

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

### **BACKGROUND REPORT**

#### **TEPPY MOUNTAIN LLC**

#### **SPECIAL PERMIT APPLICATION NO. (PL-SPP-2024-000075)**

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TEPPY MOUNTAIN LLC submitted an application for a Special Permit to allow an annual, multi-day festival event with overnight camping for up to 500 attendees and to legitimize the storage of commercial vehicles on a 14.7-acre portion of a larger 1,419-acre property in the State Land Use Agricultural District. The subject property is located at 27-476 Indian Tree Road, approximately 0.7 miles west (mauka) of its intersection with Hawai‘i Belt Road, Alemai to Kawainui, Pāpa‘ikou, South Hilo, Hawai‘i, TMK: (3) 2-7-007:001 (por.).

#### **APPLICANT’S REQUEST**

1. **Request:** Teppy Mountain LLC 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, excavators, bulldozers, 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).

- **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 commercial vehicle storage 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. meditation 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 proposed commercial vehicle storage 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 an additional 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/Parking/Water/Wastewater:** See discussion in pertinent sections below.
2. **Reasons for Request:** According to the applicant, 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 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. These vehicles are used for on-site cattle ranching purposes, but while not in agricultural use the vehicles are

also used to deliver gravel to local businesses and thus storage of the vehicles on the property requires a Special Permit.

3. **Construction Timetable/Estimated Cost:** The applicant is not proposing to construct any permanent structures, thus there is no estimated timetable or cost.
4. **Landowner:** Teppy Mountain LLC.
5. **Supportive Information:** The applicants have submitted the attached in support of the request: **(Planning Department Exhibit 1 – Special Permit Application received on October 10, 2024).**

### **BACKGROUND INFORMATION**

6. **Zoning Code Violation 2021-0105E:** The Planning Department sent a Warning Letter to the applicant in response to a complaint about an *unpermitted commercial rental business/base yard within the agricultural zoned district* which included heavy equipment related to ranching operations and a material hauling business **(Planning Department Exhibit 2 – Warning Letter dated September 8, 2022)**. The Planning Department sent a closure letter after inspectors found that three dump trucks were removed from the property **(Planning Department Exhibit 3 – Closure Letter dated November 1, 2022)**
7. **Zoning Code Violation PL-PCV-2023-00567:** The Planning Department sent a Notice of Violation and Order (NOVO) letter to the applicant in response to several complaints regarding an unpermitted event entitled “*Falls on Fire*” which took place on the subject property between November 17-19, 2023. Additionally, the applicant’s website advertised a similar event for November 8-11, 2024 at the same location. The NOVO ordered the applicant to pay a \$5,500 fine and remove all advertisement for the 2024 event from their website **(Planning Department Exhibit 4 – Notice of Violation and Order Letter dated June 25, 2024)**. The applicant appealed the Notice of Violation from June, 2024 but on January 10, 2025 the County Board of Appeals rejected the appeal as it was not filed in a timely manner.
8. **First Daily Fines Letter:** In September, 2024, the Planning Department subsequently sent a Daily Fines letter as the applicant had yet to comply with requirements of the NOVO (namely paying the initial fine and ceasing all advertisement for a 2024 event). As a result, the daily fines accrued to an amount of \$13,200, and the Department reiterated the requirement to remove advertisement for the 2024 “*Falls on Fire*” event

**(Planning Department Exhibit 5 – Daily Fines Letter dated September 25, 2024).**

9. **Second Daily Fines Letter:** In November 2024, the Planning Department sent a second Daily Fines letter as the applicant was still advertising an event on November 8-11, 2024 on their website. This letter required payment of an increased daily fines amount of \$21,400 and prohibited the applicant from holding the November 2024 event **(Planning Department Exhibit 6 – Second Daily Fines Letter and Warning Letter for New Event dated November 4, 2024).**
10. **Revised Notice of Violation and Repeated Violation Letter:** Despite written and verbal direction not to hold the November 2024 event, the applicant did, which prompted the Planning Department to issue a Notice of Violation and Order, Revised Repeated Violation letter in response to complaints over the “*Falls on Fire*” event held between November 8-11, 2024. Based on the applicant’s disregard to repeated written and verbal instructions not to hold the event, the Department increased fines to a total of \$34,000 and required that the applicant provide a Letter of Understanding stating that the applicant would not conduct or advertise any further unpermitted events until a Special Permit was secured **(Planning Department Exhibit 7 – Notice of Violation and Order, Revised Repeated Violation Letter dated December 16, 2024).** At the date of this writing, the fines remain unpaid and the Department has yet to receive the Letter of Understanding as required. On January 14, 2025, the applicant appealed the directors revised notice of violation, citing their belief that the “*Falls on Fire*” event is camping on private property and thus is permitted under County Zoning Code. The appeal is scheduled to be heard by the County Board of Appeals in May 2025. **(Planning Department Exhibit 8 – Petition for Appeal - PL-BOA-2025-000116)**

#### **STATE & COUNTY PLANS**

11. **State Land Use District:** Agricultural.
12. **County Zoning:** Agricultural 20-Acre (A-20a).
13. **General Plan LUPAG Map Designation:** The permit area is primarily designated as Important Agricultural Lands, which are lands with better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors.
14. **Hāmākua Community Development Plan (HCDP):** The HCDP was adopted by Ordinance No. 18 78, with an effective date of August 22, 2018.
15. **Special Management Area (SMA):** The permit area is not located within the County's

Special Management Area (SMA) and is situated over one mile from the nearest coastline.

#### **DESCRIPTION OF PROPERTY AND SURROUNDING AREA**

16. **Subject Property and Permit Area:** The subject property consists of 1,1419 acres of land and is located at the top of Indian Tree Road, approximately 0.7 miles west (mauka) of Hawai‘i Belt Road in Pāpa‘ikou. A series of streams run throughout the property and vegetation thereon consist primarily of non-native shrubs and grasses, although the proposed permit area has been previously cleared. Approximately 1,000 acres of the parcel is leased to a rancher and utilized as pasture for grazing cattle and an approximately 0.46-acre area of the property contains a permitted agricultural storage structure, vehicle fuel tanks, and a parking area where several pieces of heavy equipment are stored. While the applicant represented this was for storage of up to 6 such vehicles, a site visit found 8 pieces of heavy equipment and several unpermitted structures (including 9 shipping containers, a portable office structure, a shed roof carport, and a temporary canopy structure housing most of the heavy equipment. The remainder of the property is vacant of other structures and uses.
17. **Surrounding Zoning/Land Uses:** 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 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.
18. **USDA Soil Survey Report:** Soils in the permit area are classified as Hilo Hydrous Silty Clay Loam: Characterized by 10 to 20 percent slopes. This soil type is well-drained and formed from ash fields over lava flows. It is classified as having a medium runoff class.
19. **Land Study Bureau Soil Rating:** The subject property and permit area include a mix of soils designated as “C” or fair and as “D” or “Poor” and the stream areas designated as “E” or “Very Poor” for agricultural productivity.
20. **Agricultural Lands of Significance to the State of Hawai‘i (ALISH):** The permit area is classified as primarily prime agricultural land, with portions of the property along the streams as “unclassified.”

21. **Flood Zone:** The permit area is situated within Zone “X”, determined by FEMA to be an area of minimal flood hazard.
22. **Floral/Fauna Resources:** No professional survey was conducted of the floral and faunal resources of the site. The property’s observed flora primarily consists of non-native shrubs and grasses, reflecting its historical use for sugar cane cultivation and cattle grazing. No endangered plant species are known to inhabit the area. The fauna includes common non-native bird species such as doves, Japanese white-eyes, house finches, and common mynas, alongside domestic and feral animals like cats, dogs, and pigs. Native species, such as the Hawaiian hawk, Hawaiian owl, and Hawaiian hoary bat, may occasionally traverse/utilize the site due to its rural nature.
23. **Archaeological/Historical/Cultural Resources:** According to the applicant, no formal archaeological studies have been conducted for the site, as the property and permit area have a long history of agricultural use, primarily for sugar cane cultivation and cattle grazing, which has likely diminished the presence of archaeological, cultural, and historic resources. Furthermore, the applicant is unaware of any traditional or customary Hawaiian practices associated with the property.
24. **Public Access:** There is no known public access to the mountains or the shoreline that runs through the permit area.

#### **Public Facilities, Utilities and Services**

25. **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, with the property situated approximately 0.7 miles west (mauka) of Hawai‘i Belt Road. The applicant has legal easement over the roadway (please note, the application initially included the incorrect grant of easement document, but the applicant subsequently provided the correct documentation of legal access). 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. The applicant plans to comply with Fire Code requirements for Fire Department Access Roads. Parking for up to 200 vehicles is available in designated areas within the campsite zones on existing grassy areas. The commercial vehicle parking area on the property has been previously

cleared and consists of gravel, providing a stable and suitable surface for vehicle storage and event check-in purposes.

26. **Traffic Impacts:** The applicant anticipates the four-day, annual event to attract 200 vehicles based on an estimated attendance of 500 people, with most attendees carpooling. Traffic will be staggered, with arrivals spread over Friday and Saturday and departures on Sunday and Monday, avoiding peak morning traffic times. While the applicant indicated that the proposed commercial vehicle storage area is not expected to generate significant additional traffic as these vehicles are primarily used on-site, testimony from neighbors indicate that the property is used more as a base yard for heavy equipment rental and that there is frequent hauling of heavy equipment causing damage to the roadway.
27. **Water:** The subject property is not currently served with County water. Attendees will be required to bring their own potable water for the 4-day event. As mentioned above, while the application indicated the presence of an existing, 3,000-gallon rainwater catchment tank adjacent to the proposed truck parking area, a site visit revealed that the catchment tank was disassembled and is no longer available for non-potable and fire suppression needs. The applicant is willing to install a rainwater catchment tank for fire suppression in the bonfire area if required by the Fire Department.
28. **Wastewater:** The property is not currently serviced by the County sewer system. The applicant proposes to provide portable toilets for the 4-day event.
29. **Other Essential Utilities and Services:** There is no electrical service to the property, thus attendees may bring their own generators or solar energy systems for the event. Police, fire, and medical services are located approximately 6.5 miles away in Hilo.

#### **AGENCY COMMENTS**

30. **Department of Public Works, Engineering Division: (Planning Department Exhibit 9 – November 29, 2024 Memo)**
31. **Police Department: (Planning Department Exhibit 10 – November 7, 2024 Memo)**

- 32. **State Department of Health (Planning Department Exhibit 11 – November 15, 2024 Memo)**
- 33. **State Land Use Commission (Planning Department Exhibit 12 – November 12, 2024 Letter)**
- 34. **State Office of Planning and Sustainable Development (Planning Department Exhibit 13 – November 26, 2024 Letter)**

**AGENCIES – NO RESPONSE**

- 35. Department of Environmental Management, State Department of Agriculture, State Department of Land and Natural Resources, & State Department of Transportation.

**APPLICANT’S RESPONSE TO AGENCY COMMENTS**

- 36. **Letter from Applicant’s Representative Responding to Agency Comments (Planning Department Exhibit 14 – January 9, 2025 Letter)**

**PUBLIC COMMENTS**

- 37. **Testimony from Jim McMahon: (Planning Department Exhibit 15 – January 13, 2025 Email)**
- 38. **Testimony from Maia Munoz Luz: (Planning Department Exhibit 16 – January 14, 2025 Email)**
- 39. **Testimony from Fransisco Roberto Goncalves Luz Filho: (Planning Department Exhibit 17 – January 14, 2025 Email)**
- 40. **Testimony from Lichun Huang: (Planning Department Exhibit 18 – January 18, 2025 Email)**



194 Wiwoole St. Hilo, HI 96720  
(808) 333-3393  
info@landplanninghawaii.com

October 10, 2024

Mr. Jeffrey Darrow, Deputy Director  
Planning Department  
COUNTY OF HAWAII  
101 Pauahi Street  
Hilo, HI 96720

Dear Mr. Darrow:

**Subject: Attn: Christian Kay**  
**Special Permit Application Resubmittal (PL-SPP-2024-000075)**  
**Applicant: Teppy Mountain LLC**  
**Agent: Land Planning Hawaii LLC**  
**Pāpa‘ikou, South Hilo, Hawaii TMK: (3) 2-7-007:001 (por)**

Transmitted here within for your review and processing is the resubmittal of an application requesting a Special Permit to host an annual four (4) – day event with overnight camping and to store up to six work vehicles on the property. The property is located at the top of Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road in Pāpa‘ikou, South Hilo, Hawai‘i.

This resubmittal includes a revised background and environmental report addressing additional information requested from your office. Additional information provided in the revised report includes more details on the types of activities which are anticipated to take place during the annual event, mitigations with regard to sound impacts, potential traffic impacts and additional information on fire and security mitigations and relevant correspondence. The revised report also reiterates that the event is proposed to take place only once per year and be located in a relatively remote area so as to not disrupt surrounding property owners.

We trust that everything is in order for your acceptance and processing of this application. If not, or if there are questions relating to this matter, please feel free to direct them to me. Thank you very much.

Sincerely,

John Pipan  
Planning Administrator



SPECIAL PERMIT APPLICATION

COUNTY OF HAWAII  
PLANNING COMMISSION  
(Type or legibly print the requested information)

APPLICANT(S): Teppy Mountain LLC

APPLICANT’S SIGNATURE: Andrew Tepper DATE: Aug 27 2024 16:35 PDT

ADDRESS: 4717 Middle Rd, Allison Park, PA 15101

LIST APPLICANT’S INTEREST (if not owner): \_\_\_\_\_

PHONE: (Bus.) 412-973-7914 (Res.) \_\_\_\_\_ (Email) teppy@egenesis.com

REQUEST: To hold an annual multi-day event with overnight camping and to store commercial vehicles

TAX MAP KEY: (3) 2-7-007:001 ZONING: A-20a

SIZE OF PROPERTY / AREA OF REQUESTED USE: 1419.17 acres /14.9 acres

LANDOWNER(S): Teppy Mountain LLC

FEE SIMPLE LANDOWNER(S) WRITTEN AUTHORIZATION  
(may be provided by letter with the below statement included):

\_\_\_\_\_  
Andrew Tepper DATE: Aug 27 2024 16:35 PDT

Note: The above written authorization of the landowner(s) gives permission for the applicant/petitioner to file the application/ petition and acknowledges that the landowner(s) and their successors are bound by the Special Permit and its conditions.

AGENT: Land Planning Hawaii LLC

AGENT ADDRESS: 194 Wiwoole St, Hilo, HI 96720

PHONE: (Bus.) 808-333-3393 (Res.) \_\_\_\_\_ (Email) info@landplanninghawaii.com

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: Agent COPIES: Applicant

**COUNTY BACKGROUND & ENVIRONMENTAL REPORT  
COUNTY SPECIAL PERMIT REQUEST  
TEPPY MOUNTAIN LLC  
ONOMEA, PĀPA‘IKOU, SOUTH HILO, HAWAI‘I COUNTY, HAWAI‘I  
TMK: (3) 2-7-007:001 (por)**

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- Exhibit B – Correspondence with Fire Department
- Exhibit C – Letter to Police Department
- Exhibit D – Neighbor Support Letters

## I. INTRODUCTION

Teppy Mountain LLC (“**applicant**”) is requesting a Special Permit to host an annual four (4) – day event with overnight camping on a portion of the property identified by TMK (3) 2-7-007:001. Additionally, the applicant also requests to allow vehicle storage on the property for up to six (6) trucks. The property is located at the top of Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road in Pāpa‘ikou, South Hilo, Hawai‘i (**Figure 1**). This request seeks to utilize a 14.7-acre portion of the overall 1,419.17-acre parcel for the event and truck parking.

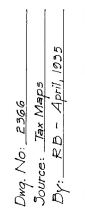
The property is located within the State Land Use Agricultural District and thus a Special Permit is required to host events and overnight camping. Although the applicant had informed the County Planning, Police and Fire Departments prior to hosting the event in 2023, unfamiliar with the County and State regulations requiring a Special Permit, the applicant regrets that he misunderstood County requirements and held the 2023 event without obtaining a Special Permit. In order to comply with all governmental regulations, the applicant is now requesting a Special Permit to hold the event annually. 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. The applicant’s intention is to offer only one (1) event per year and for the event to provide attendees with a fun and enriching environment in which to enjoy art and self-expression while maintaining reverence for the land, respect for the community and leaving virtually no impact on the property.

