuance of a commercial building permit for construction of a 37,000-square foot church building with 243 parking spaces. The site is adjacent to the south side of SE 216th Street at 103rd Place SE in King County, and is approximately 5.6 acres in area.

River of Life Fellowship also owns and occupies a 2.18-acre site on the north side of SE 216th Street, at 104th Place SE, which is currently used for church services and a variety of related activities. These two properties are separated by a distance of approximately 150 feet along SE 216th Street.

River of Life Fellowship has also acquired an additional residential lot on the south side of SE 216th Street, adjacent to the property for which the current building permit is sought. The planned use of this lot is uncertain, but it will likely provide additional parking. With this acquisition, the two church properties are separated by 80 feet along SE 216th Street.

2. On March 26, 1996, the Department of Development and Environmental Services (DDES) issued an Environmental Policy Act (SEPA) threshold determination of non-significance (DNS) for this proposal, described as, "Construct 37,000-square foot, two-story church with 243 parking spaces on 5.6 acres".

A timely appeal of the DNS was filed by Chas. E. Goll on April 9, 1996, for "Affected citizens of 103rd Place, S.E."

3. DDES acknowledges that, at the time the DNS was issued, the Department was not aware of neighborhood concerns about noise, traffic, parking, light and glare associated with the existing church operation; was not aware that there would be continuing use of the existing church facility in conjunction with the new facility; and was not aware of the applicant's projection of a doubling in size of its membership within the next ten years.
4. The church properties described in Finding "1" are within an urban residential area of King County, surrounded on all sides by single-family residences. River of Life Fellowship currently has in excess of 500 adult members and a total active membership in excess of 1,000 persons. Activities at the currently-used church site include four weekly worship services, three weekly prayer meetings, religious classes, meetings, and social activities. Approximately 1,250 persons (including persons who attend more than one function) attend these activities weekly. Additionally, irregular activities include: baptisms, banquets, weddings, funerals, outdoor celebrations, and providing food and clothing to needy persons.

It is clear that River of Life Fellowship has a dedicated and active membership and is likely to continue its growth. Additional membership and participation in church services are actively solicited. The design of the presently proposed structure reflects the likelihood of membership growth by providing for the possible construction of a "mirror image" expansion of the church to the west.

5. The proposed use of the subject property as a church (broadly defined by KCC 21.04.200<sup>1</sup>) was a permitted use of the subject property when this application was submitted on December 30, 1994. Consequently, no discretionary land use review or permit is required by the King County Code prior to issuance of a commercial building permit.

Applications submitted subsequent to February 1995 for church building permits within the

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<sup>1</sup>KCC 21.04.200. Church. "Church" means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship, and including accessory uses in the main building or in separate buildings or structures, including Sunday school rooms and religious education classrooms, assembly rooms, kitchen, library room or reading room, recreation hall, a one-family dwelling unit and residences on site for nuns and clergy, but excluding facilities for training of religious orders.

urban residential (R-6) zone require a conditional use permit prior to issuance of a commercial building permit. A conditional use permit requires that the applicant demonstrate:

- A. The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;
- B. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- C. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
- D. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
- E. The conditional use is not in conflict with the health and safety of the community;
- F. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
- G. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities. KCC 21A.44.040.

In the absence of any applicable requirement of the King County Code to evaluate the proposed development for consistency with the foregoing or similar criteria, the King County Code does not adequately address the environmental impacts of an institutional use of the size and nature proposed by the River of Life Fellowship within this residential neighborhood.

- 6. The construction proposed on the subject property will cover virtually the entire developable area (approximately 2/3 of the site). The proposed church building will be surrounded entirely by parking area. 243 parking spaces are presently proposed, and 25 more are planned on the adjacent property recently acquired. Another 100 spaces will be available on the existing church site on the north side of SE 216th Street. The 243 spaces on the subject property alone will cover approximately three acres.

The applicable landscaping requirements of the King County Code require Type 1 landscaping, 10 feet in width, adjacent to the fence proposed on the east property boundary. No landscaping or other screening is required on any other property line by the applicable provisions of the King County Code in effect at the time of application.

- 7. The construction proposed, within this urban residential neighborhood of single-family homes, considered in light of the anticipated activities on the subject site and on the existing church site to the east, will have probable significant adverse impacts upon the environment with respect to land use, traffic and pedestrian safety, noise, light and glare. These impacts are substantial at the present level of church membership and activity, and will be exacerbated significantly with the projected growth in membership and resulting use of the two sites which the proposed development will enable.
- 8. Although there are benefits to the community and the neighborhood from the proposed development and the activities of the River of Life Fellowship, these benefits are not relevant to the consideration of this appeal. Washington Administrative Code Section 197-11-330(5).
- 9. When a proposal is likely to have a probable significant adverse impact upon the environment, the State Environmental Policy Act requires the preparation of an Environmental Impact Statement (EIS) to provide detailed information, analysis and discussion, and an opportunity for participation by the affected public. The purpose of the EIS is to enable the decision-maker to consider means to avoid and mitigate environmental impacts as part of the decision-making process.

A Mitigated Determination of Environmental Non-Significance is a proper alternative only when

specific modifications or conditions to avoid or mitigate all probable significant adverse impacts have been agreed upon by the applicant and incorporated into the proposal. In the present case, specific mitigating measures have not been incorporated into this proposal which reasonably assure that significant adverse impacts to the environment will not result from the proposed development.

