

STAFF REPORT

Planning & Zoning Commission: December 9, 2002

APPLICANT: Freedom in Christ Ministries Inc. **FILE NUMBER:** SE-02-14

PURPOSE: Special Exception Use Permit for a Place of Public Assembly, namely, a Religious Establishment with associated uses and a congregate care home, and a reduction in the parking requirements

GENERAL LOCATION: West side of Eastside Avenue, approximately 200' west of US 41, approximately 200' north of Lincoln Road

LEGAL DESCRIPTION: A portion of Section 11, Township 22 South, Range 19 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 1 PETITION AGAINST: 1 with 231 signatures

STAFF FINDINGS:

Surrounding Zoning

North: R-1B, R3
South: R-1B
East: C-2, R-1B
West: R-1B

Surrounding Land Uses

Multifamily, single family
Single family
Commercial, single family
Undeveloped

SUMMARY OF REQUEST

The petitioner has requested a special exception use permit for a place of public assembly, namely, a religious establishment, with associated uses of administrative offices, food bank, thrift store and classrooms, and a congregate care home, and a reduction in the parking requirements. The subject property is located on the west side of Eastside Avenue, approximately 200' west of US 41 and approximately 200' north of Lincoln Road.

FACTUAL INFORMATION

1. The property is currently zoned R-1B.
2. The property comprises approximately two-thirds of an acre.
3. The site contains a vacant building.
4. The subject property has access to Eastside Avenue.
5. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
6. The Hernando County Soil Survey indicates the on-site soil type is Micanopy loamy fine sand.
7. The property is located in flood zone C.

8. The City of Brooksville has indicated that central water and sewer are available to serve the subject site.
9. The subject property is served by local roadways.
10. Adequate public facilities are available to serve limited development on the subject property.
11. The subject property contains no WHPAs, wetlands or SPAs according to County data resources.
12. The area is characterized by residential, commercial and agricultural uses.
13. The petitioner requests a waiver of the requirement to provide paved parking, which is a deviation from County LDRs.

STAFF DISCUSSION

The petitioner requests a special exception use permit for a religious establishment with associated uses and a congregate care home. Religious establishments are classified as places of public assembly. Places of public assembly and congregate care homes are special exception uses which may be approved in all zoning districts.

The petitioner has proposed operating a church with associated uses and a homeless shelter from within the existing building. The narrative indicates the church will initially be attended by approximately twenty (20) persons, with services offered 3 to 4 times per week and a class offered mid-week. The proposed uses associated with the church include administrative offices, food bank, thrift store and classrooms. The narrative indicates donations received by the church will be used to provide needy families with food and clothing. The narrative indicates the doors will be open from 9 a.m. to 9 p.m. daily while the building is remodeled. The narrative indicates the poor and homeless will be provided with clothing, food, a shower and temporary shelter.

The petitioner has verbally indicated the homeless shelter will house up to ten (10) residents. The petitioner estimates the maximum length of a resident's stay would be six (6) months. The petitioner has verbally indicated shelter residents would not be allowed to leave the property for the first forty (40) days of residence.

The property contains a 1,400 square foot building that had previously housed the Brooksville Jaycees, a social club. The Planning staff has concerns about the feasibility of utilizing the existing building for the proposed uses. The building may require upgrades and renovations in order to meet the building and fire code standards. The County fire rescue district has indicated that the maximum occupancy load for a 1,400 square foot building is seven (7) persons. The staff has advised the petitioner to meet with the Development Department so he will be aware of the range of improvements required so the building meets the minimum code standards for the proposed uses.

The subject property is approximately two-thirds of an acre in size. The petitioner has verbally indicated a privacy fence would be erected along the south lot line against the adjacent property containing a single family residence. A vegetated buffer is located along the north lot line against the adjacent property containing duplexes. The staff would recommend that if the request is approved, the petitioner be required to provide a permanent screen along the south lot line in order to buffer the use from the adjacent residential property.

The petitioner requests a waiver of the paved parking requirement. The County LDRs indicate places of public assembly may have up to fifty (50) percent of the parking spaces (including aisles) surfaced with grass, lawn or other materials as designated in the county parking lot standards for permanent, reserve parking; however, if parking demand is such that said grass, lawn or other material is caused to be damaged or destroyed to the extent that said grass or lawn ceases to grow, or the other material otherwise causes a nuisance to the neighborhood, then paving of such an area may be required by the administrative official. The Planning & Zoning Commission may in the granting of a special exception allow a reduction in the parking lot paving

standards by a majority vote, although the paving requirements for the physically challenged would still be required.