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 for the rancher to utilize an approximately 0.46-acre portion of the requested 14.7-acre Special Permit area to legitimize storage for up to six (6) work vehicles. These vehicles are used for on-site cattle ranching purposes, but while not in agricultural use the vehicles are also used to deliver gravel to local businesses and thus storage of the vehicles on the property requires a Special Permit.

## II. PROJECT DESCRIPTION

### 3A. Project Concept and Components

If approved, the Special Permit area would consist of a 14.7-acre portion of the overall 1,419.17-acre parcel. Approximately 14.24 acres, inclusive of access roads, would be used for the annual four (4)-day camping event and include designated camping areas and a bonfire area and the remaining approximately 0.46-acres would be used for vehicle storage. The check-in area for the event will also be located within the vehicle storage area of the parcel. The applicant believes that the natural pastoral beauty of this relatively small portion of the parcel is an ideal location to host the proposed event centered on art, nature and self-expression. The event will be held annually in November and will not require any



3 Matsue Kawahara  
4 Matsue Kawahara - 1/2  
Yukio Kawahara f.wf.  
Takayo Kawahara - T/E - 1/2

|                         |      |         |
|-------------------------|------|---------|
| THIRD DIVISION          |      |         |
| ZONE                    | SEC. | PLAT.   |
| 2                       | 7    | 07      |
| CONTAINING              |      | PARCELS |
| SCALE: 1 in. = 1000 ft. |      |         |

ADVANCE SHEET  
SUBJECT TO CHANGE

PRINTED

FIGURE 1

permanent structures or land altering activity and thus should have virtually no impact on the property.

Additionally, the applicant requests that an approximately 20,000 square foot area be permitted to be used for work vehicle storage (see conceptual site plan attached as **Figure 2**).

The applicant proposes the following elements as part of the Special Permit:

1. **Camping:** Three (3) areas totaling approximately 14.24 acres (inclusive of three campsite areas, access roads and a bonfire area) will be reserved for camper use. 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.
2. **Hours:** The camping event will be contained to an annual four (4)-day period each November. During that 4-day period, events may occur at any time of the day.
3. **Attendance:** The 2024 event proposes hosting only 200 attendees, with future events eventually expanding to up to 500 attendees.
4. **Bonfire Area:** The bonfire area will consist of approximately 0.31 acres and will serve as additional gathering space for attendees.
5. **Access:** Access to the property will be from Indian Tree Road. Attendees will enter through an entry gate and check-in to the event. They will then proceed down an existing approximately 1-mile long, 10-foot-wide gravel driveway within a 20-foot-wide unobstructed right-of-way providing access to the campsites. The driveway consists of approximately 3.33 acres. Multiple adequate pull off sites are available along the driveway to allow for passing of cars traveling in opposite directions.
6. **Parking:** Participants will park in designated lawn areas within the campsites. The designated parking areas can accommodate up to 200 vehicles.
7. **Water:** Attendees will be required to bring all of their own water and supplies. A 3,000-gallon rainwater catchment tank is located near the existing agricultural storage building and is available for emergency fire protection use. An additional water tank will be provided in the bonfire area if required.
8. **Wastewater:** As the event will only be held once per year and is intended to have as minimal an impact on the land as possible, portable bathrooms will be rented for the duration of the event and removed from the property immediately upon completion of the event.
9. **Amplified Sound:** Amplified sound will be permitted during the event. All amplified sound will be directed in a westerly direction, toward the bulk remainder of the





Issued  
Current

[Previous](#)

## Revisions

[illegible]

Project

### Drawing

Title  
TEPPY MOUNTAIN  
SPECIAL PERMIT APPLICATION  
CONCEPTUAL SITE PLAN

Drawing N

A-00

**PRELIMINARY: NOT FOR CONSTRUCTION**

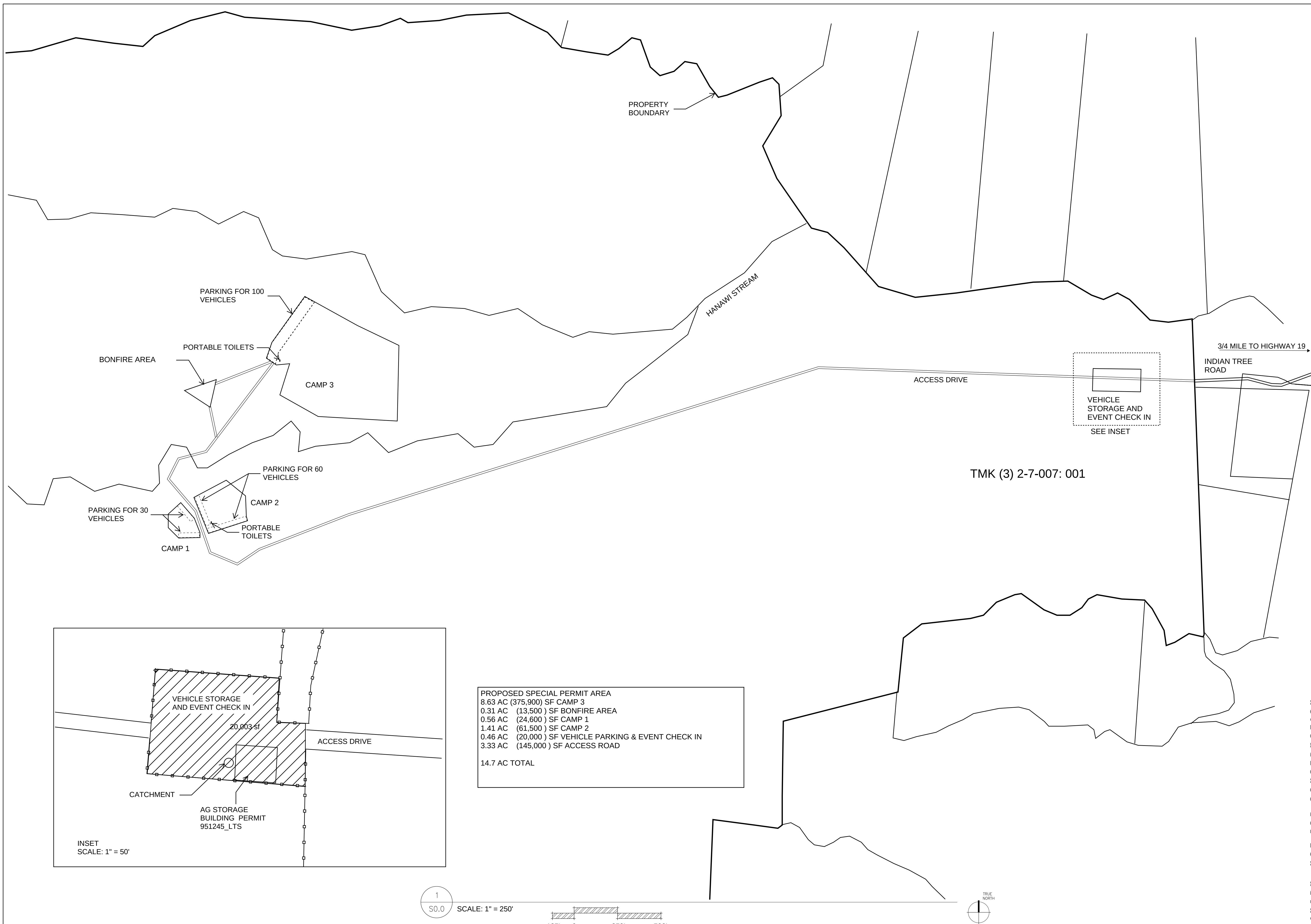


FIGURE 2



vacant 1,419.17-acre parcel, away from any neighboring dwellings. As such, sound impacts to neighboring landowners should be minimal.

10. **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.
11. **Fire protection:** A 3,000-gallon water tank exists in the vehicle storage area and will be available for emergency fire protection. 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 an additional water tank within the bonfire area.
12. **Vehicle storage:** An approximately 0.46-acre area will be utilized continuously to store up to six (6) vehicles. These vehicles are used for cattle ranching purposes; however, when not in agricultural use, the vehicles are also used to transport gravel to local businesses. The check-in station for the annual event will be located in the area identified for vehicle storage.

As mentioned above, the annual event will be centered on principles of inclusion, gifting, self-reliance, self-expression, communal effort, civic responsibility, and respect for the environment. 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.

All attendees are expected to leave no physical trace of their activities wherever they gather. They are required to clean up after themselves and endeavor, whenever possible, to leave such places in a better state than when they were found. No permanent structures will be constructed for the event, and with the exception of portable bathrooms, which will be removed immediately upon completion the event, no temporary structures will be provided. Attendees will bring their own rain gear and camping supplies. Additionally, in the spirit of gifting, the event will be offered on a donation basis and is not anticipated to return a profit. The camping area will be located on a central portion of the property and will not impact any agricultural activities taking place on the property in any way. This is a very large parcel with many grazing paddocks and the cattle will be grazing distant areas of the property while the event occurs. 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.

With regard to the request to utilize a 0.46-acre area of the parcel for vehicle storage, these vehicles are used to support the ranching activities on the property. However, while not being used for ranching purposes, the rancher who owns the vehicles also uses them to haul gravel. His ability to use his farm vehicles for other commercial purposes is vital to his ability to finance the vehicles and earn a living. However, because the use of the vehicles is not strictly related to agriculture use, a Special Permit is required to store the vehicles on agricultural land.

Fencing and signage throughout the property will ensure that attendees remain within the boundaries of the Special Permit areas. The special Permit areas were determined by overlaying Google Maps imagery of the property with an AutoCAD scale-drawn site plan. While the boundaries identified are not precise, they are accurate within a relatively small margin of error. In order to account for the margin of error, the applicant has chosen to decrease the overall Special Permit area to 14.7 acres. This should ensure that even if the precise boundaries of the Special Permit area are slightly breached, the overall area will remain under 15 acres. Additionally, it is noted that the Special Permit areas are located within a central portion of this large property. The nearest property boundary is nearly 2,000 feet away and walking to the boundary would require crossing multiple fenced cattle paddocks. Thus, the likelihood of attendees accidentally (or purposely) trespassing onto adjacent properties is very low.

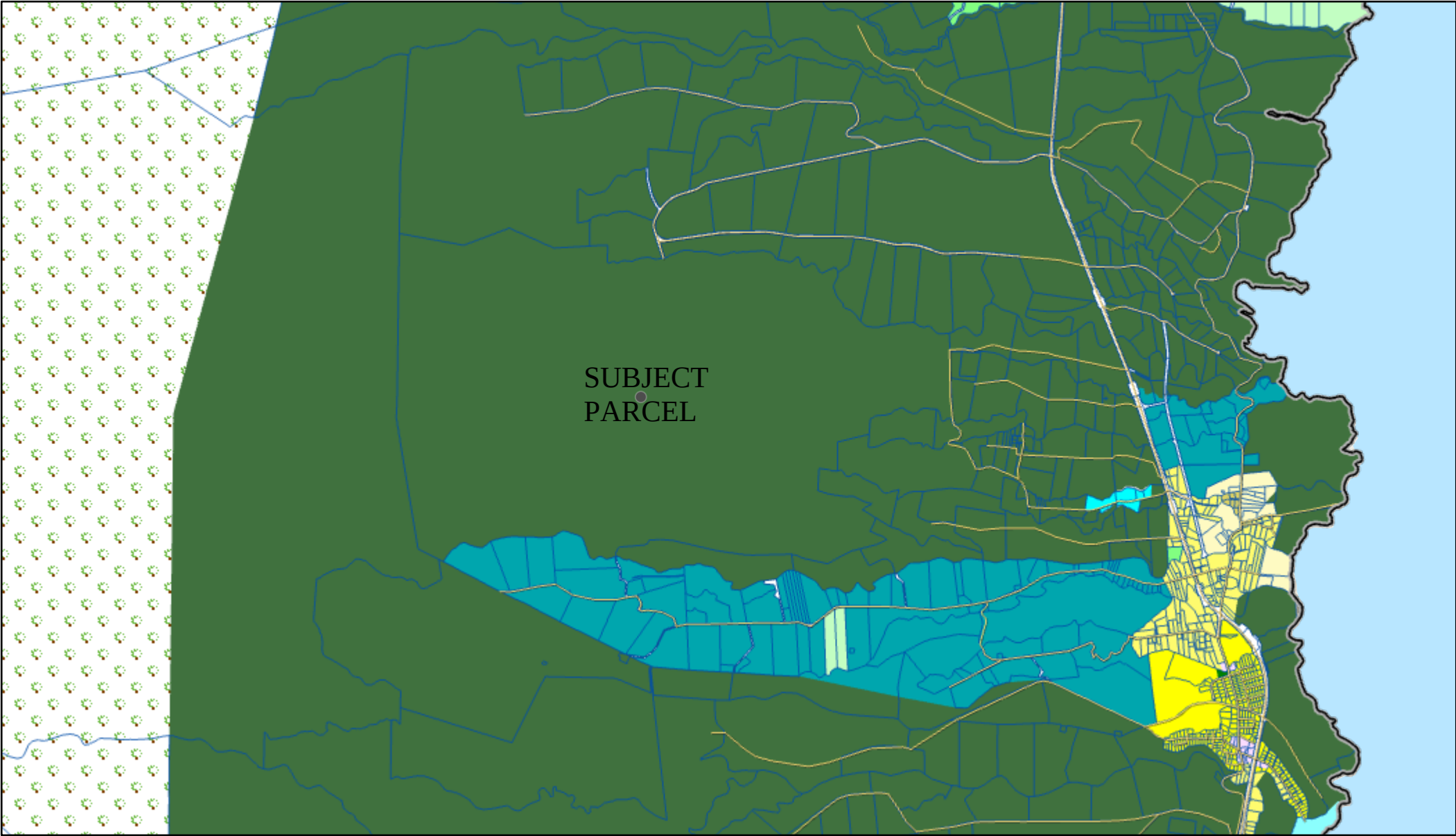
### **3B. Subject Property Description**

The subject site, identified as TMK (3) 2-7-007:001, consists of 1,1419.17 acres of land and is zoned Agricultural 20-acres (A-20a) (**Figure 3**). The parcel is located at the top of Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road in Pāpa‘ikou, South Hilo, Hawai‘i (**Figure 1**). Access to the site is via Indian Tree Road, an existing paved private roadway with access off Hawaii Belt Road. A series of streams run throughout the property. Vegetation on the property consists primarily of non-native shrubs and grasses.

Approximately 1,000 acres of the parcel is utilized as pasture for grazing cattle and an approximately 20,000 square foot area of the property contains a permitted agricultural storage structure, a 3,000-gallon rainwater catchment tank and a parking area where six (6) work vehicles are stored. The remainder of the property is vacant of structures and uses.

