

## County of Hawai'i

### LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

JUN - 8 2016

Mr. Daniel Kaipo Sheen  
P.O. Box 2212  
Kealahou, HI 96750

Dear Mr. Sheen:

**SUBJECT: Amendment to Special Permit No. SPP 714 (Docket No. SPP 89-000022)**  
**Applicant: Daniel Kaipo Sheen (formerly Takeshi Kudo)**  
**Request: Amendment to Condition No. 4 to Extend the Hours of Operation**  
**From 8:00 a.m.-5:00 p.m. to 5:00 a.m.-10:00 p.m. for the**  
**General Store**  
**Tax Map Key: 8-4-006:053**

The Leeward Planning Commission, at its duly held public hearing on May 19, 2016, voted to approve the above-referenced request to amend Special Permit No. 714 to extend the permitted operational hours for the general store from its current 8:00 a.m. to 5:00 p.m. period to 5:00 a.m. to 10:00 p.m.. SPP No. 714 allowed the establishment of a coffee mill, office, and general store on .643-acre of land situated in the State Land Use Agricultural District. The property is located along the west (makai) side of the Hawai'i Belt Road (Highway 11), approximately 900 feet south of the Middle Ke'ei - Highway 11 junction, Hōnaunau, South Kona, Hawai'i.

Approval of this amendment is subject to the following amended conditions:

1. The applicant, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval of the proposed uses shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with the Chapter 25-

**244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify property boundaries, structures, landscaping, paved parking, including loading/unloading stall(s), and detailed on-site driveway circulation. Parking shall comply with the requirements of the Zoning Code and no variance from the Code may be applied for or granted.**

3. The hours of operation of the proposed uses shall be limited from 5:00 a.m. to 10:00 p.m. The coffee mill may operate from 8:00 a.m. to 8:00 p.m. during the coffee season months of September through March.
4. All parking shall be on-site within the parking stalls identified on the submitted site plan in the amendment application on November 3, 2015. There shall be no parking along Māmalahoa Highway, except for the identified ADA parking stall unless otherwise permitted by the State Department of Transportation and approved by the Planning Department through the issuance of Final Plan Approval as specified by Condition No. 2.
5. Access shall meet with the approval of the Department of Transportation-Highways Division and the Department of Public Works.
6. Comply with all other applicable laws, rules, regulations, and requirements, including those of the Department of Health.
7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

*[Note: Ramseyer version available upon request.]*

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this amendment is based on the reasons given in the attached Findings Report.

Mr. Daniel Kaipo Sheen

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Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8142.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Unger", with a stylized flourish at the end.

Keith Unger, Chairman  
Leeward Planning Commission

LSheenamendSPP714lpc

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
State Department of Transportation  
Mr. Gilbert Bailado  
West Hawaii Division, Planning Department

**COUNTY OF HAWAI'I**  
**PLANNING COMMISSION FINDINGS**

**DANIEL SHEEN (FORMERLY TAKESHI KUDO)**  
**AMENDMENT TO SPECIAL PERMIT NO. 714 (SPP 714)**

Based on the following, the amendment to Special Permit No. 714 is hereby approved by the Planning Commission to extend the permitted operational hours for the general store from its current 8:00 a.m. to 5:00 p.m. period to a proposed 5:00 a.m. to 10:00 p.m. operation.

The property is located along the west (makai) side of the Hawai'i Belt Road (Highway 11), approximately 900 feet south of the Middle Ke'ei - Highway 11 junction, Hōnaunau, South Kona, Hawai'i, TMK: 8-4-006:053.

Daniel Sheen is requesting an amendment to Special Permit No. 714 to extend the permitted operational hours for the general store from its current 8:00 a.m. to 5:00 p.m. period to a proposed 5:00 a.m. to 10:00 p.m. operation. Currently, Condition No. 4 of Special Permit No. 714 states:

"The hours of operation of the proposed uses shall be limited from 8:00 a.m. to 5:00 p.m. The coffee mill may operate from 8:00 a.m. to 8:00 p.m. during the coffee season months of September through March."

Special Permit No. 714 was approved on September 20, 1989 to allow the establishment of a coffee mill, office, and general store on .643 acre of land situated in the State Land Use Agricultural District. The General Store offers specialty coffees, sandwiches, and home-made baked goods for sale. The property has been historically associated with various types of agricultural, industrial and commercial uses.

