

**COUNTY OF HAWAI‘I PLANNING DEPARTMENT**  
**RECOMMENDATION**

**TEPPY MOUNTAIN LLC**  
**SPECIAL PERMIT APPLICATION NO. (PL-SPP-2024-000075)**

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Upon careful review of the request against the guidelines for granting a Special Permit, the Planning Director recommends that the request for a **Special Permit to allow an annual, 4-day long festival event with overnight camping and to legitimize the use of a portion of the property for a heavy equipment rental base yard on 14.7 acres of a larger 1,419-acre parcel in the State Land Use Agricultural District be approved by the Planning Commission.** Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This approval recommendation is based on the following findings:

The applicant is requesting a Special Permit to allow an annual, 4-day long festival event with overnight camping and to allow the storage of up to 6 commercial vehicles on 14.7 acres (hereinafter “permit area”) of a larger 1,419-acre parcel in the State Land Use Agricultural District. The proposed project consists of the following components:

- **Event:** The applicant proposes to operate an annual, 4-day-long festival event called “*Falls on Fire*”, in the spirit of the burning man festival (only 1 event per year). Over the last two years, the applicant has held the event in November but would like some flexibility to hold it at other times, provided it occurs only once per year. The event will be centered on principles of inclusion, gifting, self-reliance, self-expression, communal effort, civic responsibility, and respect for the environment, emphasizing the practice of “leave no trace”. The event will be offered on a donation basis and attendees will be encouraged to bring all that they need, share with others and leave the environment better than they found it. During the duration of the event, activities may occur at any time of the day.
- **Commercial Vehicle storage:** An approximately 0.46-acre area will be utilized continuously to store up to six (6) vehicles, including dump trucks, tractor trailers, and a backhoe. According to the applicant, while these vehicles are primarily used for

cattle ranching purposes, the vehicles are also used to transport gravel to local businesses when not in agricultural use. Despite the representation of the storage of up to 6 such vehicles, a site visit found 8 pieces of heavy equipment (2 new excavators, 2 new bulldozers, a new tractor, a new SkyTrak forklift, an older tractor trailer dump truck, equipment trailers, and an older farm tractor) along with vehicle fueling infrastructure, and several unpermitted storage structures. Additionally, according to testimony by neighbors, this heavy equipment is rented and delivered by the ranching lessee to off-site users through his business, “Indian Tree Ranch and Rental LLC”. Based on the preceding, the Planning Director considers the use to be a heavy equipment rental base yard, rather than a commercial vehicle storage area.

- **Land Area:** Approximately 14.24 acres of land, inclusive of access roads, would be used for the annual 4-day festival event including designated camping areas and a bonfire area. The remaining approximately 0.46-acres would be used for the heavy equipment rental base yard and a check-in area for the event. Fencing and signage throughout the property will ensure that attendees remain within the boundaries of the Special Permit area. Additionally, it is noted that attendees will be welcome to enjoy the waterfalls on the property during the event as an outdoor recreational use which is permitted on agricultural land.
- **Attendees:** The applicant proposes to host up to 500 attendees. Attendees will be required to bring their own food, water, camping supplies and other gear as those things will not be supplied by organizers.
- **Activities & Workshops:** Activities and workshops offered during the event will be dynamic and may change year-to-year as they will be initiated by the event participants, not the organizers. Thus, the number of possible activities which may occur during each event will depend on the number of participants. Examples of possible events, activities and workshops include fire performances/dancing, light installations (i.e. projection of light onto waterfalls or holograms), art installations celebrating native Hawaiian culture, flora and fauna, live music and DJ sets, eco-conscious workshops featuring topics such as permaculture, sustainable building and ocean conservation, healing and wellness spaces (i.e. medication zones and yoga