The Land Use Pattern Allocation Guide (LUPAG) designates the parcel as Important Agricultural Lands (**Figure 4**) and the Land Study Bureau classifies the property as containing primarily a combination of “C”, or “Fair” and “D” or “Poor” soils with areas along the streams that run through the property designated as “E” or “Very Poor” (**Figure 5**). According to the Agricultural Lands of Importance to the State of Hawai‘i (ALISH), the project area is classified as primarily prime farmland, with portions of the property along the streams unclassified (**Figure 6**). The U.S. Department of Agricultural *Natural Resource Conservation Service* has designated the soil in the project area as Hilo hydrous silty clay loam with 10 to 20 percent slopes. This soil type is formed from ash fields over lava flows,

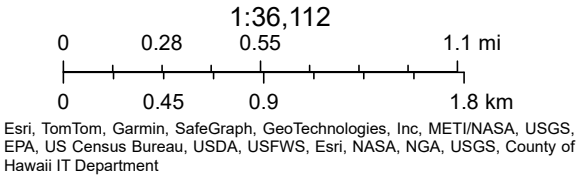
# ArcGIS Web Map



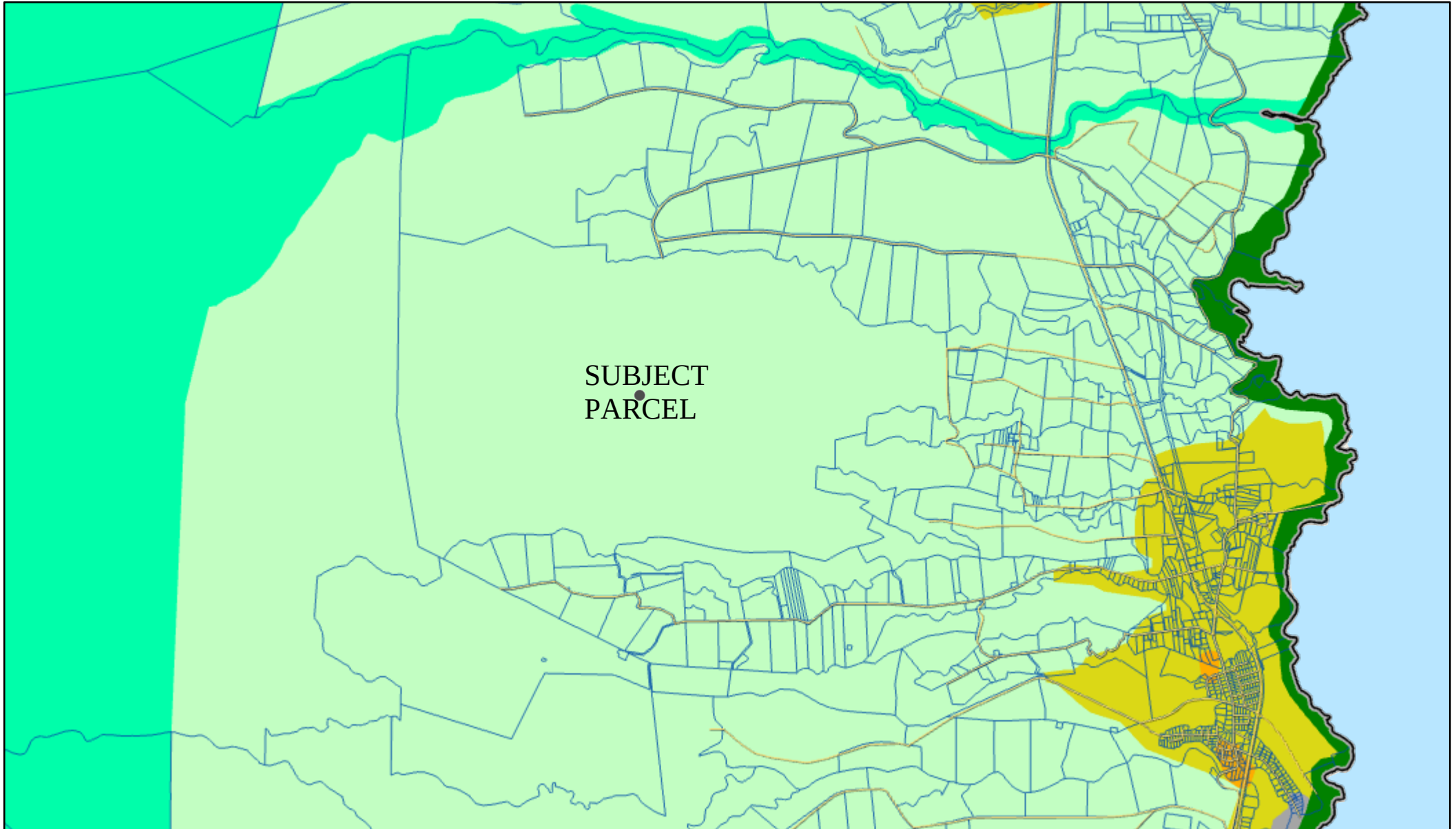
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- Hawaii County Zoning
- |       |        |                                  |
|-------|--------|----------------------------------|
| A-3a  | OPEN   | Parcels (current boundary lines) |
| A-5a  | RS-10  | Street Centerlines               |
| A-10a | RS-15  | Hawaii County District Boundary  |
| A-1a  | RS-20  | Coastline                        |
| A-20a | RS-7.5 |                                  |
| FR    |        |                                  |

FIGURE 3



# ArcGIS Web Map



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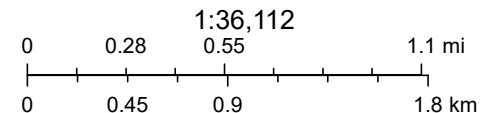
Land Use Pattern Allocation Guide (LUPAG)

- Conservation
- Important Ag. Lands
- Industrial

- Low Density Urban
- Medium Density Urban
- Open Area
- Parcels (current boundary lines)

FIGURE 4

- Street Centerlines
- Hawaii County District Boundary
- Coastline

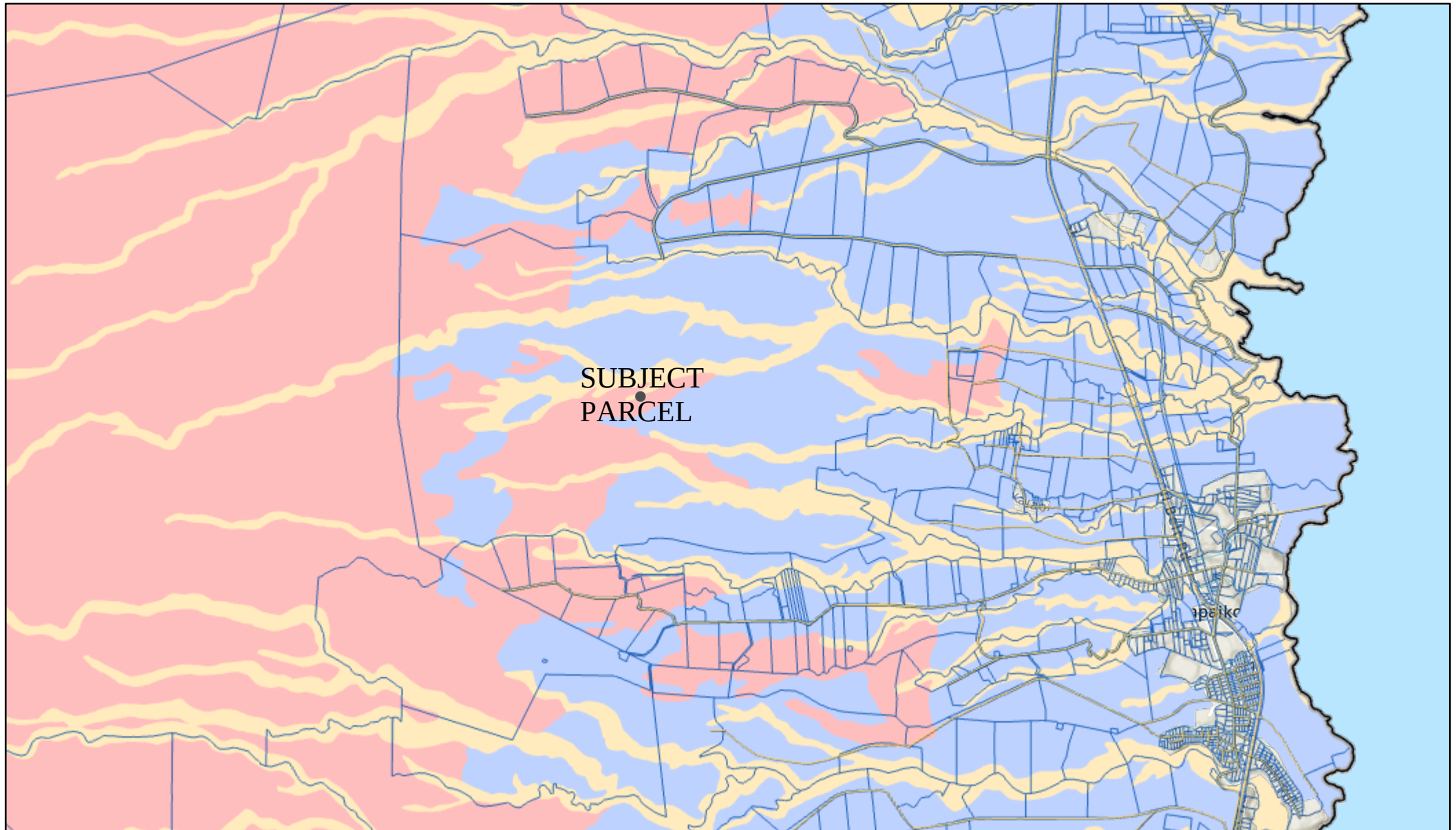


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Web AppBuilder for ArcGIS

The contents of this map were prepared for informational and planning purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes.

# ArcGIS Web Map



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Land Study Bureau Soil Type (LSB)

C  
D

E

Parcels (current boundary lines)

Street Centerlines

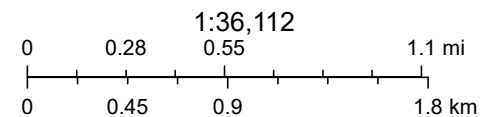
FIGURE 5



Hawaii County District Boundary



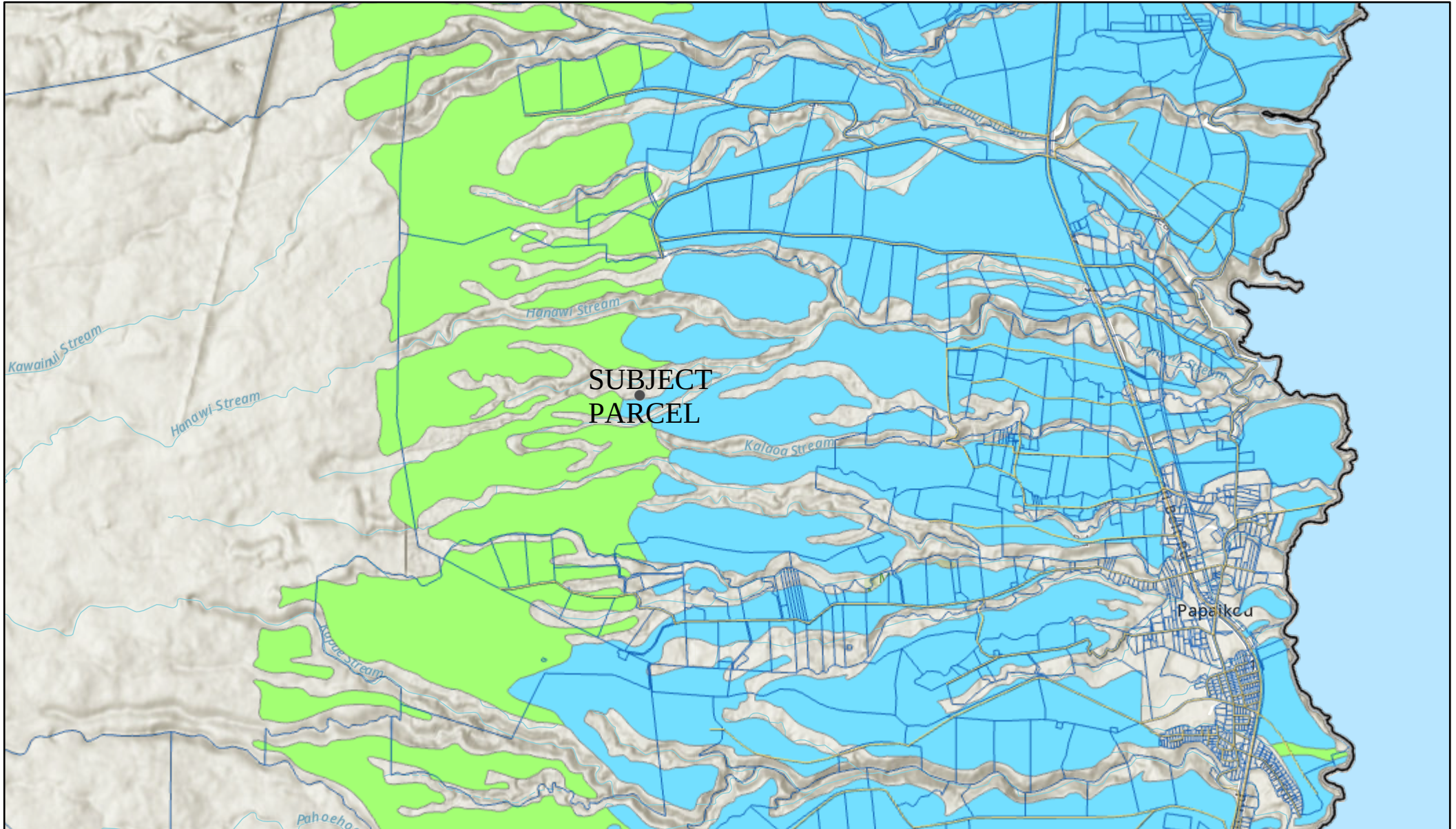
Coastline



Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, EPA, US Census Bureau, USDA, USFWS, Esri, NASA, NGA, USGS, County of Hawaii IT Department



# ArcGIS Web Map



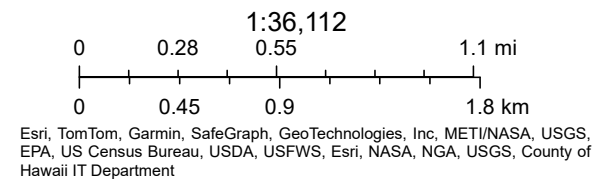
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Agricultural Lands of Importance to the State of Hawaii (ALISH)

- 1
- 3
- Parcels (current boundary lines)

- Street Centerlines
- Hawaii County District Boundary
- Coastline

FIGURE 6



is well drained and has a medium runoff class. It is noted that the Special Permit use will not affect any current or potential future agricultural uses on the property as the events will be contained to a small portion of the overall property and be short-lived.

Access through the property to the campsites will be via an existing 10-foot-wide gravel driveway within a 20-foot wide unobstructed right-of-way and all attendees will park within designated areas within the campsite zones. The areas proposed for camping already contain relatively level grassy terrain suitable for camping and parking. Additionally, the area designated for vehicle storage and event check-in has been previously cleared for parking and agricultural storage use. Thus, no new ground disturbance will be required in conjunction with the proposed project.

This area of Hilo is considered Lava Zone 8, on a scale ranging from 9 to 1 (least hazardous to most). The property is located over 1 mile from the coastline and is outside the Special Management Area (SMA). The property is not located in the Conservation District.

### **3C. Institutional Considerations**

#### **State Land Use**

The subject site is designated State Land Use Agricultural (**Figure 7**), and the proposed Special Permit area consists of 14.7 acres. As such, no State Land Use Commission action is required and the County of Hawai‘i can process the Special Permit request.