The amendment request, which involves an increase in hours of operation, is not contrary to the original reasons for approving the Special Permit, is not contrary to the Zoning Code, which allows the operation of the general store in the County's A-5a zoning district and the State Land Use Agricultural district with the issuance of a Special Permit, and is not contrary to the General Plan.

**Granting of the amendment request would not be contrary to the original reasons for the granting of the permit.** The use would continue to be an unusual and reasonable use of lands situated within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended. The land upon which the existing use is sought is unsuited for the uses permitted within the district. It is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and Unique by the Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map.

The extension of hours should not adversely affect surrounding properties. Landscaping and onsite parking were required as part of Final Plan Approval to help minimize visual, noise and traffic impacts to surrounding properties that may be created by the established uses. Additionally, there are structures on the north and south side of the general store, which creates an additional buffer to the dwellings located on the adjacent north and south properties. Lastly, a condition of approval has been added to clearly identify where patrons of the general store are

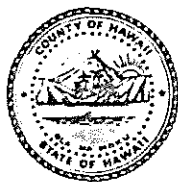
required to park. Parking is located in the back of the property and not along Māmalahoa Highway or fronting the general store, except for the ADA parking stall, unless otherwise permitted by the State Department of Transportation and approved by the Planning Department through the issuance of Final Plan Approval.

The increased hours of operation will not unreasonably burden public agencies to provide roads and streets, wastewater service, water, drainage, and police and fire protection. Therefore, based on the above, the granting of the amendment request to extend the permitted operational hours for the general store from its current 8:00 a.m. to 5:00 p.m. period to a proposed 5:00 a.m. to 10:00 p.m. operation would not be contrary to the original reasons for the granting of this permit.

**Approval of these requests would not be contrary to the General Plan or the Zoning Code.** The amendment request continues to be consistent with the Land Use Element of the General Plan, which states to "Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment" and to "Encourage the development of a visitor industry that is consistent with the social, physical and economic goals of the residents of the County." The granting of this request at this particular location will provide the residents and visitors with an opportunity to improve their quality of life through economic development while maintaining the rural character of the area. Although the Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan identifies the property as Important Agricultural Land, the property has been built up with several structures including a coffee mill, office, dwelling and general store.

Lastly, the request is consistent with the Zoning Code as a Special Permit received approval from the Planning Commission to allow the establishment of a coffee mill, office, and general store on .643 acre of land within the County's A-5a zoned district and the State Land Use Agricultural district. The applicant is simply requesting to extend the permitted operational hours for the general store from its current 8:00 a.m. to 5:00 p.m. period to a proposed 5:00 a.m. to 10:00 p.m. operation. Therefore, the amendment request would not be contrary to the General Plan or the Zoning Code.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.



## Planning Commission

Bernard K. Akana  
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

### CERTIFIED MAIL

October 3, 1989

Robert L. Smith, Esq.  
Kuakini Plaza South  
77-6400 Nalani Street, Suite 200  
Kailua-Kona, HI 96740

Dear Mr. Smith:

Special Permit Application (89-22)  
Takeshi Kudo  
TMK: 8-4-06:53

The Planning Commission at its duly held public hearing on September 20, 1989, voted to approve the above application, Special Permit No. 714, to allow the establishment of a coffee mill, office, and general store on .643 acre of land situated within the State Land Use Agricultural District, at the former Kudo Store Mill site situated along the west (makai) side of Mamalahoa Highway, Honaunau, South Kona, Hawaii. Please note that the Commission also approved the revocation of Special Permit No. 75-220 to Roy R. Santana which allowed the establishment of an animal feed store on the property.

Approval of this request is based on the following:

The granting of this request would not be contrary to the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended 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 of the State of Hawaii. Although the subject property is classified "C" or Fair by the Land Study Bureau for agricultural productivity and "Unique" by the ALISH map, it has been historically associated with various types of agricultural, industrial and commercial uses. This has locationally served the coffee farmers as a coffee drop-off station and parchment

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and green storage facility since 1929. The re-establishment of a coffee mill and drying facility, general store and office are not anticipated to have a significant adverse affect on the agricultural resources of the region. The coffee milling and drying operation should supplement the coffee drop-off green storage activity occurring on the subject property. This approval should only reinforce what had existed previously and should be viewed as an expansion of the coffee industry at a site having necessary structural features capable of handling such activity. The proposed uses are also in close proximity to other establishments and institutions such as the Honaunau Post Office, Stan's Fish Market and Shimizu Store, and Patel's Texaco. The fish market, store and service station were granted special permits in the past.