- areas), interactive community projects (i.e. collaborative art-making), environmental activism meetups and a burning ceremony involving the burning of a symbolic effigy to close out the event.
- **Camping:** The applicant proposes to offer overnight camping in three designated campsite areas. Attendees will be encouraged to share their own artistic contributions, workshops, and performance ideas to create a vibrant and engaging sense of community within the camp.
  - **Bonfire Area:** A designated bonfire area will consist of approximately 0.31 acres and will serve as additional gathering space for attendees. This area will be the location of a burning ceremony mentioned above.
  - **Event Safety:** The Police Department, Fire Department and Planning Department will be notified prior to the annual event. Volunteers will be stationed at the access gate to ensure that all attendees are registered. Additionally, depending on the number of attendees anticipated, between 4 and 10 volunteer “rangers” will be on site. The rangers are individuals trained to watch out for and de-escalate conflicts. The rangers will call the appropriate authorities should a situation arise, which cannot be safely resolved.
  - **Fire Protection:** According to the application, a 3,000-gallon water tank exists in the base yard area and will be available for emergency fire protection. However, it should be noted that during a site visit, staff observed that the tank had been disassembled, therefore, the tank is not available. Additionally, fire extinguishers will also be located within the bonfire area and each of the campsite areas. If required, the applicant is willing to install a fire suppression water tank within the bonfire area.
  - **Amplified Sound:** Amplified sound will be permitted during the event. All amplified sound will be directed in a westerly (mauka) direction, toward the bulk remainder of the vacant 1,419-acre parcel, away from any neighboring dwellings.
  - **Access and Parking:** Access to the property is provided via Indian Tree Road, a private roadway with pavement widths varying between 12 and 16 feet within 50-foot-wide easements over which the applicant has legal easement. Internal access through the property to the bonfire area and designated campsite areas will be

provided by an existing 10-foot-wide gravel driveway. This existing driveway includes multiple pull-off points to accommodate two-way traffic and crosses a stream. Parking for up to 200 vehicles is available in designated areas within the campsite zones on existing grassy areas. The heavy equipment rental base yard area on the property has been previously cleared and consists of gravel, providing a stable and suitable surface for base yard and event check-in purposes.

- **Potable Water & Wastewater:** The property is not served by the County water system; thus, attendees will be required to bring their own potable water for the 4-day event. The applicant proposes to provide portable toilets for the 4-day event.

The applicant states that he informed the County Planning, Police and Fire Departments prior to hosting the event in 2023. Unfamiliar with the County and State regulations requiring a Special Permit, the applicant regrets that he misunderstood County requirements and held the 2023 event without obtaining a Special Permit. To comply with all governmental regulations, the applicant is now requesting a Special Permit to hold one festival event annually. Additionally, the applicant needs to secure a Special Permit to remedy a notice of violation for illegally operating the event in 2023 and 2024.

Additionally, the applicant leases a portion of the property to a local rancher who utilizes approximately 1,000 acres of the property as pasture for his cattle. This application also requests approval of this special permit to legitimize storage for up to six (6) commercial vehicles (now base yard) use.

The applicant is not proposing to construct any permanent structures, thus there is no estimated timetable or cost. However, there could be costs associated with securing building permits for unpermitted structures and building additional infrastructure which may be required by Fire Code (e.g. Fire Department Access Road and additional fire suppression water storage).

The criteria for approving a Special Permit are based on Rule 6-7 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found 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) the

proposed use would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended.

**The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of the State Land Use Law and Regulations and Chapter 205, HRS, 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 State Legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district.

The subject request is unusual in that the proposed uses are not strictly agricultural in nature and would allow the applicant to hold an annual, 4-day-long festival event on their property and to continue to operate a heavy equipment rental base yard for non-agricultural-related commercial uses in a designated area on the property. However, the proposed uses are reasonable in that they would only use a small portion (1%) of the larger land area with a small development footprint to host occasional special events to diversify their income stream to help offset the costs of running a ranch. The remainder of the land area will continue to be used for ranching. Therefore, it is reasonable that this use be allowed in the Agricultural District.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

**(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** The 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 health and welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The permit area includes a mix of soils designated as "C" or "Fair" and as "D" or "Poor" and the stream areas are designated as "E" or "Very Poor" for agricultural

productivity. Additionally, lands within the permit area are designated “prime” agricultural lands and “unclassified” along the stream areas by the State’s ALISH Map.

Given that the Special Permit request involves only a small portion of the property (1% of the total land area), that the festival use is infrequent (occurring only once a year for a four-day duration), and that the applicant is not proposing any permanent structures or ground disturbance, the request is unlikely to impact the long-term agricultural potential of the land.

Regarding overnight camping in the SLU Agricultural District, the State Land Use Commission (LUC) cited Hawai‘i Revised Statutes and the 2023 Hawai‘i Supreme Court decision in *Ho‘omoana Foundation v. Land Use Commission*, stating that overnight camping in the SLU Agricultural District is entirely prohibited. They clarified that even a Special Permit cannot allow such use; instead, a State Land Use District Boundary Amendment (SLUBA) would be required.