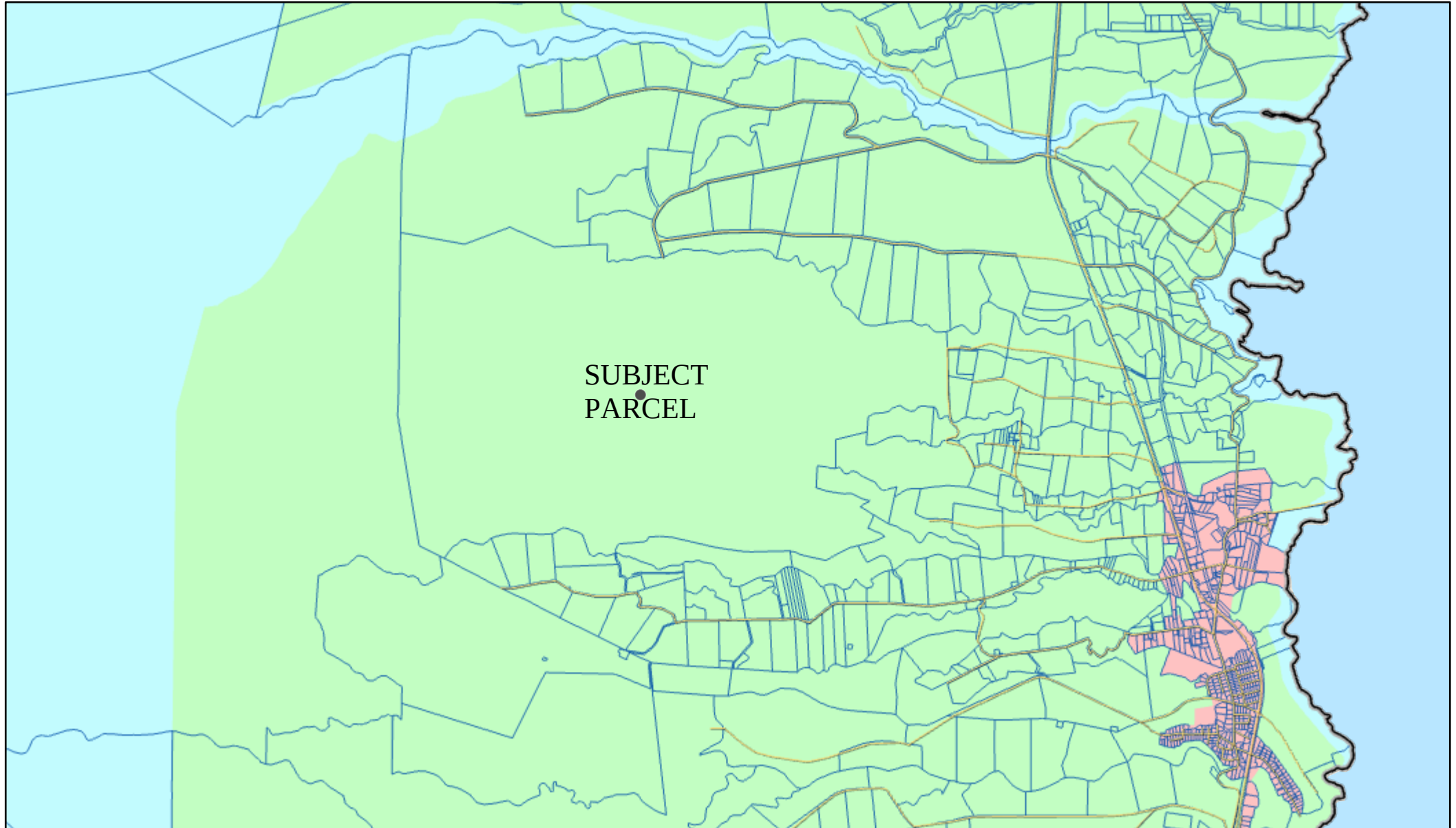
Under the Agricultural Lands of Importance to the State of Hawai‘i (ALISH) classification system, the subject site is primarily designated as prime farmland. However, based on the Land Study Bureau Overall Maser Productivity Rating, the subject property is classified as primarily “C” and “D” soils (**Figure 5**). It is noted that the proposed Special Permit area is primarily located within the “C” soil area. However, given that the use will only take place once per year and will not require any permanent structures or ground disturbance, the request should have no impact on the agricultural potential of the land.

In recognizing that lands within the agricultural districts might not all 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, Hawai‘i Revised Statutes §205-6 allows County Planning Commissions to permit certain unusual and reasonable uses within the Agricultural and Rural districts other than those for which the district is classified.

#### **Special Management Area**

The project area is located over 1 mile from the coastline and is outside the Special Management Area. The property is not located in the Conservation District.

# ArcGIS Web Map



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State Land Use Classifications (SLU)

Agricultural

Conservation

Urban

Parcels (current boundary lines)

Street Centerlines

FIGURE 7

Hawaii County District Boundary

Coastline

1:36,112  
0 0.28 0.55 1.1 mi  
0 0.45 0.9 1.8 km

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## **County Zoning and General Plan**

The subject property is zoned A-20a (**Figure 3**). The County General Plan Land Use Pattern Allocation Guide (LUPAG) map designates the parcel as Important Agricultural Land (**Figure 4**). Relative to this designation, the General Plan allows consideration for a “Special Permit” on agricultural land where the requested uses meet certain criteria as outlined in Section 4 of this report and Chapter 205 of the Hawai‘i Revised Statutes as amended.

## **General Plan Discussion**

The Hawai‘i County General Plan serves as a guide for decision-makers in land use matters. The proposed project is conducive to the General Plan’s guidelines as it conforms to the following goals, policies, and standards of the General Plan:

### **Economic Goals and Policies**

- *Provide residents with opportunities to improve their quality of life through economic development that enhances the County’s natural and social environment*
- *Encourage the development of a visitor industry that is in harmony with the social, physical, and economic goals of the residents of the County.*
- *Identify the needs of the business community and take actions that are necessary to improve the business climate.*
- *Encourage new industries that provide favorable benefit-cost relationships to the people of the County. Benefit-cost relationships include more than fiscal considerations.*

### **Environmental Goals and Policies**

- *Take positive action to further maintain the quality of the environment*

### **Natural Beauty Goals and Policies**

- *Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.*
- *Maximize opportunities for present and future generations to appreciate and enjoy natural and scenic beauty.*

### **Recreation Goals and Policies**

- *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 Goals and Policies**

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

### Agricultural Land Use Goals and Policies

- *Preserve the agricultural character of the land.*
- *Coordinate and encourage efforts to solve the problems of the agricultural industry in the County of Hawaii.*
- *Encourage other compatible economic uses that complement existing agricultural and pastoral activities.*

**Discussion:** The subject property is designated on the LUPAG map as Important Agricultural Land and is primarily utilized as pasture for grazing cattle. The proposed request will utilize only a 14.7-acre portion of the overall 1,1419.17-acre parcel. With regard to the proposed events, the events will only take place once per year and will not require construction of any permanent structures or improvements and thus should have a very minimal effect on the property and its agricultural potential. Rather, the intent of the event is to provide a beautiful, natural, pastoral backdrop in which visitors and residents alike can celebrate art and self-expression in a manner which emphasizes civic responsibility, respect for the environment and the practice of “leave no trace”. Attendees are required to bring their own supplies, clean up after themselves and endeavor, whenever possible, to leave the environment in a better state than it was found.

With regard to the request to utilize a 0.46-acre area of the parcel for vehicle storage, the vehicles stored on the parcel are owned by the rancher who leases the property and used in conjunction with the ongoing ranching activities on the property. However, while not being used for ranching purposes, the rancher also uses them to haul gravel to other local businesses as a means to offset the cost of the vehicles. Thus, the ability to use the vehicles for other commercial purposes while not being used for on-site agriculture will support the ranching operations by providing diversified income streams and economic benefit to the rancher.

### Hāmākua Community Development Plan

The Hāmākua Community Development Plan (HCDP) attempts to further define the General Plan and serve as a guide for decision-makers. The proposed Special Permit request is conducive to the following objectives outlined in the HCDP:

- *Objective 1: Protect, restore, and enhance watershed ecosystems, sweeping views, and open spaces from mauka forests to maki shorelines, while assuring responsible public access for recreational, spiritual, cultural, and sustenance practices.*
- *Objective 2: Protect and restore viable agricultural lands and resources. Protect and enhance views and open spaces that exemplify Hāmākua’s rural character.*
- *Objective 11: Enhance and promote local and sustainable agriculture, farming, ranching, renewable energy, and related economic support systems.*
- *Objective 13: 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.*

**Discussion:** The proposed annual event will be located on a relatively small portion of this very large property and is intended to have virtually no impact on the land. The event will not interfere with the ongoing cattle operation on the property and will take place while the cattle are grazing distant paddocks. As proposed, no permanent structures will be constructed and no land altering activities will take place. Thus, the events will not detract from the agricultural potential of the land. Rather, the annual events will ensure that the area is protected and preserved for future uses. Additionally, the ability to use the farm trucks stored on the property for other commercial uses will enhance and promote local agriculture by providing enhanced economic opportunity to the rancher leasing the land.

### **3D. Surrounding Zoning and Land Uses**

The subject parcel and the majority of the surrounding area is zoned A-20a, with a few parcels located just south of the subject parcel designated as A-10a (**Figure 3**). The land use in the surrounding area is primarily agricultural with some residential use as well. Directly west of the subject parcel is an approximately 11,395-acre parcel, primarily consisting of Conservation land and also owned by the Applicant. The proposed campsite areas will be centered on the property, with the nearest dwelling approximately 2,200 feet away. Thus, the proposed location is intended to provide ample privacy and provide significant buffer from adjacent properties.

### **3E. Flood Insurance Rate Map**

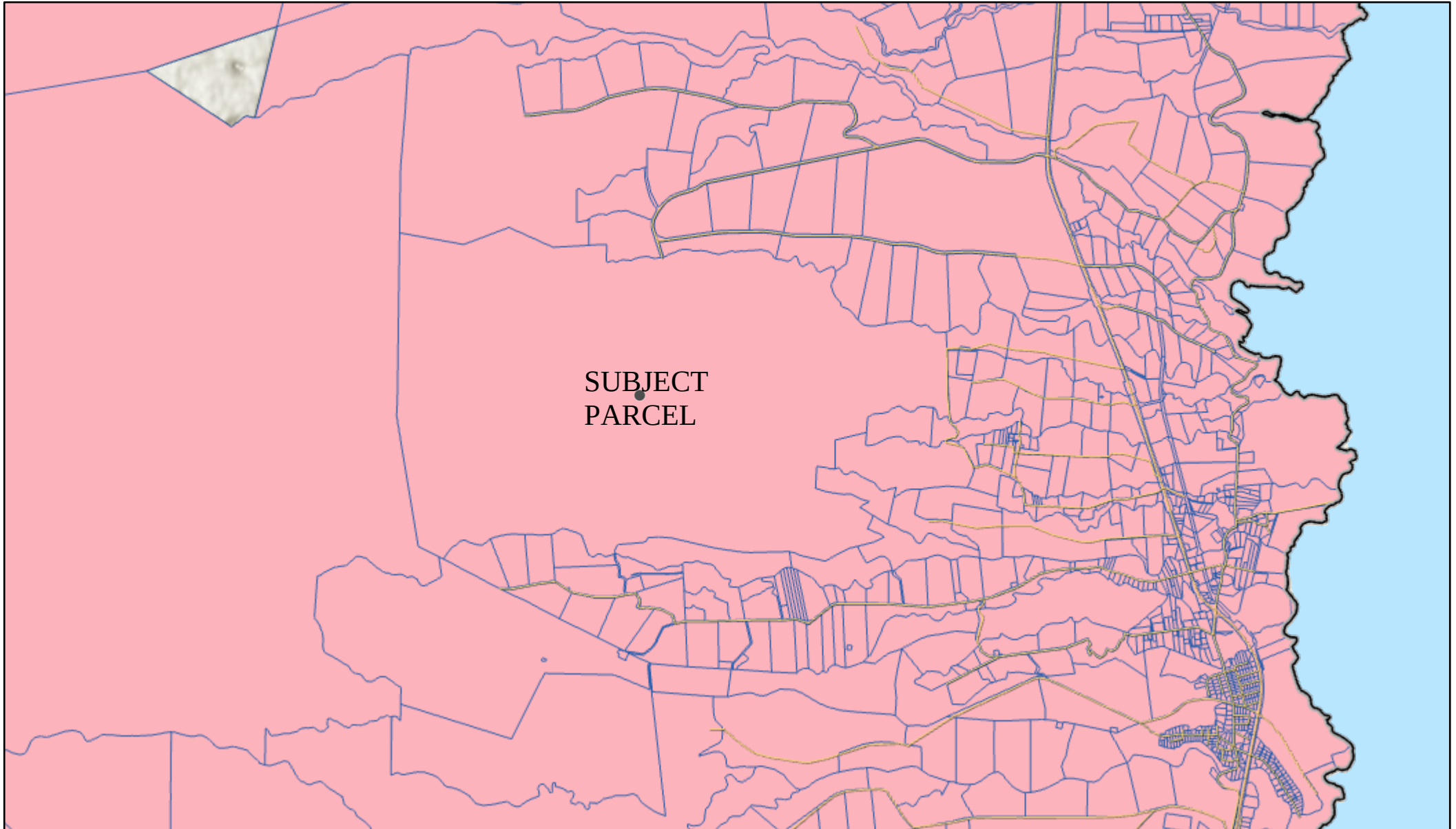
The Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) designates the subject site to be in Flood Zone X, or outside the 500-year floodplain (**Figure 8**).

### **3F. Archaeological Resources**

Although no formal archaeological study was conducted in conjunction with the proposed request, it is unlikely any archaeological resources exist in the project area as the subject property has long been used for sugar cane cultivation and as pastureland for grazing cattle. An aerial photo of the area taken in 1965 (**Figure 9**) shows that the area cleared for agricultural use, with several access roads crossing the property. Additionally, the project does not propose any new ground disturbing activities. Thus, it is unlikely that the project would have an effect on any archaeological resources.

Nevertheless, in the event any inadvertent archaeological discoveries are made in conjunction with this project, the applicants will immediately notify the Planning Department and the State Historic Preservation Division (SHPD) and secure proper clearances before proceeding with any activities.

# ArcGIS Web Map



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FIGURE 8

National Flood Hazard Layer Flood Zones



X

Parcels (current boundary lines)

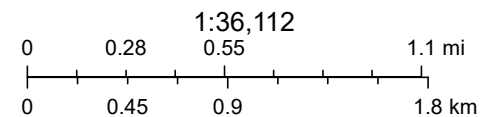


Street Centerlines



Hawaii County District Boundary

Coastline



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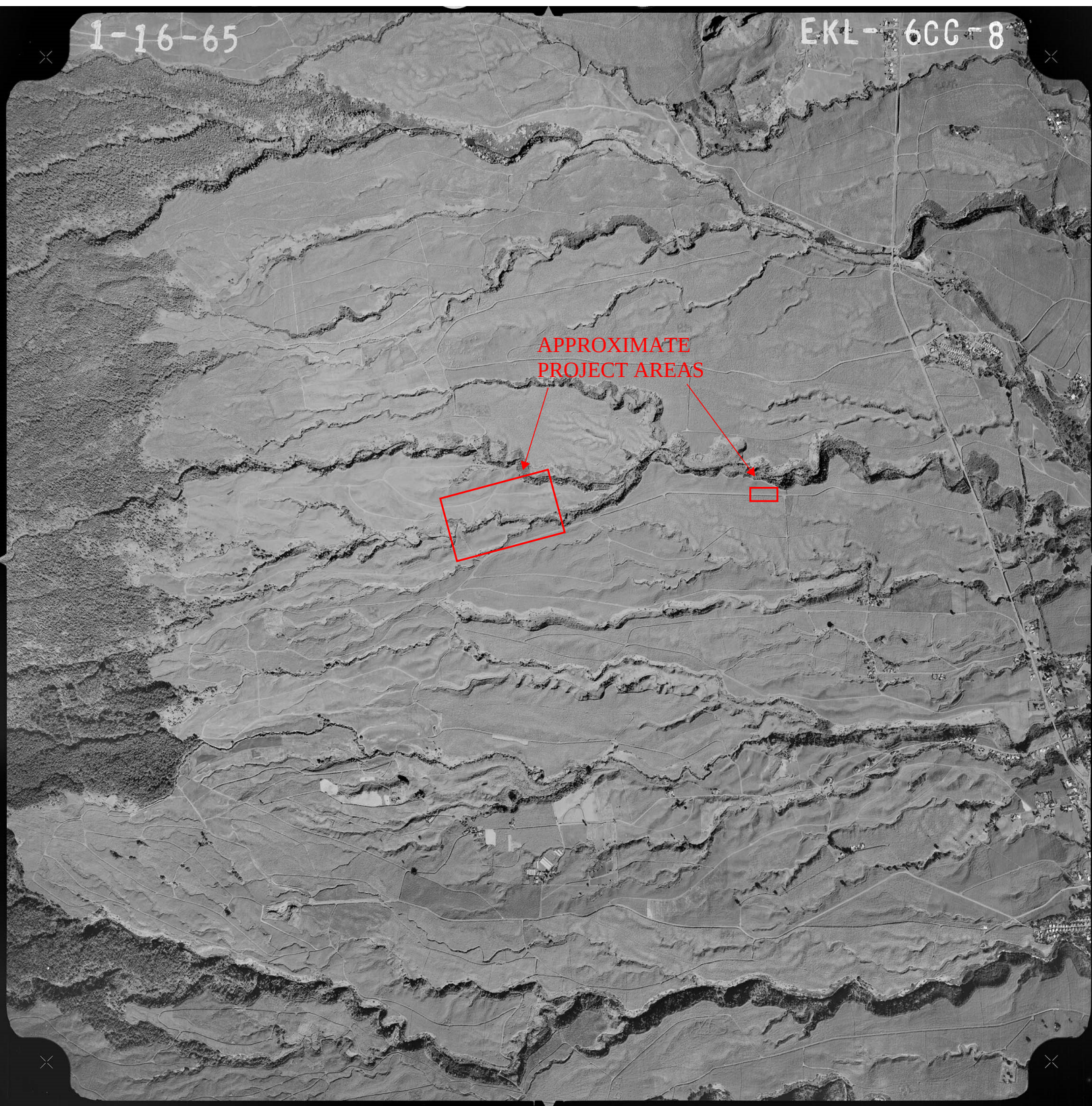


FIGURE 9



### **3G. Floral and Faunal Resources**

Vegetation in the project area consists primarily of non-native shrubs and grasses. The area has a history of use for sugar cane cultivation and pastureland and thus the applicant does not believe there are any threatened or endangered species in the area.