The desired use will not adversely affect the surrounding properties, which are in coffee or are scattered with single-family dwellings. The approval of this Special Permit contains a condition requiring that the addition allowed to be constructed under Special Permit No. 75-220 and a canopy within the right-of-way shall be demolished. This will remedy an encroachment within the setback area and roadway in the interest of public safety. Landscaping will be imposed at the time of plan approval to buffer noise and visual nuisances to neighboring properties. Given the fact that the pavement extends from Mamalahoa Highway to the existing buildings, landscaping will not be required along the frontage.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection. The Department of Water Supply had no objections to the request. The Police Department commented that traffic in past times has been minimal. However, due to a drastic increase in traffic, an acceleration and deceleration lane was recommended. It is felt that the size and nature of the proposed use does not warrant such roadway improvements at this time. The increase in traffic to the subject property cannot be attributed solely to the proposed use. In this particular instance, the vehicular increase along the Mamalahoa Highway is a trend experienced by the region and is not one generated independently by the coffee mill, store or office. The submittal of an off-street parking and detailed driveway circulation plan should alleviate concerns expressed by the Department of Public Works with regards to vehicular parking on Mamalahoa Highway. Adequate back-up space will also be reviewed to assure that cars will not reverse onto

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the Highway. At the same time, the driveway circulation plan should also help with access to and from Mamalahoa Highway. Such an off-street parking plan and detailed driveway circulation plan shall be required at the time of plan approval review. The applicant has stated that all rules and regulations of the Department of Health will be complied with as it relates to food handling and service, sewage or wastewater disposal and the containment and disposal of wastewater and coffee pulp.

The coffee industry in the South Kona District has been revitalized and there is new emphasis in the growing and processing of coffee. Coupled with the significant increase in population since the adoption of the district boundaries, the proposed use will satisfy these needs in a location that has been used for those very purposes.

The proposed uses will not substantially alter or change the essential character of the land and the present use. The land is improved with six structures which have existed since 1929. These structures have been used as an animal feed store, a fish market, a coffee mill and drying facility, and a general store for spans of time over the last sixty years. It is not expected that the re-establishment of these uses will substantially alter or change the essential character of the land or its present use as a coffee drop-off station, parchment/green storage facility and farm management office.

The request is not contrary to the stated goal in the Land Use Element of the General Plan, which reads "Designate and allocate land uses in appropriate proportions and in keeping with the social, cultural, and physical environments of the County." It is also determined that the establishment of the proposed uses on an improved parcel of land fronting Mamalahoa Highway in this location would fulfill a unique neighborhood demand for a coffee processing facility, office and general store in Honaunau.

Based on the above considerations, it is determined that the establishment of a coffee mill, office, general store and related improvements is an unusual and reasonable use of land which would not be contrary to the objectives sought to be accomplished by the Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions:

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1. The applicant, its successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval of the proposed uses shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify property boundaries, structures, landscaping, paved parking, including loading/unloading stall(s), and detailed on-site driveway circulation. Parking shall comply with the requirements of the Zoning Code and no variance from the Code may be applied for or granted. No direct parking and loading shall be permitted on Mamalahoa Highway or its right-of-way.
3. Renovations to existing structures shall commence within one year from the date of receipt of final plan approval and be completed within one year thereafter.
4. The hours of operation of the proposed uses shall be limited from 8:00 a.m. to 5:00 p.m. The coffee mill may operate from 8:00 a.m. to 8:00 p.m. during the coffee season months of September through March.
5. The canopy and addition, which encroach into the roadway and front and side yard setback areas, shall be demolished within one year from the effective date of this Special Permit.
6. Access shall meet with the approval of the Department of Transportation-Highways Division and the Department of Public Works.
7. Comply with all other applicable laws, rules, regulations, and requirements, including those of the Department of Health.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

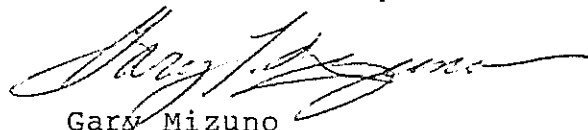
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9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Gary Mizuno  
Chairman, Planning Commission

xc: Mr. Takeshi Kudo  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
State Land Use Commission

bcc: Plan Approval Section