Through the Ho‘omoana Foundation decision, the Court ruled that, “*The specific exclusion of overnight camps from permitted uses in HRS § 205-4.5(a)(6) means that the public and private recreational use of overnight camps is not permitted, even by special use permit, on class A and B agricultural district land.*” Given that the subject property and permit area are situated on soils designated as class C, D, and E by the Land Study Bureau, the Planning Director disagrees with the LUC determination that a SLUBA is necessary, and that a Special Permit is an appropriate path for approval of the requested use on this specific property.

**(B) The desired use shall not adversely affect the surrounding properties.** Most surrounding properties are similarly zoned A-20a, with a few parcels to the south designated as A-10a. Surrounding land uses are primarily agricultural, including cattle grazing and some residential use with the nearest dwelling approximately 3,500 feet to the southeast of the proposed event area. Directly west (mauka) of the subject parcel is a large, approximately 11,395-acre property owned by the applicant, primarily designated as conservation land. It should be noted that the application included letters from some neighbors in support of the Special Permit.

Conversely, the Planning Department has received testimony from some neighbors along Indian Tree Road citing concerns over the existing and potential impacts of the proposed uses on surrounding property owners including increased traffic related to the annual event; safety concerns over the Indian Tree Road/Highway 19 intersection; damage to Indian Tree Road by event guests and commercial trucks; noise, visual, and air quality impacts during event periods, and security concerns.

To mitigate damage the Indian Tree Road, the applicant has proposed to repair potholes and other damage related to increased traffic from the annual event. This will be added as a condition of approval and expanded to require repair of the roadway related to the more frequent the hauling of heavy equipment over the roadway by the applicant's lessee.

To mitigate potential intersection safety concerns, a condition of approval will require the applicant to develop a traffic management plan and for review and approval of the State Department of Transportation (DOT) District Engineer prior to each annual event and will be responsible for implementing the plan as may be required by DOT.

To mitigate potential noise impacts, the applicant has indicated that all amplified sound will be directed in a westerly (mauka) direction, toward the bulk remainder of the vacant 1,419-acre parcel, away from any neighboring dwellings. The other concerns will be addressed as discussed below.

The Police Department expressed concerns and objections to the proposed annual festival event due to the lack of proper approval and permitting. They emphasized the importance of being notified in advance, along with the Fire Department and neighboring property owners, before the annual event. Specifically, they requested the following information: 1) The anticipated number of participants; 2) The expected volume of vehicular traffic, along with assurances that all parking will be managed on-site; 3) A plan detailing how the applicant will handle event security; and 4) How the applicant intends to notify neighbors of each event and how the applicant intends to address neighbor complaints during the event period (e.g., noise complaints, etc.)

The applicant responded in writing indicating that they would not hold any subsequent events until all necessary approvals and permits are obtained through the

Special Permit process. Prior to each annual event, the applicant will notify the Planning, Police, and Fire Departments of the event dates, expected attendees, and vehicle numbers. Security plans, including the use of 4-10 trained “rangers” to monitor and de-escalate conflicts, will be reviewed with the Police Department, with authorities contacted if needed. All parking will be on-site, and roadside parking will be prohibited. Neighbors and landowners along Indian Tree Road will be informed via email before the event. The applicant will address complaints during the event, taking immediate action on reasonable concerns. Disruptive attendees will be removed and barred from future events. The preceding will be added as a condition of approval.

To ensure that event attendees remain within the extent of the permit area, a condition of approval will require the applicant to secure a metes and bounds survey of the and install fencing around the approved permit area. Prior to and for the duration of each event, the applicant shall provide signage indicating the extent of the permit area.

Finally, there are still outstanding notice of violations and fines related to previously unpermitted festival events that the applicant has yet to address, thus a condition of approval will require the applicant to rectify all outstanding violations prior to operating the next annual festival event in 2025.

**(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection.** Access to the property is provided via Indian Tree Road, a private roadway with pavement widths varying between 12 and 16 feet within 50-foot-wide easements that serve 7 properties between the highway and subject property, with the property situated approximately 0.7 miles west (mauka) of Hawai‘i Belt Road. The applicant has legal easement over the roadway.

Internal access through the property to the bonfire area and designated campsite areas will be provided by an existing 10-foot-wide gravel driveway. This existing driveway includes multiple pull-off points to accommodate two-way traffic and crosses a stream. A condition of approval will require the applicant to comply with Fire Code requirements, which may include the necessity to widen and improve the Indian Tree

Road and the internal access driveway to Fire Department Access Road standards if required by the Fire Department.