The majority of the property is currently used as rangeland for grazing cattle. Introduced bird species such as Dove, Japanese White-eye, House finch, and Common Myna are common in the area. Domestic animals such as cats, dogs, and feral pigs are also common and not considered endangered.

It is possible that the Hawaiian Hawk (*Buteo solitarius*) and Hawaiian owl (*Asio flammeus sandwichensis*) may be seen on or near the subject site due to the property's rural nature. The Hawaiian Hoary Bat or 'Ōpe'ape'a (*Lasiurus cinereus semotus*) may also utilize the site as they are far ranging and utilize habitats across the island.

As the project will utilize previously cleared areas and does not propose any ground disturbing activity, no impacts are anticipated to any floral or faunal resources.

### **3H. Valued Cultural Resources**

The Hawai'i State Supreme Court's PASH and Ka Pa'akai O Ka 'Aina decisions require decision-makers to consider a project's impact to native Hawaiian practices and resources. Specifically, prior to deciding, State and County agencies must identify the cultural, historical, and natural resources and associated traditional and customary practices of this site, the impacts of the proposed project to those resources and practices, and the feasible action (i.e., mitigation measures), if any, to protect such resources and practices.

There are no public access points to mountainous areas from the subject site and no cultural resources are known to be located on the property. It is not known whether the subject site or immediate surrounding area was ever used for traditional and customary rights by native Hawaiians. Since the property has been used for agricultural purposes for many years, it would appear unlikely that the site would serve such a purpose today and/or in the recent past. However, in the event any cultural resources were to be found on the property, all activity would cease in the immediate area, and the Department of Land and Natural Resources State Historic Preservation Division would be contacted immediately.

Based on the above, it does not appear that the project would have any potential adverse impact relating to the cultural resources of this area.

### **3I. Public Access**

This request will not affect any coastal public access as the site is over 1 mile from the shoreline and outside of the Special Management Area. There are no public access points from the property to mountainous areas.

### **3J. Description of Access**

Access to the site is via Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road. Indian Tree Road is a private paved roadway with a 50-foot right-of-way and pavement widths varying between 12 and 16 feet. The road is generally well maintained, but does contain a few potholes. The applicant is willing to repair the potholes if deemed necessary. The applicant has legal easement access over the private roadway (**Exhibit A**).

An existing 10-foot-wide gravel driveway with a 20-foot right-of-way will provide attendees with access through the property and to the campsites. A section of the driveway crosses a stream. The applicant will comply with Fire Department access requirements.

Designated parking areas are provided within the campsite zones for up to 200 vehicles.

### **3K. Traffic Impacts**

As the event will take place only once per year and attendees are anticipated to remain on the property for the duration of the event, traffic impacts from the proposed project will be short-lived and minimal. Guests are anticipated to carpool to the site with an average of 2.5 people per vehicle. Thus, with a maximum attendance of 500, approximately 200 vehicles would be anticipated. Arrival and departure times will be staggered with approximately half of the attendees arriving on Friday and the other half arriving on Saturday. Likewise, it is anticipated that approximately half of the attendees will leave on Sunday and the other half will leave on Monday. Thus, while overall traffic on Indian Tree Road is anticipated to increase during the 4-day event, the hourly traffic increase will be minimal given that traffic will be spread out throughout the weekend. Furthermore, given that the event will only take place once per year, the overall traffic impacts will be short-lived.

Additionally, the proposed storage of up to six (6) work vehicles will not result in any significant increase in traffic.

### **3L. Availability of Utilities**

#### **Water**

The property currently contains one 3,000-gallon rainwater catchment tank for non-potable and emergency fire suppression use. As the request is to hold only one event annually and to have as little impact on the property as possible, event attendees will be required to bring their own potable water to the event. Thus, the water needs of the project will be minimal, if at all. This area receives more than 170 inches of rainfall annually and there are no permanent structures in the vicinity of the campsites or bonfire area and thus the risk of fire emergencies related to the event is low. However, if required, the applicant is willing to install an additional rainwater catchment tank within the bonfire area for emergency fire suppression purposes. No water is necessary for vehicle storage use.

### **Wastewater**

The applicant will rent portable toilets for the duration of the annual events. The toilets will be removed immediately upon completion of the events. No wastewater facilities are necessary for vehicle storage use.

### **Electricity**

The event is intended to be an off-grid, sustainable camping experience. The property is not connected to the electrical grid and no electricity will be provided for the event or campsites. Attendees of the event may opt to bring their own generators or solar energy systems, although most guests do not. Otherwise, electricity will not be available or necessary for the proposed camping event. Additionally, no electricity is necessary for vehicle storage use.

### **Other Utilities**

No other utilities will be required for the proposed Special Permit use. Police, fire, and medical services are available roughly 6.5 miles south of the property in Hilo.

It is noted that prior to the 2023 event the applicant had reached out to the Fire Department and the Police Department to inform them of his plans and solicit safety and/or fire prevention recommendations. An inspector from the Fire Department visited the property at that time and agreed that there was very little risk of fire in this rainy mauka area of Pāpa‘ikou. Consultation with the Police Department at that time indicated that there were no requirements for private event security.

A formal request for comments regarding the proposed use and any fire and/or security requirements was sent to both the Fire and Police Departments in preparation of this application (**Exhibits B & C**). The Fire Department had indicated that water and access applicable codes would apply and that they would be willing to assist the event organizers with additional safety provisions if needed; however, we have yet to hear back on any specific fire code requirements. A response from the Police Department has not been received to date. Both departments will have the opportunity to comment on this application during the application review process and the applicant will comply with any recommendations provided by the respective agencies.

## **III. REGULATORY ANALYSIS**

### **4A. Coastal Zone Management**

The subject property is located over 1 mile from the nearest coastline and is not located within the Special Management Area. It is unlikely that any archaeological features, threatened or endangered plants, animals, or avian species will be adversely affected by the proposed use. There is no designated public access to the mountain areas over the property. Therefore, the proposed use will not adversely impact any recreational resources, including



access to and along the shoreline, scenic and open space resources, coastal ecosystems, and marine and coastal resources.

#### **4B. Impacts to Surrounding Properties**

Temporary and minor noise may occur during the event. The event will be restricted to a 4-day period and will only occur once per year. During that time noise impacts to surrounding properties are not expected to be significant as the camping and bonfire areas will be centrally located within this large parcel to provide an adequate buffer to surrounding property owners, with the nearest dwelling situated approximately 2,200 feet from the nearest campsite area. Additionally, the Applicant owns the adjacent parcel to the west which does not contain any dwellings and consists of over 11,000 acres; therefore, all amplified sound will be oriented in the western direction so that sound is projected away from any nearby residences.

Approximately two (2) generators are anticipated to support live music/DJ events. With regard to individual campsite use, participants will be allowed to bring generators, but generally speaking, most do not, and those who do will be encouraged to bring battery operated generators which do not emit sound. It is therefore anticipated that any sound impacts will be mitigated by minimal use, remoteness of the site and the limited duration of the event. If additional mitigation measures are deemed necessary, with the exception of the generators used to support live music/DJ events, the applicant is willing to restrict the personal use of generators to between the hours of 9:00 a.m. and 9:00 p.m.

With regard to noise generated by vehicle storage, as these vehicles are also used for agricultural purposes, noise generated by the vehicles will continue to be comparable to noise generated by standard agricultural use.

The proposed request will not have an effect on scenic views as no new permanent structures or ground disturbance are proposed. The camping event areas will be centrally located within the parcel so as to provide a natural buffer from adjacent properties. Additionally, no coastal view planes will be impacted by the proposed request.

Light pollution is another important aspect of minimizing impacts to surrounding properties and the visibility of the night sky. As electricity will not be provided to the event/campsites and the event will only be once per year, light pollution from the event will be minimal and short-lived. Any attendees who bring their own power supply from which to power their own light fixtures or battery-operated light fixtures will be required to conform to the standards established by the Hawai'i County Outdoor Lighting Ordinance (Hawai'i County Code Chapter 14, Article 9: "Outdoor Lighting") and any lighting fixture should be fully shielded. This means that all lighting fixtures must emit zero light above the horizontal plane.

With regard to traffic, impacts to surrounding properties should be minimal. While traffic on Indian Tree Road is expected to increase during the event, the increase will be minimal and short-lived as the event will only take place once per year. Additionally, event traffic would generally be spread out throughout the day of arrival and the day of departure, with

attendees expected to remain on site for the duration of the event. Furthermore, it is anticipated that the majority of the event traffic will not interfere with morning school and work traffic as the majority of attendees will only attend during the weekend and peak guest trip times will be outside of normal peak traffic periods.

It is also noted that prior to the 2023 event, the Applicant had contacted several nearby neighbors to inform them of the event. Upon following up with neighbors after the event, only one neighbor reported being able to hear amplified music but reported that the sound was not bothersome. Since then, the applicant has received letters from surrounding property owners who support this Special Permit request and attest to his merits as a good neighbor (**Exhibit D**).

With respect to the proposed vehicle storage, commercial use of the vehicles outside of general on-site agricultural use will be sporadic and minimal and is thus not expected to have a significant impact on traffic. As the commercial use of the vehicles will involve picking up materials off-site to be delivered to other off-site locations, the commercial use of the vehicles will not involve transport of heavy loads to and from the property.

#### **4C. Impacts to Public Agencies**

The proposed project will not unreasonably burden public agencies to provide roads, streets, sewers, water, drainage, school improvements, and police and fire protection.

#### **4D. Unusual Conditions**

In recognizing that lands within the 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, Hawai'i Revised Statutes Chapter 205-6 allows County Planning Commissions to permit certain unusual and reasonable uses within the Agricultural districts other than those for which the district is classified.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. As noted in the General Plan, in recent years many niche tourism markets, such as eco-tourism and health and wellness tourism have established themselves throughout the island. Additionally, the importance of agricultural land and food security has emerged as a dominant topic in our community, as has the need to support local farmers and ranchers who must rely on supplemental forms of income to support their agricultural pursuits. This Special Permit request mirrors these trends. The subject 1,419.17-acre parcel is located within the Agricultural district and the vast majority of the parcel is used as pastureland for grazing cattle. The proposed Special Permit request will not interfere with or inhibit the ongoing agricultural use of the property in any way. Rather, the intent of the event will be to provide a beautiful, natural, pastoral backdrop in which visitors and residents alike can celebrate art and self-expression in a manner which emphasizes respect for the environment and the practice of "leave no trace". The event is designed in such a way as to have a minimal footprint on the land and attendees will be required to bring their own supplies, clean up after themselves and endeavor to leave the

environment in a better state than it was found. To this end, it is the Applicant's goal that the proposed events will provide a fun and enriching experience that complements, enhances and celebrates its host agricultural backdrop.

Additionally, with regard to the vehicle storage, the ability to utilize the stored vehicles for other commercial purposes while not in agricultural use will provide the rancher leasing the property with an important secondary source of income, critical to offsetting the cost of the vehicles and generating supplemental income.

#### **4E. Land Suitability for Permitted Use**

The Land Use Pattern Allocation Guide (LUPAG) designates this land as Important Agricultural Lands (**Figure 4**) and the Land Study Bureau classifies the property as containing primarily a combination of "C", or "Fair" and "D" or "Poor" soils with areas along the streams that run through the property designated as "E" or "Very Poor" (**Figure 5**). According to the Agricultural Lands of Importance to the State of Hawai'i (ALISH), the project area is classified as primarily prime farmland, with portions of the property along the streams unclassified (**Figure 6**). The land is well-suited for agricultural uses and is primarily used for agriculture. The proposed request will not interfere with or inhibit the ongoing agricultural use in any way as this is a very large parcel with many grazing paddocks and the cattle will be grazing distant areas of the property while the event occurs.

#### **4F. Land Character and Present Use**

The vast majority of the property is currently used as pastureland for grazing cattle. An approximately 0.46-acre portion of the property is used to store the vehicles which are used for on-site agricultural uses as well as for other off-site commercial purposes. The proposed events will be limited to a 14.7-acre portion of the property, will only be held once per year, will not require construction of any new improvements or alterations to the land, and will not interfere with the ongoing agricultural use of the property. Thus, the Special Permit request will not alter the essential character of the land; rather, it will realize its fuller potential through the addition of an unusual, yet compatible and reasonable use.

#### **4G. Relationship to General Plan**

The proposed use will not be contrary to the goals, policies, and standards of the General Plan or the Hāmākua Community Development Plan. As discussed in Section 3C of this report, the proposed use conforms to the General Plan's economic, environmental, natural beauty, recreation and land use goals and policies. The proposed project will provide the Applicant with the opportunity to provide an annual recreational event highlighting art, self-expression, civic responsibility, respect for the environment and the practice of "leave no trace". Approval of the requested Special Permit will also provide the rancher leasing the property with the ability to offset the cost of his farm vehicles by using them for other commercial purposes.

#### **4H. Unusual and Reasonable Use**

The proposed project constitutes an unusual and reasonable use of the land, which would not be contrary to the objectives sought by Land Use Law and Regulations, which for the Agricultural District, seek to preserve or keep the land of high agricultural potential in agricultural usage.

The request is unusual in that it is not strictly agricultural in nature; the use would allow the applicant to hold an annual camping event on the property and for the applicant's tenant to utilize his farm vehicles for other commercial purposes. The request is reasonable in that the event would utilize a relatively small portion of the property, only take place once per year, would not require any new ground disturbance, would not interfere with or detract from any ongoing agricultural uses, and would highlight the pastoral history and beauty of the Hāmākua area while providing recreational opportunities to the community and visitors alike. Additionally, use of the farm vehicles for other commercial purposes is reasonable as it will support local agriculture by helping to offset the cost of the farm vehicles.

In conclusion, the proposed use would not adversely impact the agricultural land inventory in the County of Hawai'i and would not be contrary to the intent and purpose of the State Land Use Law. Rather, it would provide the growing number of residents and tourists in the area with an additional recreational opportunity while showcasing an active Hawaiian ranch and will provide a source of diversified income to the rancher storing his work vehicles on the property.

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

AUG 16, 2000 08:01 AM

Doc No(s) 2000-113159

/s/CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN TO: BY: MAIL ☒ PICKUP ☐

HAWAII FOREST PRESERVATION LLC  
91-188 KALAELOA BLVD  
KAPOLEI, HI 96707

TG : 256719 - S  
TGE: A01060257  
GAIL MUNEOKA

THIS DOCUMENT CONTAINS 12 PAGES

Tax Map Key Nos.: (3) 2-8-03-001 (Burdened Property)  
(3) 2-8-01-002 (Benefited Property)

**GRANT OF PERPETUAL, NONEXCLUSIVE EASEMENT**

THIS INDENTURE, made this \_\_\_\_\_ day of AUG - 7, 2000, by and between **MAUNA KEA AGRIBUSINESS CO., INC.**, a Hawaii corporation, whose post office address is P.O. Box 1826, Papaikou, Hawaii 96781 ("Grantor") and **HAWAII FOREST PRESERVATION, LLC**, a Hawaii limited liability company, whose address is 91-188 Kalaeloa Boulevard, Kapolei, Hawaii 96707 ("Grantee");

**WITNESSETH THAT:**

WHEREAS, Grantor is the owner of that certain parcel of land currently designated on the tax maps of the Third Taxation Division of the State of Hawaii as TMK No. 2-8-03-001, more particularly described in Exhibit "A-1" attached hereto and incorporated herein by this reference and shown on the map attached hereto and incorporated herein as Exhibit "A-2" (the "Mauna Kea Parcel"); and

WHEREAS, Grantee is the owner of that certain parcel of real property currently designated on the tax maps of the Third Taxation Division of the State of Hawaii as TMK No. 2-8-01-002, more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference (the "HFP Parcel"); and

WHEREAS, Grantee, as the owner of the HFP Parcel desires to obtain a perpetual, nonexclusive right and easement for roadway purposes over, across, upon and through the Mauna Kea Parcel in favor of the HFP Parcel; and

WHEREAS, Grantor is willing to grant such a right and easement upon and subject to the terms and conditions hereinafter set forth and provided.