The petitioner proposes not paving any of the parking area. The site plan indicates parking will be located on the lawn. The petitioner indicates in the narrative that the waiver of the paving requirement is requested because the petitioner will not be able to afford to both pave the parking area and renovate the building. The County Engineer has indicated that if the request is approved, the petitioner will be required at a minimum to pave an access apron from Eastside Avenue to the property line. The County parking lot standards require the provision of a paved parking space for the physically challenged. The Planning staff does not find the petitioner's justification adequate for a waiver of the parking lot paving standards. Staff would recommend that if the request is approved, the parking area provided must meet the County parking standards.

Places of public assembly are required to provide 0.3 parking spaces per seat on the basis of maximum capacity. Adult congregate living facilities are required to provide 0.5 spaces per bed based on maximum capacity. Based on the proposal for a 20-person congregation and a 10-person homeless shelter, the petitioner is required by the LDRs to provide a minimum of 11 parking spaces.

The City of Brooksville was notified of the subject request; no response has been received as of yet.

FINDINGS OF FACT

The subject property is located within a residential category on the adopted Future Land Use Map. Land uses allowed in the residential land use category include single family residential densities up to 5.4 units per acre, resort residential, and ancillary land uses such as recreation, churches and community centers.

The area is characterized by residential, commercial, and agricultural uses. Duplex units are located north of the subject property. A convenience store is located to the east. The subject property is located near the entrance to a single family residential neighborhood. It is the staff's opinion that the intensity of the petitioner's combined proposed uses would not be compatible with the surrounding residential neighborhood.

The subject property is served by local roadways. Eastside Avenue is a two-lane paved roadway. The Planning staff is of the opinion that the subject property's location on a local roadway limits the amount of development appropriate for the site.

The Planning staff is of the opinion that a church, approved with performance conditions limiting its intensity, would not be inconsistent with the adopted Comprehensive Plan nor incompatible with the surrounding area. The church is proposed to hold services several times a week, but would not be a 24 hour operation.

The Planning staff does not object to the administrative and religious instructional activities, which customarily occur at a religious establishment, taking place in conjunction with the proposed church. The staff is of the opinion that the other associated uses proposed, administrative offices, classrooms, thrift store and food bank, are not customary activities of a church and would not be compatible with the surrounding area. The Planning staff is of the opinion that the intensity of the activity generated by these uses and the commercial nature of some of the uses would not be compatible with the surrounding residential area. The Planning staff would not object to the proposed church maintaining a food pantry, but does object to the operation of a food bank and thrift store, due to the intensity of activity generated by donors and customers.

The Planning staff is of the opinion that the subject property is not the appropriate location for a homeless shelter operating 24 hours a day. The property is located adjacent to a single family residential area and on a relatively small parcel size of less than an acre. A homeless shelter has an institutional character, rather than a residential character, and would be more appropriately located adjacent to other similar institutional uses or located on a larger parcel where appropriate buffering from adjacent land uses could be provided. A homeless shelter has an impact different from congregate care homes, such as adult family care homes, which are intended to convey a "family-type" living environment.

A special exception use permit is a use which is appropriate in a zoning district if safeguards are imposed but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed in addition to those imposed in the ordinance. As part of the review, the Planning & Zoning Commission must determine that the tract of land is suitable for the type of special exception use proposed by virtue of its location, shape, topography and nature of surrounding development. The proposed use shall not attract inappropriate traffic volumes, noise or congestion. The premises shall be permanently screened from adjoining and contiguous properties by a wall, fence, evergreen hedge and/or other approved enclosure when deemed necessary to buffer the special exception use from surrounding areas.

In considering the granting of a special exception use permit, the Planning & Zoning Commission has the power and duty to find that the request will not adversely affect the public interest.

It is the staff's opinion that the proposed homeless shelter and the proposed uses associated with the church, including administrative offices, classrooms, food bank and thrift store, would not be compatible with the surrounding residential area. The staff is of the opinion that a church, approved with appropriate performance conditions, would not be incompatible with the surrounding residential neighborhood.

The special exception process is a land use determination and does not constitute a permit for either construction on, or use of, the property, or a Certificate of Concurrency. Prior to use of, or construction on, the property the petitioner must receive approval from the appropriate County Department(s) for the use, which may include review by the Development Review Committee (DRC).

The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.

STAFF RECOMMENDATION:

The Planning Staff recommends the Planning and Zoning Commission deny the petitioner's request for a special exception use permit for a congregate care home, additional uses associated with the religious establishment and a reduction in the parking requirements and approve the petitioner's request for a special exception use permit for a place of public assembly, namely, a religious establishment with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The building must be upgraded to meet the applicable development standards for a religious establishment.
3. The maximum building size approved for the religious establishment is 1,400 square feet.
4. The petitioner shall screen the south lot line with a minimum 5'-high wall, fence, evergreen hedge and/or other approved screening.

P&Z ACTION:

The Planning and Zoning Commission voted 5-0 to deny the special exception request for a place of public assembly, namely, a religious establishment, a congregate care home, additional uses associated with the religious establishment, and a reduction in the parking requirements.