Parking for up to 200 vehicles is available in designated areas within the campsite zones on existing grassy areas. While Plan Approval is usually required as a condition of a Special Permit, it is not required. Given the annual, short-term nature of the proposed festival event and the fact that no permanent structures or improvements related to the festival use are proposed on the property, the Planning Director is not recommending Plan Approval for the proposed use. However, a condition of approval will require the applicant to meet the requirements of the State Department of Health Disability and Communication Access Board (DCAB) to provide for disabled access and parking.

The heavy equipment rental base yard area on the property has been previously cleared and consists of gravel, providing a stable and suitable surface for base yard and event check-in purposes, thus Plan Approval is not recommended for that area either.

As there is no County sewer system in the area, the applicant proposes to provide portable toilets for the annual, 4-day event. There is no wastewater created by the commercial vehicle parking area.

The subject property is not currently served with County water. Event attendees will be required to bring their own potable water for the 4-day event and there are currently no fire suppression water storage facilities on the property. A condition of approval will require the applicant to comply with Fire Code for appropriate fire suppression water storage for both the annual event use and heavy equipment rental base yard.

The property is situated within an area designated as Flood Zone X on the Flood Insurance Rate Map (FIRM) by FEMA, an area of minimal flood hazard located outside the 500-year flood plain. Cellular telephone service is available to the property, however there is no electrical service to the property, thus attendees may bring their own generators or solar energy systems for the duration of the event. Police, fire, and medical services are located approximately 6.5 miles away in Hilo.

During previously held events, different activity organizers offered prepared food to participants (e.g., mushroom soup, grilled cheese sandwiches, pancakes, and juices), prompting some concern that requirements of the Department of Health related to food

safety were not being followed. In response, the applicant indicated that while attendees are responsible for bringing their own provisions and camping supplies, many attendees choose to bring extra food supplies to share with the other campers. In the spirit of inclusion and gifting, any such food items are freely shared and are not for distribution at retail or wholesale to the public. Thus, such sharing of food is not considered a food establishment as defined and regulated by the Department of Health (DOH) under Chapter 11-50. As the event will only be held annually, the applicant will pursue a special event food permit from DOH, as needed, prior to the event. The preceding will be added as a condition of approval.

With respect to the proposed effigy burning bonfire and campfires for festival attendees, open burning is generally prohibited in Hawai'i, as outlined in Hawai'i Administrative Rules (HAR) 11-60.1, which define open burning as, *"the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare."* Exceptions to this prohibition are permitted only with approval from the State Department of Health (DOH) Director. Under HAR Section 11-60.1-52(d)(1), fires for recreational, decorative, or ceremonial purposes may be allowed if prior approval is secured from the State DOH through a formal request process. A condition of approval will require the applicant to secure permission from State DOH for both the proposed bonfires and campfires and prohibit such open burning when there is an active "No Burn Period" for the district where the subject property is situated.

A condition of approval will be included requiring the applicants to meet all applicable County, State and Federal laws, rules, regulations, and requirements. Based on the preceding, the requested use will not burden public agencies to provide additional services.

**(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established.** In the 1960's and 1970's, the State's Agricultural District boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962.

Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964.

The property and surrounding areas are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, a community may establish various non-agricultural uses/services that may not be available or allowed by zoning for its residents.

Since the district boundaries were established, demand has increased for venues to host special events in natural settings. Furthermore, farmers and ranchers have sought to diversify income streams to support their agricultural operations. The proposed uses would address the preceding by providing event guests an opportunity to enjoy an event venue on a small portion of a working ranch while helping the rancher lessee diversify their land uses and supplement their income.

**(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.**

The lands within the permit area are suitable for agricultural uses allowed in the district and most of the property is actively being used for cattle ranching. However, since most of the permit area will only be used for the proposed festival once a year for four days, and the applicant will not construct any permanent structures or cause new land disturbance related to the festival use, the proposed use will not adversely affect the long-term agricultural potential of the land.

**(F) The proposed use will not substantially alter or change the essential character of the land and the present use.** Except for the vehicle parking area, the permit area is vacant of any structures and uses, and only minimally improved with an existing 10-foot-wide gravel driveway. The existing heavy equipment base yard will remain the applicant is not proposing any permanent structures or land alteration related to the proposed festival use.

While the character of the land will temporarily change during the 4-day annual event; the festival area is centrally located on the property, far from neighboring properties. As a result, any changes to the character of the land will not be obvious from outside the property and will remain short-term in nature.

**(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans.** The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County.