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLAR (\$10.00) to Grantor paid by Grantee, the receipt and sufficiency whereof is hereby acknowledged, and of the terms, conditions and covenants of Grantor and Grantee as hereinafter contained, the parties hereto agree as follows:

A. Grant of Easement and Grantor's Covenants.

1. Grantor does hereby grant, bargain, sell and convey unto Grantee and its Authorized Users a 50-foot wide perpetual, nonexclusive right and easement for roadway purposes over, across, upon and through the Mauna Kea Parcel, beginning at the western end of the county road located on the northerly side of the Mauna Kea Parcel and ending at the eastern boundary of the HFP Parcel, all as shown marked in red on the map shown in Exhibit "C" attached hereto and incorporated herein by this reference ("Easement 6"); together with a right of entry in favor of Grantee to enter unto the adjoining lands of Grantor as may be reasonably necessary in connection with the construction, reconstruction, installation, maintenance, replacement, repair or removal of any improvements or equipment on or within Easement 6.

2. As used herein, "Authorized Users" means and includes Grantee's tenants, partners, joint venturers, franchisees, subtenants and concessionaires, and each of their respective agents, consultants, contractors, suppliers, patrons, customers, guests, employees and invitees.

3. The easement herein granted shall inure to the benefit of Grantee as an appurtenance to the HFP Parcel and any and all portions thereof, and shall be binding upon the Grantor as an encumbrance upon the Mauna Kea Parcel, and shall run with the land. Any conveyance or transfer of any interest in all or any portion of the Mauna Kea Parcel affected by this Grant of Perpetual, Nonexclusive Easement shall refer to this Grant of Perpetual, Nonexclusive Easement, but this Grant of Perpetual, Nonexclusive Easement shall be binding upon Grantor's successors and assignees whether or not such reference is made in the instrument of transfer or assignment.

4. Grantor shall not do or permit any act or acts that will unreasonably prevent or hinder the ingress or egress of Grantee and its Authorized Users.

B. Grantee's Covenants.

1. Grantee shall use Easement 6 solely for roadway purposes for pedestrian and vehicular ingress and egress and utilities improvements to and from the HFP Parcel.

2. Grantee shall give prior written notice to Grantor of Grantee's entry upon Easement 6 for the purpose of construction, installation, maintenance, repair or replacement of any roadway or any utility lines or equipment, except in the event of emergency, in which case Grantee will provide said notice as soon as reasonably possible.

3. Following the completion of any construction, reconstruction, installation, maintenance, replacement, repair or removal work by Grantee on Easement 6, Grantee shall restore the surface of any adjoining ground to the same or better condition than that existing immediately prior to commencement of such work.

4. Grantee shall be solely responsible for obtaining at no cost to Grantor any governmental approval, permit or consent required by law for or in connection with the easement herein granted and Grantee's use thereof or any improvement thereon made by Grantor.

5. Grantee shall pay when due all taxes and assessments levied against the easement herein granted or the improvements or equipment of Grantee on the Easement 6, provided, however, that this covenant shall not be construed to require Grantee to pay the taxes or assessments levied against the land of Grantor.

6. Maintenance of all improvements made by Grantee on or within Easement 6 shall be the sole responsibility of Grantee.

7. Except as otherwise provided herein, Grantee shall indemnify, defend and save harmless Grantor against any and all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or resulting from the acts or omissions of Grantee, and anyone claiming by, through or under Grantee in connection with the exercise of the rights and privileges granted herein.

8. Grantee shall not commit or cause to be committed any waste to, in or upon Easement 6 nor permit Easement 6 to be used for any improper, offensive or unlawful purpose.



C. Mutual Covenants.

1. The rights and easements granted herein to Grantee and its Authorized Users are nonexclusive and Grantor hereby reserves all rights with respect to the Easement Area other than as specifically conferred hereby upon Grantee and its Authorized Users, including, without limitation, the right to (i) use Easement 6 for purposes consistent with the terms hereof, (ii) make one or more nonexclusive grants of rights and easements to Easement 6 from time to time to governmental authorities, public or private utilities, corporations or others, and Grantee hereby consents thereto provided such uses by Grantor or others do not unreasonably interfere with the rights of Grantee and its Authorized Users hereunder.

2. Grantor shall have the right at least one (1) day every four (4) years to close off the roads within the easement area to prevent the use thereof by all persons not having a legal right to use the same.

3. Grantor shall have the right to alter or relocate Easement 6 without first obtaining Grantee's prior written consent if, and only if, all of the following conditions are first satisfied:

a. The alteration or relocation of Easement 6 does not unreasonably limit access or increase the distance between the HFP Parcel and the aforementioned county road.

b. At least thirty (30) days before commencing any alterations, improvements or relocation, Grantor has provided Grantee with notice of Grantor's intent to alter or relocate Easement 6.

c. All required permits and consents have been acquired from all appropriate governmental entities in connection with the alterations or relocation.

d. The altered or relocated Easement 6 will have a width and surface improvements that are substantially similar to the width and surface improvements of Easement 6 before the alteration, improvement or relocation.

e. Prior to any relocation of Easement 6, Grantor and Grantee shall have executed an amendment to this Grant of Perpetual, Nonexclusive Easement amending the definition of Easement 6 to be that of the real property on which Easement 6 is relocated and such amendment shall have been recorded in the Bureau of Conveyances of the State of Hawaii.

If all of the foregoing conditions are not satisfied, Grantor may alter or relocate Easement 6 only upon having first obtained the prior written consent of Grantee, which consent shall not be unreasonable withheld. In the event of any

alteration, improvement or relocation of Easement 6 by Grantor, Grantor, at Grantor's sole cost and expense, shall restore all utility lines and equipment located within Easement 6 to the same or better condition than that existing immediately prior to such alteration, improvement or relocation.

4. Nothing contained in this Grant of Perpetual, Nonexclusive Easement shall be deemed a gift or dedication of any portion of Easement 6 to or for the general public or for any public purpose whatsoever. Upon any dedication of Easement 6 to any governmental entity having jurisdiction thereof, this Grant of Perpetual, Nonexclusive Easement shall automatically cease and be of no further effect.

5. If Grantor shall involuntarily and without any fault on its part be made a party to any litigation or arbitration commenced by or against Grantee, or otherwise without fault incur any expense because of litigation or arbitration, arising out of this Grant or Grantee's use of the Easement Area, then all costs, expenses and reasonable attorneys' fees incurred by or imposed upon Grantor will be borne by Grantee in such amount as the Court or the arbitration panel, as the case may be, may determine to be reasonable.

6. Each right and remedy of Grantor provided for herein shall be cumulative, and shall be in addition to every other right or remedy to which Grantor may be entitled at law or in equity. The exercise or the commencement of the exercise by Grantor of any one or more of the rights or remedies herein shall not preclude the simultaneous or later exercise by Grantor of any or all other rights or remedies provided for in this Grant or now or hereafter existing at law or in equity or by statute or otherwise.

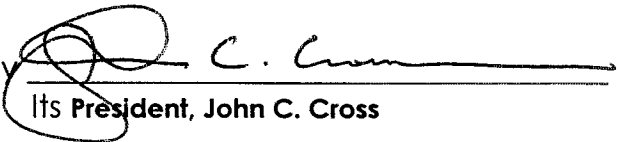
7. The failure of Grantor to insist on the strict performance of any term hereof or the failure to exercise any right or remedy shall not constitute a waiver of any such breach of any term hereof. Efforts by Grantor to mitigate the damages caused by incorrect use, default or breach of the terms and covenants of this Grant shall not be construed to be a waiver of Grantor's right to recover damages or any monies due Grantor.

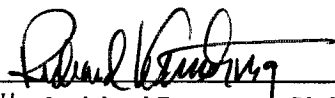
8. The terms "Grantor" and "Grantee" and related verbs and pronouns in the singular shall also include the plural. Where appropriate, the masculine gender shall be deemed to include the feminine or neuter genders, the term "Grantor" wherever used herein shall be held to mean and include Grantor, its successors and assigns, and that the term "Grantee" wherever used herein shall be held to mean and include Grantee and its successors and permitted assigns, and that this instrument shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

9. This Grant shall be governed by and construed in accordance with the law of the State of Hawaii except such of its conflict of laws provisions that would require reference to the law of another jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

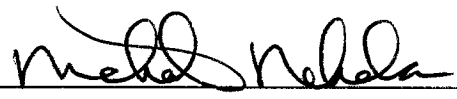
**MAUNA KEA AGRIBUSINESS CO., INC.**

By   
Its President, John C. Cross

By   
Its Assistant Treasurer, Richard V. Armstrong

"Grantor"

**HAWAII FOREST PRESERVATION, LLC**

By   
Its Manager

"Grantee"

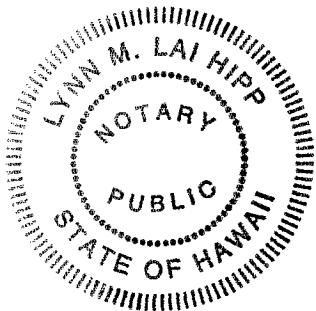
STATE OF HAWAII

COUNTY OF HAWAII

)  
) SS.  
)

On this 27<sup>th</sup> day of July, 2000, before me personally appeared

**JOHN C. CROSS** and **RICHARD V. ARMSTRONG**, to me personally known, who, being by me duly sworn or affirmed, did say that they are the President and the Assistant Treasurer, respectively, of MAUNA KEA AGRIBUSINESS CO., INC., a Hawaii corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said officers acknowledged said instrument to be the free act and deed of said corporation.



  
Print Name: Lynn M. Lai Hipp  
Notary Public, State of Hawaii

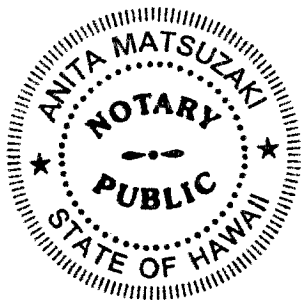
My Commission Expires: 06-28-2004

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)  
) SS.  
)

On this 7th day of August, 2000, before me personally appeared Michael Nekoba, to me personally known, who, being by me duly sworn or affirmed, did say that he is the manager, of HAWAII FOREST PRESERVATION, LLC, a Hawaii limited liability company, and that the foregoing instrument was signed on behalf of said corporation under the authority conferred by, and in accordance with the requirements of the Bylaws of said corporation, and said officer acknowledged said instrument to be the free act and deed of said corporation.



*Anita Matsuzaki*

Print Name: ANITA MATSUZAKI  
Notary Public, State of Hawaii

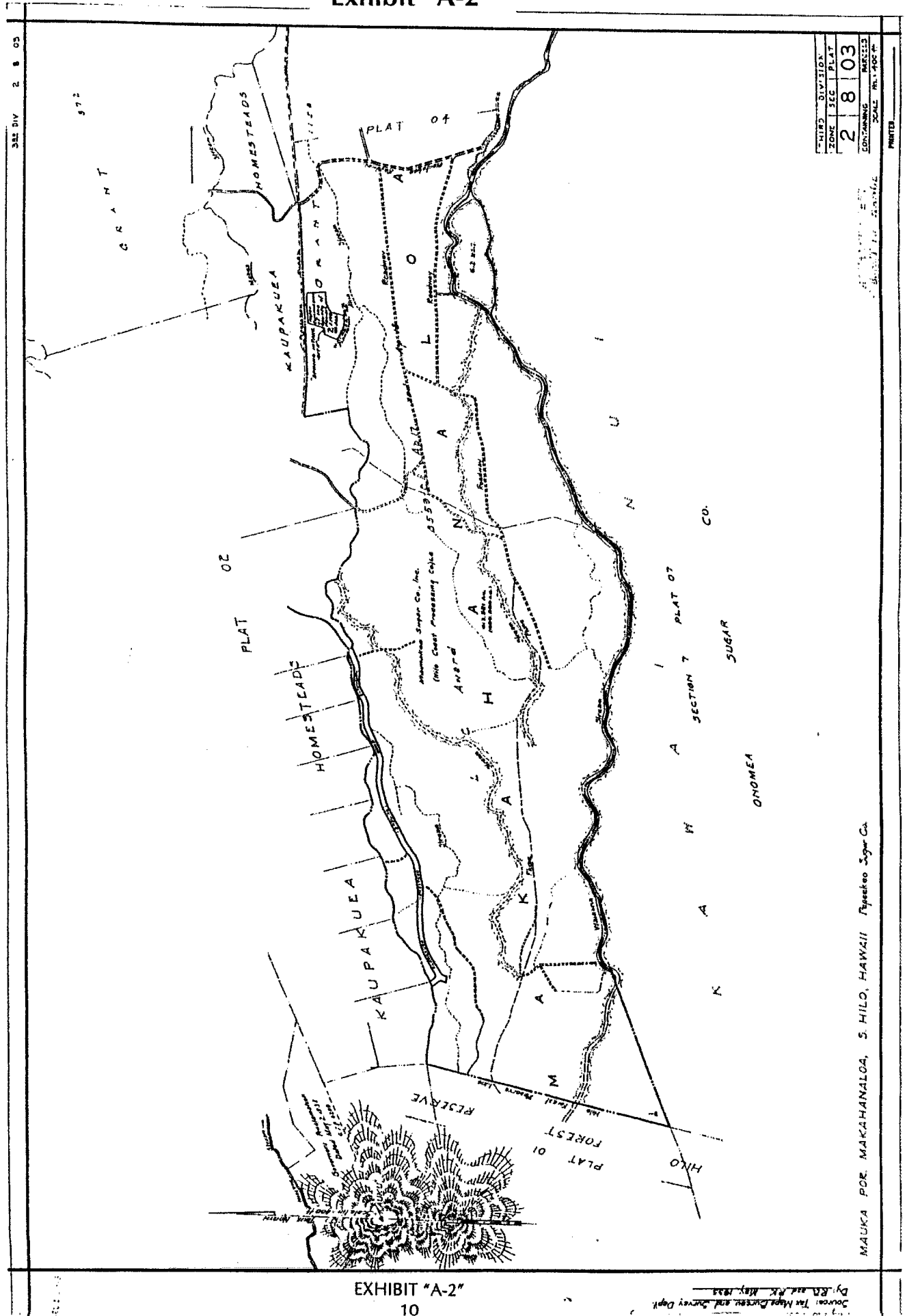
My Commission Expires: 12/21/2002

## **Exhibit "A-1"**

("Mauna Kea Parcel")

All that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 7192, Land Commission Award 8559-B, Apanas 17 and 18 to William C. Lunalilo, Certificate of Boundaries No. 36, being a portion of the Ahupuaa of Makahanaloa) situate, lying and being north of the lands of Kawainui, south of Kaupakuea Homesteads, District of South Hilo, Island and County of Hawaii, State of Hawaii, being designated on the tax maps of the Third Taxation Division of the State of Hawaii as TMK No. 2-8-03-001, as shown on the map set forth in Exhibit "A-2" attached hereto.

