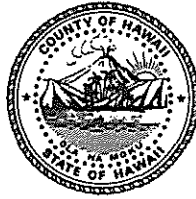


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 Fax (808) 961-9615

CERTIFIED MAIL
P 021 737 136

June 21, 1995

Reverend Michael Milner
Church of Friendship
P.O. Box 61761
Honolulu, HI 96839-1761

Dear Reverend Milner:

Special Permit Application 95-4
Applicant: Church of Friendship
Request: Establish a Church for No More Than 20 People
Tax Map Key: 1-6-102:171

The Planning Commission at a duly advertised public hearing on June 7, 1995, considered the above-referenced request for a Special Permit in accordance with Chapter 205-6, Hawaii Revised Statutes, and Rule 6 of the Planning Commission, to establish a church for not more than 20 persons on approximately 8,014 square feet of land situated within the State Land Use Agricultural District at the Tiki Gardens Subdivision about 1,340 feet from the intersection of Ainaloa Boulevard and Aloha Drive at the southwestern corner where Aloha Drive intersects an unnamed private road, Keaau, Puna, Hawaii.

The Commission voted to deny Special Permit No. 901 based on the following findings:

In considering a Special Permit for any proposed use, Rule 6 of the Planning Commission relating to Special Permits requires that such action conform to the following guidelines:

- a. Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations;
- b. The desired use shall not adversely affect surrounding properties;
- c. Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;
- d. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established;
- e. The land upon which the proposed use is sought is unsuited for the uses permitted within the district;

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- f. The proposed use will not substantially alter or change the essential character of the land and the present use;
- g. The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans;

In addition to the guidelines detailed above, the Planning Commission must also find that the proposed use:

- a. Is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and
- b. Would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

While the proposed use must meet all of these criteria for approval by the Planning Commission, a denial may be made upon a finding of conflict with any one criteria.

The proposed use may adversely affect surrounding properties. The property is only 8,014 square feet in size and is a corner lot with two roadway frontages. The buildable area allowed on this lot is severely limited if the setbacks (15' front yards and 8' sideyards) for a dwelling were to be imposed. While the applicant recognizes potential impacts to adjacent properties by proposing 15' setbacks on the sideyards, it is questionable whether an additional seven feet would mitigate noise impacts that could result from the establishment of a church/class use.

It should be pointed out that the Zoning Code requires churches, temples and other religious institutions to have a minimum 10,000 square feet of land to apply for a use permit in the Urban District. The rationale for this threshold number addresses concerns over noise, visual and functional impacts. Although it is not a requirement in the Agricultural District, it is prudent to carry such minimum standards over when dealing with non-conforming lots. The subject property would not even be able to apply for a use permit were it in the Urban District.

Admittedly, neighboring parcels are all vacant. However, it can be anticipated that residences will be built and these uses should be protected from the potential of a church/class use on this small lot.

The desired use will unreasonably burden public agencies to provide roadway and safety protection improvements. As in previous applications for similar types of uses, applicants were required to provide necessary roadway improvements to ensure a minimum pavement width which would accommodate two-way traffic. Aloha Drive has a 60-foot wide right-of-way and is unpaved to the property from Ainaloa Boulevard. The unnamed road is an unpaved, dirt road. Both Aloha Drive and the unnamed road are privately owned and maintained. The County has no jurisdiction over the use or future improvement of this roadway. Nevertheless, approval of the proposed use, and the potential for similar types of uses along substandard roadways, would create a condition which the County would be called upon to resolve, thereby burdening governmental agencies. The County has many miles of substandard roadways that are constantly being requested to improve even though in

private ownership. It would not be in the best interest of the County to support an intensification of land use in areas unable to cope with such uses.

With the discussion above, approval of the subject request would be in conflict with a goal of the Land Use Element of the General Plan to, "Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County" while maintaining a policy to, "...encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment."

Based upon the above considerations, it is determined that the establishment of a church for no more than 20 persons on 8,014 square feet of land within the State Land Use Agricultural District would be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations and should, therefore, be denied.

As stated in Rule 6-9, "The Planning Commission's decision is appealable to the Third Circuit Court."

Should you have any questions on this matter, please feel free to contact Connie Kiriu of the Planning Department at 961-8288.

Sincerely,

*Edward E. Crook, Vice Chair
for Wilton Wong*

Wilton K. Wong, Chairman
Planning Commission

CRK:syw
LChurch01.PC

xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
State Land Use Commission
Department of Public Works
Department of Water Supply
Corporation Counsel
Plan Approval Section