The permit area is designated as Important Agricultural Lands, which are lands with better potential for sustained for sustained high agricultural yields because of soil type, climate, topography, or other factors. Use of the 14.24-acre land area for festival use once a year for four days will have minimal impact on the agricultural potential of the permit area. The 0.46-acre land area for the heavy equipment rental base yard is utilized by the rancher who leases 1,000 acres of the property for their cattle ranching operation. As such, some of the heavy equipment is used on-site for agricultural purposes and some of the equipment is rented and hauled off-site for commercial jobs. The legitimization of the use is necessary under the requested Special Permit.

The approval of the subject request would support the following goals and policies of the General Plan:

Economic Element

- *Encourage the development of a visitor industry that is in harmony with the social, physical, and economic goals of the residents of the County.*
- *Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.*

Recreation Element

- *Provide a wide variety of recreational opportunities for the residents and visitors of the County.*
- *Provide a diversity of environments for active and passive pursuits.*

Land Use-Agricultural Element

- *Preserve the agricultural character of the land.*
- *Encourage other compatible economic uses that complement existing agricultural and pastoral activities.*

The Hāmākua Community Development Plan (HCDP) was adopted by Ordinance No. 18 78, with an effective date of August 22, 2018. The proposed use is consistent with the following objectives of the HCDP:

- *Enhance and promote local and sustainable agriculture, farming, ranching, renewable energy, and related economic support systems.*
- *Promote appropriate rural tourism that welcomes guests for an alternative visitor experience. Promote Hawai‘i’s host culture and Hāmākua’s heritage, including historic roads and plantation towns, and festivals that celebrate our rich multi-cultural music, art and agriculture.*

**The request is not contrary to Chapter 205A, Hawai‘i Revised Statutes, relating to Coastal Zone Management.** The property is located over one mile away from the nearest shoreline and will not be impacted by coastal hazards or affect beach erosion, coastal ecosystems, and marine resources. Additionally, it is not located in the Special Management Area and there is no record of a designated public access to the shoreline or mountain areas that traverses the property. Based on the preceding, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes relating to Coastal Zone Management.

**The request will not have a significant adverse impact to traditional and customary Hawaiian Rights.** In view of the Hawai‘i State Supreme Court’s “PASH” and “Ka Pa‘akai O Ka‘Aina” decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kama‘āina accounts of the area, historical survey of documentary records, or botanical study was included in the application.

The valued cultural, historical, and natural resources found in the special permit area: According to the applicant, no archeological or historical features are known to exist within the permit area as it has been previously cleared and heavily utilized for sugar cane cultivation and cattle grazing. Furthermore, the applicant is unaware of any traditional or customary Hawaiian practices associated with the property. No professional surveys were

conducted of the flora/fauna resources on the property and there are no known endangered or listed plant species on the property.

Possible adverse effect or impairment of valued resources: As there are no known valuable archaeological, historical, or cultural resources within the permit area and the applicant is not proposing any additional development or ground disturbance, the proposed use is unlikely to adversely affect or impair valued resources.

Feasible actions to protect native Hawaiian rights: To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed use will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

Lastly, this recommendation is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the proposed use prior to their commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, 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.

**Based on the preceding considerations, the request for a Special Permit to allow an annual, 4-day long festival event with overnight camping and to allow the operation of a heavy equipment rental base yard on 14.7 acres of a larger 1,419-acre parcel in the State Land Use Agricultural District would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.** Approval of this request is subject to the following conditions:

1. The applicant, its successor or assigns, ("Applicant") shall be responsible for complying with all the stated conditions of approval.
2. The operation of the proposed uses shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application, any subsequent material received by the Planning

Department, and any representations made to the Windward Planning Commission. Any expansion or uses beyond what is represented shall require an amendment to this permit.

3. Festival events shall be limited to one per calendar year no longer than four days in duration and shall not exceed a maximum of 500 guests per event.
4. As represented by the Applicant, the heavy equipment rental base yard shall include the storage of no more than six (6) pieces of heavy equipment that is rented for commercial uses off-site. This limitation does not apply to agricultural vehicles to be used exclusively on-site.
5. All festival-related parking shall occur within the permit area and shall be prohibited on or along any public or private roadway. The Applicant shall provide access and parking for disabled participants meeting with the requirements of the Americans with Disabilities Act (ADA) and State Department of Health Disability and Communication Access Board (DCAB).
6. To mitigate traffic impacts to the Indian Tree Road/State Highway 19 intersection related to the annual event, the Applicant shall develop a Traffic Management Plan that shall be submitted to and approved by the State Department of Transportation District Engineer prior to each event. A copy of the approved plan shall be provided to the Planning Department prior to each event. Implementation of the approved plan shall be the responsibility of the Applicant.
7. Prior to each annual festival event, the Applicant shall conduct and document a pre-use roadway condition assessment, including photo/video documentation of roadway conditions. Within a month after each annual festival event, the Applicant shall repair any damages to Indian Tree Road caused by festival traffic, which may include up to 200 vehicles. The Applicant shall also repair any damages related to the heavy equipment rental/hauling operation at least once per year. Repairs must restore the roadway(s) to the same or better condition as documented in the pre-use assessment. The Applicant shall allocate up to \$5,000 annually for roadway repairs to fulfill these requirements. The Applicant shall provide the Planning Director an annual report documenting the repairs made.