**Exhibit "A-2"**



## Exhibit "B"

("HFP Parcel")

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 7192, Land Commission Award Number 8559-B, Apanas 17 and 18 to William C. Lunalilo, Certificate of Boundaries No. 36, being portion of the Ahupuaa of Makahanaloa) situate, lying and being north of the lands of Papaikou, south of the Government Lands of Kaiwiki, and west of Kaupakuea Homesteads, District of South Hilo, Island and County of Hawaii, State of Hawaii, being LOT H, and thus bounded and described as per survey of Robert K.Y. Lee, Registered Land Surveyor, dated May 20, 1994, to-wit:

Beginning at the southwest corner of this parcel of land, on the boundary with the Lands of Papikou, the coordinates of said point of beginning, referred to Government Survey Triangulation Station "AAHUWELA" being 13,234.50 feet north and 45,526.89 feet east, and running by azimuths measured clockwise from true South:

- |    |      |     |     |           |                                                                                                                                  |
|----|------|-----|-----|-----------|----------------------------------------------------------------------------------------------------------------------------------|
| 1. | 170° | 29' | 20" | 2,874.86  | feet across the Lands of Makahanaloa, along the remainder of R.P. 7192, L.C.Aw. 8559-B, Apanas 17 and 18 to William C. Lunalilo; |
| 2. | 261° | 05' | 15" | 26,882.88 | feet along the Government Lands of Kaiwiki and Honomu;                                                                           |
| 3. | 259° | 56' | 00" | 1,454.19  | feet along the Government Lands of Honomu;                                                                                       |
| 4. | 13°  | 50' | 44" | 2,219.96  | feet across the Lands of Makahanaloa, along the remainder of R.P. 7192, L.C.Aw. 8559-B, Apanas 17 and 18 to William C. Lunalilo; |
| 5. | 69°  | 09' | 47" | 3,110.53  | feet along the Government Lands of Kawainui;                                                                                     |
| 6. | 80°  | 35' | 05" | 24,405.51 | feet along the Lands of Onomea and Papaikou, to the point of beginning and containing an area of 1,735.080 acres, more or less.  |



The map displays the Hilo Forest Reserve with three highlighted land parcels. The parcels are labeled with their respective TMK numbers and acreages: TMK 3-2-7-01-1 (11,394 ACRES), TMK 3-2-8-01-2 (1,735 ACRES), and TMK 3-2-9-01-2 (3,137 ACRES). The map includes various geographical features, roads, and a scale bar indicating 1 mile. The parcels are situated in the Hilo area, with the Hilo Forest Reserve to the north and the Hilo River to the south. The map also shows the locations of Hilo, Kailua, and other nearby areas.

# RE: Request for Comment Relating to Proposed Special Permit Application TMK (3) 2-7-007:001



Me <kim@landplanninghawaii.com>

Thu, 03 Oct 2024 9:49:10 AM -1000 •

To "Henderson, Royd" <royd.henderson@hawaiicounty.gov>

Cc "Fire Admin" <fire@hawaiicounty.gov>, "Goo, Tyson" <Tyson.Goo@hawaiicounty.gov>, "John Pipan" <john@landplanninghawaii.com>

Aloha Royd,

We submitted a Special Permit application for the landowner of the subject property to hold an annual 4-day camping event on his property up Indian Tree Road in Papaikou. Campers will be encouraged to participate in/observe a wide range of dynamic activities which will be initiated by event participants and will include things like fire dancing, light installations, art installations, music, eco-conscious workshops, etc. Campfires will only be permitted within designated raised fire pits and all fire-related uses will be within an open mowed area of the property.

The Planning Department recently returned the Special Permit application and requested additional information before they will accept it. One of their requests was to consult with the Fire Department to determine the minimum requirements for fire suppression water and Fire Department Access. For context, I'm attaching the conceptual site plan here. The campsites are accessed via old cane roads which are approximately 10 feet wide. Section 18.23.5.1.1 requires an unobstructed width of not less than 20 feet, or as approved by the authority having jurisdiction. While the gravel width of the road is only 10 feet, there is certainly more than 5 feet of unobstructed width on either side of the gravel. Would this be sufficient for Fire Dept. access?

Also, can you confirm what is needed for fire suppression water? The only structures within the campsite areas will be temporary tents and temporary art installations set up by the campers. Fire extinguishers will be stored throughout the property in case of emergency. If needed, the landowner can install a water tank in the campsite area for fire suppression, but we are unsure if this is required under code and what the required storage capacity would be.

Also, for additional context, according to the landowner, Andrew Tepper, he held the camping event last fall and had contacted the Fire Department beforehand to let you know about the event and solicit fire prevention recommendations. Andrew said that someone from the Fire Dept inspected the property last year and agreed that there was very little fire risk in this rainy mauka area of Papaikou.

We're trying to provide Planning with the additional information they've requested as quickly as possible. Your input and comment is greatly appreciated.

Thank you,

Kim Chiodo  
Project Manager  
Land Planning Hawaii  
194 Wiwoole St, Hilo, HI 96720  
(808) 333-3393 (office)  
(808) 333-3576 (direct)  
[kim@landplanninghawaii.com](mailto:kim@landplanninghawaii.com)



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## EXHIBIT B

----- On Tue, 03 Sep 2024 14:15:25 -1000 **Kim Chiodo** <[kim@landplanninghawaii.com](mailto:kim@landplanninghawaii.com)> wrote -----



Hi Royd,

Thank you for your reply. A Special Permit application has been submitted to the Planning Department.

Aloha,

Kim Chiodo  
Project Manager  
Land Planning Hawaii  
194 Wiwoole St, Hilo, HI 96720  
(808) 333-3393 (office)  
(808) 333-3576 (direct)  
[kim@landplanninghawaii.com](mailto:kim@landplanninghawaii.com)



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----- On Tue, 03 Sep 2024 13:09:17 -1000 **Henderson, Royd** <[royd.henderson@hawaiicounty.gov](mailto:royd.henderson@hawaiicounty.gov)> wrote -----

Kim,

All water and access applicable codes will apply. We are willing to assist the event organizer with additional safety provisions if needed.

Thank you,

Royd

---

**From:** Fire Admin <[fire@hawaiicounty.gov](mailto:fire@hawaiicounty.gov)>  
**Sent:** Tuesday, August 20, 2024 2:28 PM  
**To:** Henderson, Royd <[Royd.Henderson@hawaiicounty.gov](mailto:Royd.Henderson@hawaiicounty.gov)>  
**Subject:** FW: Request for Comment Relating to Proposed Special Permit Application TMK (3) 2-7-007:001

Hello Prevention,

Please see request for comments attached.

Mahalo!

**Jordyn Mantz**  
Clerk III, Administration  
Hawaii Fire Department  
(808) 932-2900

---

**From:** Kim Chiodo <[kim@landplanninghawaii.com](mailto:kim@landplanninghawaii.com)>  
**Sent:** Tuesday, August 20, 2024 9:36 AM

**To:** Fire Admin <[fire@hawaiicounty.gov](mailto:fire@hawaiicounty.gov)>

**Cc:** John Pipan <[john@landplanninghawaii.com](mailto:john@landplanninghawaii.com)>

**Subject:** Request for Comment Relating to Proposed Special Permit Application TMK (3) 2-7-007:001

Aloha,

Please see the attached letter requesting your Department's comments. A hard copy of this letter will also be mailed to your office.

Thank you,

Kim Chiodo  
Project Manager  
Land Planning Hawaii  
194 Wiwoole St, Hilo, HI 96720  
(808) 333-3393 (office)  
(808) 333-3576 (direct)  
[kim@landplanninghawaii.com](mailto:kim@landplanninghawaii.com)



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194 Wiwoole St. Hilo, HI 96720  
(808) 333-3393  
info@landplanninghawaii.com

August 20, 2024

Kazuo S.K.L. Todd, Fire Chief  
County of Hawaii  
Fire Department  
25 Aupuni St, Suite 2501  
Hilo, HI 96720

Dear Chief Todd:

**Subject: Early Request for Comment Regarding Proposed Special Permit Request to Host an Annual Event**  
**Landowner: Teppy Mountain LLC**  
**(3) 2-7-007:001, 27-476 Indian Tree Rd., Pāpai‘kou, South Hilo, Hawai‘i**

The landowner of the subject property has contracted with our office to assist with the preparation and submittal of a Special Permit application requesting approval to hold an annual 4-day event with overnight camping on the subject property. The intention of the event will be to provide a fun and enriching environment in which attendees can enjoy art and self-expression. 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 property is located at the top of Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road in Pāpai‘kou, South Hilo, Hawai‘i. The Special Permit will request to utilize a 14.9-acre portion of the overall 1,1419.17-acre parcel for the event. No permanent or temporary structures are proposed apart from portable bathrooms which will be removed immediately upon completion of the event. Attendees will bring their own camping equipment and supplies.

The event will include an area designated for bon fires. The risk of fire emergencies related to the event appears low as this area of the island receives 170+ inches of rainfall annually and there are no structures in the project area. Nevertheless, the landowner intends to have fire extinguishers available on the property in case of emergency and will consider any additional safety mitigation measures recommended by your department. If required, the applicant is willing to also install a rainwater catchment tank to store water for emergency fire protection use.

Your comments on the proposed use are requested and appreciated. Please feel free to direct any questions or comments directly to me.

Sincerely,

John Pipan  
Planning Administrator



194 Wiwoole St. Hilo, HI 96720  
(808) 333-3393  
info@landplanninghawaii.com

September 30, 2024

Benjamin Moszkowicz, Chief  
County of Hawaii  
Police Department  
349 Kapi'olani Street  
Hilo, HI 96720

Dear Chief Moszkowicz:

**Subject: Early Request for Comment Regarding Proposed Special Permit Request to Host an Annual Event**  
**Landowner: Teppy Mountain LLC**  
**(3) 2-7-007:001, 27-476 Indian Tree Rd., Pāpai'kou, South Hilo, Hawai'i**

Our office recently submitted a Special Permit application on behalf of the subject landowner requesting approval to hold an annual 4-day event with overnight camping on the subject property. The Planning Department returned the application with a request that we contact the Police Department to determine whether there are any public safety requirements for the proposed event.

The property is located at the top of Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road in Pāpa'ikou, South Hilo, Hawai'i. The Special Permit requests to utilize a 14.9-acre portion of the overall 1,1419.17-acre parcel for the event. The intention of the event will be to provide a fun and enriching environment in which attendees can enjoy art and self-expression. 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 next annual event is anticipated to be attended by up to 200 people with the hope of eventually hosting up to 500 attendees.

The landowner plans to have community volunteers trained to mediate and de-escalate conflicts on-site for the duration of the event. These volunteers will contact the authorities should a situation arise which cannot be safely resolved.

Your comment on the proposed use and any required safety protocols is requested and appreciated. Please feel free to direct any questions or comments directly to me.

Sincerely,

John Pipan  
Planning Administrator

EXHIBIT C

Evan Rock  
27-495 Indian Tree Road  
Papaikou, HI 96781  
PO Box 604  
Papaikou, HI 96781

**Date: August 16, 2024**

**County of Hawaii Planning Department  
101 Pauahi Street, Suite 3  
Hilo, HI 96720**

Dear Sir/Madam,

I am writing to express my support for Andrew Tepper's event, Falls on Fire, which is planned for the weekend of November 9, 2024. My name is Evan Rock, and I have been a resident and landowner on Indian Tree Road since 2013. I consider Mr. Tepper to be a responsible neighbor and a considerate member of our community.

I have observed Mr. Tepper's commitment to hosting his events in a manner that respects both the environment and the local community. I was under the impression that during last year's Falls on Fire, Mr. Tepper proactively engaged with the planning department, the police department, and the fire department to ensure all necessary approvals and safety measures were in place. Following the event, he reached out to confirm that the noise and traffic levels were manageable, and I told him that there was no bother at all.

I can personally attest to the fact that the event did not create significant disturbances. A couple of his guests politely smiled and waved kindly when I happened to pass them on the road. Mr. Tepper has consistently shown himself to be a great neighbor, and his efforts to host such events in a responsible manner are commendable.

I believe that Falls on Fire contributes positively to our community by providing a venue for people to gather, enjoy various activities, and foster a sense of camaraderie. I am confident that Mr. Tepper will continue to uphold the highest standards of consideration for our neighborhood.

Thank you for considering my support for Mr. Tepper's event. Should you require any further information, please feel free to contact me at 808 464 3847.

Sincerely,

A handwritten signature in black ink, appearing to read 'Evan Rock', with a stylized flourish at the end.

Evan Rock

**EXHIBIT D**

## Fwd: Falls on Fire 2024

TE

teppy@egenesis.com

Tue, 20 Aug 2024 8:01:42 PM -1000 •

To "Kim Chiodo" <kim@landplanninghawaii.com>

---

----- Forwarded message -----

From: **Scott Hoyt** <[scott.hoyt@gmail.com](mailto:scott.hoyt@gmail.com)>

Date: Mon, Aug 19, 2024 at 6:14 PM

Subject: Re: Falls on Fire 2024

To: Andrew Tepper <[teppy@egenesis.com](mailto:teppy@egenesis.com)>

Aloha Teppy -

If it is appropriate to send this letter directly, please let me know where to direct it.

Otherwise, please feel free to forward the following if that is sufficient:

Scott Hoyt  
27-447 Indian Tree rd  
Papaikou, HI 96781  
[scott.hoyt@gmail.com](mailto:scott.hoyt@gmail.com)  
(808)345-0438

August 18, 2024

County Planning Department  
County of Hawaii

Dear County Planning Department,

I am the primary resident and caretaker at 27-447 Indian Tree Road. I am writing to express my strong support for the application submitted by my neighbor, Andrew Tepper, to host a large weekend-long party with friends on their farm. I was happy to support this party verbally last year, and I stand by that. Please consider this my written statement of support for this year's event. I can attest to the fact that it was a well-organized event with minimal impact on the surrounding area.

Andrew Tepper is a considerate and responsible neighbor with a spirit of aloha in all of his communications. He has always been mindful of the neighborhood and has taken steps to ensure that any potential noise or traffic concerns are addressed. In fact, during his previous event, there was little to no disruption to the neighborhood and all attendees were well-behaved.

I believe that allowing Andrew Tepper to host this party will have a positive impact on the overall cohesiveness of our neighborhood. It provides an opportunity for residents to come together, strengthen community bonds, and create lasting memories.

I respectfully urge the County Planning Department to approve Andrew Tepper's application for the weekend-long party. I am confident that all participants will uphold the standards of courtesy and respect that they have demonstrated in the past.

Thank you for considering my input on this matter. Please do not hesitate to contact me if you require any further information.

Sincerely,

Scott Hoyt





194 Wiwoole St. Hilo, HI 96720  
(808) 333-3393  
info@landplanninghawaii.com

October 15, 2024

Mr. Jeffrey Darrow, Deputy Director  
Planning Department  
COUNTY OF HAWAII  
101 Pauahi Street  
Hilo, HI 96720

Dear Mr. Darrow:

**Subject: Attn: Christian Kay  
Early Comments from Police Department Regarding Special Permit  
Application (PL-SPP-2024-000075)  
Applicant: Teppy Mountain LLC  
Agent: Land Planning Hawaii LLC  
Pāpa‘ikou, South Hilo, Hawaii TMK: (3) 2-7-007:001 (por)**

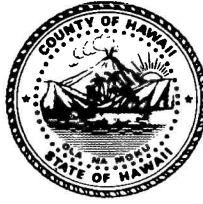
Shortly after resubmitting the subject application we received a response to our request for comments from the Police Department. The response states that they do not anticipate significant traffic impacts from the proposed project. Their response letter is attached here.

We trust that everything is in order for your acceptance and processing of this additional information. If not, or if there are questions relating to this matter, please feel free to direct them to me. Thank you very much.

Sincerely,

John Pipan  
Planning Administrator

**Mitchell D. Roth**  
Mayor



**Benjamin T. Moszkowicz**  
Police Chief

**Reed K. Mahuna**  
Deputy Police Chief

## **County of Hawai`i**

### **POLICE DEPARTMENT**

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

October 8, 2024

Mr. John Pipan  
Planning Administrator  
Land Planning Hawaii LLC  
194 Wiwoole Street  
Hilo, Hawaii 96720

Email: [info@landplanninghawaii.com](mailto:info@landplanninghawaii.com)

Dear Mr. Pipan:

**SUBJECT: EARLY REQUEST FOR COMMENT REGARDING PROPOSED  
SPECIAL PERMIT REQUEST TO HOST AN ANNUAL EVENT**

Staff, upon reviewing the documents available, does not anticipate any significant impact to traffic with all vehicles being located on the subject property during the event and not on Indian Tree Road or Hawaii Belt Road.

Thank you for allowing us the opportunity to comment.

If you have any questions, please contact our South Hilo District Commander, Captain Brian Prudencio, at (808) 961-2316 or via email at [Brian.Prudencio@hawaiiicounty.gov](mailto:Brian.Prudencio@hawaiiicounty.gov).

