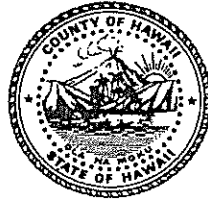


Harry Kim  
Mayor



Geraldine M. Giffin  
Chairperson

## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

7000 0600 0024 2904 9551

APR 22 2002

Mr. J. C. Shannon  
P.O. Box 6300  
Hilo, HI 96720

Dear Mr. Shannon:

Special Permit Application (SPP 02-002)

Applicant: J. C. Shannon

Request: Allow the Existing Four-Bedroom Bed and  
Breakfast Operation Within the First Farm Dwelling

Tax Map Key: 1-4-1:portion of 45

The Planning Commission at its duly held public hearing on March 22, 2002, voted to approve the above-referenced application. Special Permit No. 1141 is hereby issued to allow the existing four-bedroom bed and breakfast operation within the existing first farm dwelling situated in the State Land Use Agricultural District. The property is located approximately 2,000 feet north of Pahoa-Kapoho Road (Hwy 132), in the vicinity of the State Lava Tree Park, Puua-Kapoho, Puna, Hawaii.

Approval of this request is based on the following:

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. The

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State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The applicant proposes to establish a four-bedroom bed and breakfast operation in the existing five bedroom first farm dwelling. The bed and breakfast operation will be managed by applicant, J.C. Shannon, who resides in the main farm dwelling, and his mother who resides in the additional farm dwelling on the subject property. Soils are classified as Keaukaha extremely rocky pahoehoe lava (rKFD) and the productivity rating is "E" or very poor. The Agricultural Lands of Importance to the State of Hawaii (ALISH) Maps identify the property as Unclassified. The property is zoned Agricultural (A-3a) and is five acres in size. The applicant is presently conducting agricultural activity, which includes a macadamia nut orchard and scattered fruit trees. The two dwellings and the agricultural packing shed were constructed in 1979. Since the bed and breakfast operation will mainly be confined to the existing farm dwelling, it is not anticipated that the proposed use will diminish the agricultural potential of the project site or surrounding area.

The desired use will not adversely affect the surrounding properties. Surrounding uses include scattered dwellings, agricultural activity, pasture and vacant lands. The property is located within 1,500 feet of the Lava Tree State Park and a section of the Nanawale Forest Reserve is directly across the access road from the subject property. The existing dwelling is located approximately in the middle of the parcel and well-established landscaping on the parcel provides a buffer for the bed and breakfast operation. The properties immediately adjacent to the subject parcel are currently vacant. Due to the nature of the operation, it is not expected that the bed and breakfast operation would create significant adverse impacts to surrounding properties.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements and police and fire protection. The project site is located within an area served with essential services and facilities. Pahoehoe Town, where police, fire protection, and emergency services are available, is approximately two and one-half miles from the subject property. The applicant shall comply with all regulations for bed and breakfast establishments, including the Department of Health regarding drinking water and breakfast meals. All requirements and recommendations made by the reviewing agencies are being addressed by the applicant. Electricity, water, wastewater disposal facilities and other essential services are or will be made available for the bed and breakfast use.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. Bed and breakfast accommodations have increasingly become a part of a worldwide trend towards providing alternative lodging sites in rural

and agricultural areas such as this particular location. They are becoming popular for visitors who seek a more localized and authentic experience in a home-type setting. The County has recognized this trend, and the Zoning Code, Section 25-4-7, provides guidelines for establishing bed and breakfast operations as an accessory use to the property as a residence. Zoning Code Section 25-4-7(b) stipulates that the bed and breakfast operator shall reside on the same building site as the bed and breakfast establishment. As the use is accessory to the use of the site as a residence and for conducting agricultural activity, the use is consistent with the social and physical character of a rural-agricultural area and will contribute to the economic development of the County. The "Strategic Directions for Hawaii's Visitor Industry" or Tourism Strategic Plan (TSP) prepared by the Hawaii Tourism Authority (June, 1999), forms the basis or foundation upon which Hawaii's future as a visitor destination will be built. This document is a fulfillment of one of the primary responsibilities of the Hawaii Tourism Authority (HTA) established by Act 156 SLH 1998. The TSP contains strategic directions in seven areas, one of which is Product Development. Under Agri Tourism, a subset of Product Development, strategic directions to promote Agri Tourism include:

- Create menus of experiences to make it easier for visitors to purchase agri tourism experiences and products.
- Advocate "Bed & Breakfasts (B&B's)" and "Country Inns" on agriculture lands, farms, and ranches.
- "Bundle" agricultural experiences with health, adventure, culture, eco, and edu tourism.

Thus, the above request is consistent with the State's strategic directions for Hawaii's visitor industry.

The use will not substantially alter or change the essential character of the land and the present use. The subject property is already developed and agricultural activity is occurring on the property. The dwelling in which the bed and breakfast operation will be conducted has already been constructed. The use will be confined to the existing dwelling and will be in keeping with the existing character of the surrounding neighborhood. The requested use will neither conflict with nor intensify existing land uses.

The lands upon which the use is sought is suitable for the uses permitted in the district; however, the use will not interfere with permitted uses. The subject site is developed with a home, agricultural products, and zoned Agricultural (A-3a). The bed and breakfast operation shall be subordinate to the principal use as a residence. The land

will continue to be used to conduct agricultural activity and will not interfere with existing uses.

The use is consistent with the following goals, policies and standards of the General Plan. The subject parcel falls within an area designated as Orchards on the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The zoning for the property is Agricultural (A-3a) and the State Land Use District designation is Agricultural. As such, a Special Permit is the appropriate means to establishing the bed and breakfast operation. The request would complement and be consistent with the following goals, policies and standards of the General Plan:

Land Use Element

- \* Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- \* The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- \* Provide residents with opportunities to improve their quality of life.
- \* Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- \* The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- \* The County of Hawaii shall strive for an economic climate which provides its residents an opportunity for choice of occupation.

Based on the above considerations, the request to establish a four-bedroom bed and breakfast establishment on the subject property would be an unusual and reasonable use of land within the State Land Use Agricultural District, and would not be contrary to the objectives sought to be accomplished by the State Land Use Law Rules and Regulations.

Approval of this request is subject to the following conditions: Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this Special Permit.

1. The applicant, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements of Section 25-4-7 of the Zoning Code, as amended by Ordinance No. 00-152, relating to Bed and Breakfast Establishments.
3. The bed and breakfast business shall be limited to the use of four (4) bedrooms.
4. The applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands related to use of the Lava Tree State Park road as an easement to the subject property and submit a copy of the executed authorization to the Planning Director.
5. The applicant, successors or assigns shall participate in any road maintenance agreement established for roadway parcel TMK: 1-4-1:62 which is collectively owned by all lot owners of parcels created under SUB 1387. The parcels created in SUB 1387 currently include TMKs: 1-4-1: 42, 43, 44 & 45.
6. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the bed and breakfast use, including the Department of Health.
7. A final status report and copies of supporting documentation shall be submitted in writing to the Planning Director upon compliance with all conditions of approval and shall be submitted within one year of the effective date of this permit.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
  - A. 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.

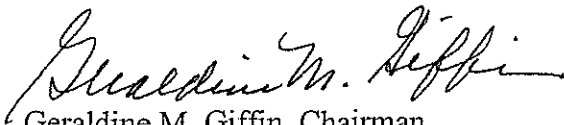
Mr. J. C. Shannon  
Page 6

- 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.
- 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).

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.

Should you have any questions, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Lshannon01PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources, Land Management-Hilo  
Brian Minaai, Director/DOT-Highways, Honolulu  
Department of Health