8. No later than one month prior to each annual festival event, the applicant shall notify the Planning Department, Police Department, and Fire Department of the event dates, number of expected attendees, and anticipated vehicle numbers. Furthermore, the applicant will provide and review fire safety plans with the Fire Department and event security plans with the Police Department. The Applicant shall provide the Planning Department documentation that these notifications/consultations have occurred.
9. No later than one month prior to each annual festival event, the Applicant shall notify neighbors along Indian Tree Road before the event providing event dates, number of expected attendees, anticipated vehicle numbers and contact information to communicate nuisance complaints. The applicant will address complaints during the event, taking immediate action on reasonable concerns.
10. Prior to each annual festival event, the Applicant shall secure written approval from the Director of the State Department of Health (DOH) through the Clean Air Branch for any open burning as defined by the DOH during the festival event, including but not limited to fires for recreational, decorative, or ceremonial purposes. Documentation of the approval shall be provided to the Planning Department no later than one month prior to each annual festival event. Open burning shall be prohibited if there is an active 'No Burn Period' as designated by the DOH for the district within which the subject property is situated.
11. All amplified sound shall be directed in the western (mauka) direction toward the vacant portion of the property and away from any surrounding residences.
12. Prior to the next annual festival event in 2025, the applicant shall provide the Planning Department with a metes and bounds survey of the approved permit area, completed by a surveyor licensed by the State of Hawai'i. Use of the property beyond the permit area for uses approved under this permit shall be prohibited. Furthermore, prior to the next festival event in 2025, the applicant shall install fencing around the approved permit area and provide signage indicating the extent of the permit area for the duration of each event.

13. Within 180 days of the approval of this Special Permit, the Applicant shall either remove or secure building permits from the Department of Public Works-Building Division for all unpermitted structures in the heavy equipment rental base yard area. The Applicant shall finalize building permits within one (1) year thereafter.
14. The Applicant shall comply with Fire Code as required by the Fire Department for both the annual festival event and heavy equipment rental base yard, which may include improvements of roadways to Fire Department Access Road standards and installation of sufficient water storage for fire suppression. Upon successful completion of the improvements, if any, and prior to the next annual event in 2025, the Applicant shall provide the Planning Department documentation from the Fire Department that the improvements meet Fire Code standards.
15. The Applicant shall provide a sufficient number of portable toilets for each annual 4-day festival, ensuring compliance with ADA accessibility requirements. The toilets must be monitored and maintained in a clean, functional, and sanitary condition throughout the event, with regular servicing and emptying as necessary to prevent unsanitary conditions. A licensed company must be contracted for the provision, maintenance, and removal of the toilets. All portable toilets must be removed from the event site within 48 hours after the festival concludes, ensuring no waste or equipment remains.
16. Prior to the next annual festival event in 2025, the applicant shall remedy all outstanding violation actions issued by the Planning Department, including completing corrective actions and paying all associated fines, fees, and penalties.
17. To ensure food safety during the event, the Applicant shall comply with all applicable requirements of the State Department of Health regarding prepared foods provided to event participants.
18. The Applicant shall comply with all applicable County, State, and Federal laws, rules, regulations, and requirements.
19. If the Applicant fails to comply with the conditions of approval or cause complaints relating to any interference or nuisance and are unable to resolve them

with the surrounding community, the Planning Director shall investigate and, if necessary, suspend the permit. The Planning Director shall then refer the matter to the Planning Commission to revoke the permit. Upon appropriate findings by the Planning Commission, if the Applicant fails to comply with the conditions of approval or has caused any unreasonable interference or nuisance on the surrounding community, the permit may be revoked.

20. An initial extension of time for the performance of conditions 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.
  - 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).
  - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.