

CERTIFIED MAIL

May 31, 1983

Mr. and Mrs. Robert Davids
P. O. Box 1683
Pahoa, HI 96778

Dear Mr. and Mrs. Davids:

Special Permit Application (83-4)
TMK: 1-5-33:252

The Planning Commission at a duly advertised public hearing on May 26, 1983, considered your request for a special permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to allow the establishment of a pre-school within an existing single family dwelling situated on 1 acre of land within the State Land Use Agricultural District at Hawaiian Paradise Park Subdivision, Keaau, Puna, Hawaii.

The Commission voted to deny the special permit based on the following findings:

The proposed use will not promote the effectiveness and objectives of Chapter 205, HRS, as amended. Through the passage of Chapter 205, HRS, known as the Land Use Law, the State Land Use Commission was established. It called for the classification of all lands in the State and authorized the adoption of rules of practice and procedures and regulations for land use within the various land use districts. The four land use districts created by the State Land Use Commission, Agricultural, Rural, Urban, and Conservation, provide the basic legal framework of land uses in the State of Hawaii and help implement the long-range land use objectives of the State and Counties. The intent of these statutory provisions is to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people in Hawaii.

MAY 31 1983

Mr. and Mrs. Robert Davids
Page 2
May 31, 1983

At the County level, these broader statewide objectives are articulated through the County General Plan. In that respect, consistency with the goals, objectives and policies of the General Plan will also promote the effectiveness and objectives of Chapter 205, HRS.

The General Plan's Transportation and Public Facilities elements state goals and standards to ensure safe and efficient streets and thoroughfares, minimization of traffic interference and pedestrian hazards.

It is felt that the granting of this particular request would, in fact, be incongruous with the objectives sought to be accomplished by the Land Use Law and Regulations, as well as the County General Plan as stated previously. The subject property is part of the Hawaiian Paradise Park Subdivision which was approved in 1959. Its approval did not include the type of improvements that would be required by the present Subdivision Control Code requirements, in terms of access, water, drainage, etc. As such, the subject subdivision is considered to be inadequate in terms of the present code requirements. The introduction of urban uses in an area which is not up to present standards have to be evaluated carefully. The land use implications and conflicts it may produce could have a negative effect on the area and surrounding properties, if not planned for. In certain instances, a proposed urban type use within an unimproved area may be justifiable because of its location, need, etc. However, its justification, must ensure that the considerations of public health, traffic and fire safety etc., are adequate before committing an area with such a use.

The Keaau-Pahoa Road is a primary arterial between the rest of the County and the lower Puna area. A primary arterial is defined as a "Street of considerable continuity which is primarily a traffic artery for intercommunication between or through large areas." The highway at this location is in a straight alignment and thus induces high speed traffic. The speed limit at this location is the maximum 55 miles per hour. By granting the additional use, the potential outcome would place unnecessary burdens on the highway facility as a series of attractions along the corridor would tend to induce more turning movements on and off the roadway. This in turn would slow traffic and create more potential traffic conflicts between turning movements and on-coming traffic. Thus, the design and location of the proposed driveways off the Keaau-Pahoa Road would further reduce the function of the highway as a primary arterial.

Mr. and Mrs. Robert Davids
Page 3
May 31, 1983

By virtue of its proposed location along the main thoroughfare between Keaau and Pahoa, the subject request would capture some of the trade that would otherwise flow to the existing urban areas. The provision of such a community service at this particular location would thus be contrary to the continued growth and development of the designated urban centers of Keaau and Pahoa.

As such, the location of a pre-school would be better served if it were not located along the primary arterial. A location more confined to a parcel with no frontage on the highway would be more suited to ensure the considerations of the safety and welfare of the public. In the approval of the Hawaiian Paradise Park Subdivision, acreages were set aside to provide for these types of uses. They were strategically located throughout the subdivision to allow these types of uses to be established for this area. The subject property is not an area which has been designated for such uses. Therefore, the intensification of the use of the property beyond the existing residential use would be curbing the prior planning efforts for this area. As such, the locational issue is an important factor to consider in the land use decision for this area.

One of the basic elements of land use planning and zoning is the minimization of adverse effects which various uses may have upon traffic and other activities. Because the subject request would require an increase in traffic and a substantial change of the traffic driving patterns in this area. These factors and the land use conflicts it would generate would be contrary to sound planning practices.

The Police Department and State Department of Transportation, Highways Division, expressed serious concerns relative to the location of the access for the proposed use. In addition, the Board of Directors of the Paradise Park Hui Hanalike voted unanimously to oppose the application based on the access and depreciating land value concerns.

We would like to emphasize that this denial is based primarily on locational considerations. There may be an adequate demand in this area to support a pre-school either now or in the future. However, should such a demand exist from a land use standpoint, this type of use would be more suitably located within the interior sections of the subdivision where

Mr. and Mrs. Robert Davids
Page 4
May 31, 1983

its clientele would be more oriented toward the neighborhood residents rather than attempting to tap this community wide market.

Further, the approval of the subject request would encourage other developments to occur along the Kaaau-Pahoa Road where they may tap the heavy traffic flow. Such a pattern would create a strip type development along this section of the highway reducing the efficiency of the roadway, retarding the development of the designated urban center, and creating a strung out and inefficient commercial pattern.

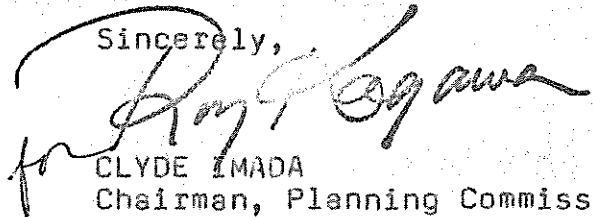
The Planning Commission would like to reiterate that this denial does not imply that there is no need for a pre-school in this general area. However, based on the guidelines for granting a special permit, the Planning Commission finds that the subject request is inconsistent with the criteria and should be denied.

Based on the foregoing, we have determined that the granting of the request at this location will not promote the effectiveness and objectives of Chapter 205 and would not be in the best interest of the public health and welfare of the people of the State of Hawaii, in this particular case, the children who would attend the pre-school and the residents of the Puna area.

A denial by the Commission of the desired use shall be appealable to the Circuit Court in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.

Should there be further questions on this matter, please feel free to contact the Planning Department at 961-8288.

Sincerely,



Handwritten signature of Clyde Imada in cursive script.

CLYDE IMADA
Chairman, Planning Commission

cc: Department of Public Works
Department of Water Supply

bcc: Plan Approval Section

MAY 31 1983