The evidence presented at the public hearing brought to light a number of reasonable possibilities for mitigation of impacts upon the environment. However, the record does not contain sufficient information to enable the Examiner to establish specific conditions for mitigation with any reasonably certainty that they would be the most efficacious and reasonable methods to avoid or mitigate the impacts of the proposed development upon the environment.

#### CONCLUSIONS:

1. The King County Department of Development and Environmental Services had inadequate information on March 26, 1996, concerning the proposed development, particularly concerning: use of the applicant's property to the east in conjunction with the proposed development of the subject site; the nature, variety and times of current and projected activities of the River of Life Fellowship congregation; the projected growth of the membership of the congregation; the extent of traffic, noise, light and glare likely to result from the proposal; impacts on pedestrian safety; and impacts on land use in this neighborhood. Consequently, the responsible official had insufficient information to issue the threshold determination which is the subject of this appeal.
2. The proposed development, including the associated use of the applicant's property to the east, will have probable significant adverse impacts on the neighborhood of single-family residences within which it is located. These include impacts on land use, traffic, pedestrian safety, noise, light and glare. These impacts are not adequately addressed by provisions of the King County Code applicable to this proposal.
3. There has been insufficient analysis of the extent of the impacts identified above, and of the available means to avoid or mitigate those impacts, to enable the Hearing Examiner to establish conditions of mitigation with any reasonable assurance that such conditions would be the most efficacious and reasonable to avoid or mitigate the significant adverse environmental impacts associated with the proposal.
4. One of the principle purposes of the State Environmental Policy Act is to provide full disclosure of environmental impacts of a proposal likely to have probable significant adverse impact upon the environment. Another purpose is to afford interested members of the public a reasonable opportunity to review and comment on the information, analysis, discussion and recommendations concerning impacts and available measures to avoid or mitigate those impacts on the environment. These purposes will be best accomplished in this instance by the preparation of an Environmental Impact Statement.
5. The issuance of the March 12, 1996 DNS which is the subject of this appeal was clearly erroneous.

#### DECISION:

The appeal of Chas. E. Goll on behalf of Affected Citizens of 103rd Place SE is GRANTED, and the Department of Development and Environmental Services is directed to prepare and issue an Environmental Impact Statement prior to County action on the pending application for a commercial building permit or any other permit for this proposed development. The appropriate scope of the Environmental Impact Statement shall be determined by the Department.

ORDERED this 13th day of June, 1996.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 13th day of June, 1996, to the following parties and interested persons:

Mary Lou Allen  
21331 - 103rd Place SE  
Kent, WA 98031

Jack Holt  
21602 - 133th Place SE  
Kent, WA 98031

Stan Boden  
21647 - 104rd Place SE  
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Scott Moser  
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Mr. & Mrs. John Brinley  
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Mr. & Mrs. Will Gable  
21348 - 103rd Place SE  
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Mr. & Mrs. David Slasor  
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Mr. & Mrs. Charles Goll  
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Jeff Turner  
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Marilyn Cox, DDES/Land Use Services Division  
Pam Dhanapal, DDES/Building Services  
Wilsey Hamilton, DDES/Building Services  
Aileen McManus, DDES/Building Services  
Anna Nelson, DDES/Building Services  
Steve Phelps, DDES/Building Services  
Barbara Questad, DDES/Land Use Services Division  
Bob Stewart, DDES/Building Services  
Ellen Turner, DDES/Land Use Services Division  
Bill Walker, DDES/Building Services

MINUTES OF THE JUNE 3, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT  
AND ENVIRONMENTAL SERVICES FILE NO. B94C0257 - RIVER OF LIFE FELLOWSHIP SEPA:

James N. O'Connor was the Hearing Examiner in this matter. Participating at the hearing were Mary Lou Allen, Stan Boden, Shelton Burr, Edie-Mae Goll, Charles Goll, Jon Holmes, Scott Moser, Jim Peterson, Nancy Polky, Rodger Scott, John Shafer, David Slasor, Jeff Turner, Aileen McManus/DDES, and Barbara Questad/SEPA.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services, Land Use Services Division report to the Hearing Examiner, dated May 20, 1996
Exhibit No. 2	Site plan/plot date December 23, 1994(2 sheets)
Exhibit No. 3	Site map
Exhibit No. 4	Determination of Non-Significance for River Of Life Fellowship, dated March 3, 1996
Exhibit No. 5	Letter of appeal, dated April 9, 1996, from Charles Goll to Marilyn Cox/SEPA
Exhibit No. 6	Traffic counts, dated May 17, 1996, from Aileen McManus/DDES to Barbara Questad/SEPA
Exhibit No. 7	Environmental Checklist, dated December 29, 1994, edited March 18, 1996
Exhibit No. 8	Letter, dated May 8, 1996, from Jim Peterson to Barbara Questad
Exhibit No. 9	Landscape plan, dated May 10, 1994, revised May 11, 1995 and March 22, 1996, received by SEPA May 29, 1996
Exhibit No. 10	Appeal presentation, dated June 3, 1996, verbally presented by Charles Goll/Appellant
Exhibit No. 11	Copy of testimony read into record by Mary Allen, dated June 3, 1996
Exhibit No. 12A	Petition with 22 signatures of neighborhood residents, stating traffic and safety concerns
Exhibit No. 12B	Petition with 27 signatures of neighborhood residents, stating traffic and safety concerns
Exhibit No. 13	Video, recorded and described in testimony by David Slasor, showing neighborhood

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