Sincerely,

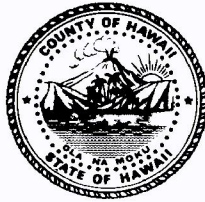
  
KENNETH A.K. OULIOCHO  
ASSISTANT POLICE CHIEF

BP:ws/24HQ1048

Mitchell D. Roth  
*Mayor*

Lee E. Lord  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



## County of Hawai'i

### PLANNING DEPARTMENT

Zendo Kern  
*Director*

Jeffrey W. Darrow  
*Deputy Director*

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

**CERTIFIED MAIL RESTRICTED DELIVERY**  
**SIGNATURE CONFIRMATION RESTRICTED DELIVERY**  
7019 2280 0002 0137 1621

September 8, 2022

Teppy Mountain LLC  
4717 Middle Road  
Allison Park, PA 15101-1174

Dear Property Owner:

**SUBJECT: WARNING LETTER**

**Complaint:** Unpermitted Commercial Rental Business / Base Yard within the  
Agricultural Zoned District  
**File No.:** ZCV-2021-015E  
**Landowner:** Teppy Mountain LLC  
**TMK:** (3) 2-7-007:001, 27-476 Indian Tree Road., S. Hilo, HI

---

We received a complaint in March of 2021, stating that the subject property is operating an unpermitted equipment rental business and equipment storage facility within an Agricultural zoned district. This business is known as Indian Tree Ranch & Rentals LLC, and may be operated by your lessee, Roger Uchima.

According to the County of Hawai'i Planning Department records, a Special Permit was not secured to operate any non-agricultural business or equipment storage facility on the above subject property.

### BACKGROUND

**Our initial investigation based on a complaint, has revealed the following:**

The subject property is located at Tax Map Key (TMK) 2-7-007:001, and the street address is 27-476 Indian Tree Road, (hereinafter referred to as the "property"). The property, owned by Teppy Mountain LLC, consists of approximately 1,419.17 acres. The property is located within the State Land Use (SLU) Agricultural (A) and within the County of Hawai'i, Zoning District Agricultural (A-20a).

|                  |
|------------------|
| Planning Dept.   |
| Exhibit <u>2</u> |

## **HAWAII COUNTY CODE (HCC), CHAPTER 25 ZONING**

**Section 25-4-4 Uses Prohibited.** Any use not listed among the permitted uses in a zoned district is a prohibited use within that district, except as otherwise provided in this chapter.

**Section 25-5-72. Permitted uses. (a)** The following uses shall be permitted in the A district: A Non-Agricultural Equipment Business is **not** listed as a permitted use within the Agricultural zoning district.

## **HAWAII REVISED STATUTES (HRS):**

### **HRS 205-4.5 Permissible uses within the agricultural districts.**

(7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, **but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures.**

**HRS 205-12 Enforcement.** The appropriate officer or agency charged with the administration of county zoning laws shall enforce within each county the use classification districts adopted by the land use commission and the restriction on use and the condition relating to agricultural districts under section 205-4.5 and shall report to the commission all violations.

**205-13 Penalty for violation.** [(a)] Any person who violates any provision under section 205-4.5, or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of this chapter, or any regulation established relating thereto, shall be fined not more than \$1,000.

## **WARNING**

This letter offers you the opportunity to correct a possible violation before a formal Notice of Violation & Order and fines are issued. To respond to the complaint, please do the following by the **“deadline date” of October 10, 2022. Cease all non-agricultural businesses on the subject property and contact the Planning Inspector listed below either by phone or letter.**

Upon receipt of your letter and after our satisfactory review, we may close this complaint process with no formal action depending on the evidence that you provide to this office.

## **GENERAL INFORMATION**

### **What happens if you do not correct the alleged violation?**

If you do not respond to this letter by the deadline date listed above, you shall be issued a “Notice of Violation and Order” which may lead to a civil fine of \$500 and possibly daily fines as shown below.

In addition, in accordance with HRS 205-13 penalty for violation, we may include an additional fine in the sum of \$5,000.

A violation that is not corrected by the deadline date will be assessed daily fines starting at **\$100 per day, beginning the day after the deadline date**, unless it is a recurring violation (see table below). After 3 months, the fine increases to \$200 per day; after 6 months to \$300 per day; and after 9 months, to \$500 per day, until the case is resolved. It is in your best interest to correct this issue before or on the deadline date as indicated above.

**Daily Fines:** According to County of Hawai'i Planning Department Rules of Practice and Procedure Rule 9-5(d): When a violation is not corrected by the deadline set by the order, the Director may assess additional fines to a maximum of \$500 for each day that the violation remains uncorrected in accordance with the following schedule:

| Daily Fines for Violations                                                                                                                                                                                      | First Three Months | After Third (3 <sup>rd</sup> ) Month | After Sixth (6 <sup>th</sup> ) month | After Ninth (9 <sup>th</sup> ) Month |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Initial Violation                                                                                                                                                                                               | \$100              | \$200                                | \$300                                | \$500                                |
| First Repeated Violation                                                                                                                                                                                        | \$200              | \$300                                | \$400                                | \$500                                |
| Second Repeated Violation                                                                                                                                                                                       | \$300              | \$400                                | \$500                                | \$500                                |
| Third Repeated Violation                                                                                                                                                                                        | \$400              | \$500                                | \$500                                | \$500                                |
| Fourth (4 <sup>th</sup> ) and subsequent repeated violations will be assessed \$500 per day of additional daily fines from the date that the violation was to cease or be corrected, as set forth in the order. |                    |                                      |                                      |                                      |

Should you have any questions, please feel free to contact Planning Inspector, Mark Iwamoto at (808) 961-8151.

Sincerely,

Zendo Kern  
Zendo Kern (Sep 19, 2022 08:20 HST)

ZENDO KERN  
Planning Director

MI:cn

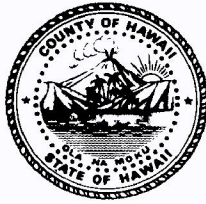
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Mitchell D. Roth  
*Mayor*

Lee E. Lord  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



## County of Hawai'i

### PLANNING DEPARTMENT

Zendo Kern  
*Director*

Jeffrey W. Darrow  
*Deputy Director*

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

November 1, 2022

Teppy Mountain LLC  
Attention: Mr. Andy Tepper  
4717 Middle Road  
Allison Park, PA 15101-1174

Dear Mr. Tepper:

**SUBJECT: CLOSURE LETTER**

|                   |                                                                                                  |
|-------------------|--------------------------------------------------------------------------------------------------|
| <b>Complaint:</b> | <b>Unpermitted Commercial Rental Business / Base Yard within the Agricultural Zoned District</b> |
| <b>Landowner:</b> | <b>Teppy Mountain LLC</b>                                                                        |
| <b>File No:</b>   | <b>ZCV 2021-015E</b>                                                                             |
| <b>TMK:</b>       | <b><u>(3) 2-7-007:001, 27-476 Indian Tree Road., S. Hilo, HI</u></b>                             |

On October 12, 2022, our Planning Inspector conducted a site inspection of your property, along with the lessee. Our Inspector observed two-dump trucks, one-tractor trailer, and one-backhoe located on the property. In addition, the lessee informed the Planning Inspector that there is a third dump truck, which was not currently present at the time. During the investigation, the lessee stated that beside the ranching activities, he also operates a hauling business and utilizes the three dump trucks as part of the business, but the tractor trailer and backhoe are primarily used for the ranching operation. The lessee was informed to remove the dump trucks or secure a Special Permit for a construction base yard.

On October 27, 2022, the lessee informed the Planning Inspector that the three dump trucks were removed from the property. On November 1, 2022, our Planning Inspector conducted a follow-up inspection of the subject property, and confirmed that the dump trucks have been removed from the subject property.

Please be reminded, if you choose to use your dump truck as a transportation vehicle from a construction site to the ranch, you must remove the dump truck by the end of each day. Any construction equipment/vehicles, etc., dedicated for the purpose of your ranching activity may continue remain.

Planning Dept.  
Exhibit 3

Teppy Mountain LLC  
Attention: Mr. Andy Tepper  
Closure Letter | ZCV-2021-015E  
Unpermitted Commercial Rental Business/Base Yard  
November 1, 2022  
Page 2

Based on the above, we have determined that the unpermitted equipment storage yard has been corrected by removing/relocation of the dump trucks from the subject property. Therefore, we consider this case resolved and the complaint closed. Should you have any questions pertaining to this matter, please contact Planning Inspector, Mark Iwamoto at (808) 961-8151.

Sincerely,

*Zendo Kern*

Zendo Kern (Nov 14, 2022 08:08 HST)

ZENDO KERN  
Planning Director

MI:cn

\\COH01\planning\public\Enforcement\TMK Files\ZONE 2\2-7-007-001\ZCV 21-015EBaseyardclosure.doc

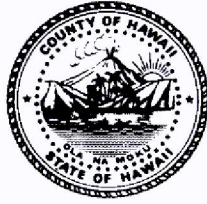
cc: (email): Roger Y. Uchima, Lessee



Mitchell D. Roth  
*Mayor*

Deanna S. Sako  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



## County of Hawai'i

### PLANNING DEPARTMENT

Zendo Kern  
*Director*

Jeffrey W. Darrow  
*Deputy Director*

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

**CERTIFIED MAIL**  
**9589 0710 5270 2163 5113 38**

June 25, 2024

Teppy Mountain LLC  
4717 Middle Road  
Allison Park PA 15101-1174  
Attention: Andy Tepper

Teppy Mountain LLC  
[REDACTED]

Attention: Andy Tepper

Dear Mr. Tepper:

**SUBJECT: NOTICE OF VIOLATION AND ORDER**

**Complaint:** Unpermitted Event (Falls of Fire) and Overnight Accommodations

**Landowner(s):** Teppy Mountain LLC

**File No.:** PL-PCV-2023-00567

**TMK:** (3) 2-7-007:001, 27-476 Indian Tree Rd., South Hilo, Hawai'i

We have received several complaints stating that an unpermitted event known as Falls on Fire took place on the subject property between November 17-19, 2023. It is estimated that approximately 100-150 people may have attended this 2023 event. In addition, there is online advertising for another similar event scheduled for November 8-11, 2024, at the same location.

### FINDINGS

**Our initial investigation based on a complaint, has revealed the following:**

The property is located at TMK (3) 2-7-007:001, 27-476 Indian Tree Road, and is hereinafter referred to as the "property". The property is owned by Teppy Mountain LLC and consists of approximately 1,419.17 acres located within the State Land Use (A) Agricultural and within the County of Hawai'i, Zoning District Agricultural (A-20a).

Planning Dept.  
Exhibit 4



Between November 17-19, 2023, a large event called Falls on Fire took place on the above referenced subject property, which had an estimated 100-150 people attend and included overnight camping without a Special Permit.

On August 10, 2023, prior to this event being held, event coordinator Gina Chen inquired through our office if any permit(s) would be needed to run an event at a private agricultural property located at 27-476 Indian Tree Road between November 17-19. This event would include camping with an estimated 50- 100 people, and they planned to have 6 porta potties. Staff contacted Ms. Chen and informed her that the event was not a permitted use. According to the “2023 Afterburn Report” it states that a Planning Department staff had stated that no permits would be needed for a camping event on private land, which is incorrect as stated above. Additionally, phone calls and emails were made between staff and Mr. Tepper after the event was held. It was clearly stated that a Special Permit would be required for this event and approval is required prior to the event being held.

A recent review of the website advertisement (<https://www.fallsonfire.com/>) for the “Falls on Fire” event indicates that a new event is being scheduled between the dates of November 8-11, 2024. As of the date of this letter, no Special Permit application has been submitted or approved for this type of event at this time and/or location.

Lastly, as mentioned above, your website has a “2023 Afterburn Report” which provided the suggested entry cost, the amount of guest attended, and the event dates/gate entry time for the previous event which was held without a Special Permit. Please refer to exhibits A-C.

#### **HAWAI‘I REVISED STATUTES (HRS)**

**HRS Section 205-13(a)** provides that any person who violates any provision of **HRS Section 205-4.5**, or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of Chapter 205, or any regulation established relating thereto, shall be fined not more than \$1,000.

**HRS Section 205-4.5 (b)** and **HRS Section 15-15-25(a)** provide that uses in the State Agricultural District not expressly permitted in **HRS Section 205-4.5(a)** shall be prohibited unless a special permit has been granted by the Planning Commission under HRS section 205-6.

#### **HAWAI‘I COUNTY CODE (HCC)**

**Section 25-4-4 Uses Prohibited** provides in pertinent part that any use not listed among the permitted uses in a zoning district is prohibited use within that district.

**Section 25-5-72(a) Permitted uses:** Unpermitted Events, overnight camping / accommodations is **not** listed as permitted uses within the Agricultural zoned district.

### NOTICE OF VIOLATION

Based on the above information, including the information within the above referenced website, there is sufficient evidence to show that you are in violation of Hawai'i Revised Statutes (HRS) and the Hawaii County Code (HCC) chapter 25.

("HRS") Section 205-4.5 (Permissible uses within the agricultural districts), HRS Section 205-2, Hawai'i Administrative Rules ("HAR") Section 15-15-25(a) and (b), and Hawai'i County Code ("HCC") Section 25-5-72 (Permitted uses within the agricultural district). You are in violation of HRS Section 205-4.5 and HCC 25-5-72(a) therefore you are being assessed a fine of \$5,000 for violating the HRS and \$500 violating the HCC.

The violations must be corrected as stated in the Order below, on or before the stated deadline to avoid the accrual of daily fines.

### ORDER

**You are hereby ordered to take the following corrective action(s) at your own expense:**

1. Immediately cease and desist all unpermitted events, including the camping/overnight accommodations.
2. Pay the assessed fine in the sum of \$5,500.00 for the unpermitted 2023 event.
3. Remove all advertisements related to the upcoming 2024 unpermitted event.
4. Correct all violations at your own expense on or before the date specified below.
5. Pay all fines due to this office and complete corrective actions by the deadline date of July 9, 2024. Payment may be made by cash, cashier's check, or money order. **Personal checks are not accepted.** Make cashier's check or money order payable to the County Director of Finance.
6. Provide a Letter of Understanding, stating that you will not this hold and any other unpermitted events until you secure the required Special Permit.
7. Contact the Inspector below and schedule an inspection of the subject property to verify compliance.

Upon satisfactory compliance with all conditions of the above order, we may close the complaint with no further action.



## GENERAL INFORMATION

### 9-19 Administrative Fines

The Department is authorized to impose administrative fines in accordance with established rules.

#### What happens if you do not correct the violation?

A violation that is not corrected by the **deadline date** may be assessed daily fines.

**Administrative Fine:** According to County of Hawai‘i Planning Department Rules of Practice and Procedures 9-5(a) Administrative Fines:

Resolution of a violation includes correction of the violation and payment of administrative daily fines not to exceed \$500. In specifying the amount of the fine, the Director shall consider the following:

- 1) The nature and degree of the violation.
- 2) Whether the violation involves a threat to public health and safety.
- 3) Whether there are multiple violations.
- 4) Whether it is a repeated violation.

Note: Items highlighted are the reason for the civil fine.

#### What happens if you do not correct the violation?

A violation that is not corrected by the “**deadline date**” shall be assessed daily fines starting at **\$100 per day beginning the day after the “deadline date”** unless it is a recurring violation. (See table below.) After 3 months, the fine increases to \$200 per day; after 6 months, to \$300 per day; after 9 months, to \$500 per day until the case is resolved. It is in your best interest to correct this problem before or on the “**deadline date**” as indicated above.

**Daily Fines:** According to County of Hawai‘i Planning Department Rules of Practice and Procedure Rule 9-5(d): When a violation is not corrected by the **deadline** set by the order, the Director may assess additional fines to a maximum of \$500 for each day that the violation remains uncorrected in accordance with the following schedule:

| DAILY FINES<br>FOR VIOLATION | FIRST<br>3 MOS. | AFTER<br>3 <sup>RD</sup> MO. | AFTER<br>6 <sup>TH</sup> MO. | AFTER<br>9 <sup>TH</sup> MO. |
|------------------------------|-----------------|------------------------------|------------------------------|------------------------------|
| Initial Violation            | \$100           | \$200                        | \$300                        | \$500                        |
| First Recurrence             | \$200           | \$300                        | \$400                        | \$500                        |
| Second Recurrence            | \$300           | \$400                        | \$500                        |                              |
| Third Recurrence             | \$400           | \$500                        |                              |                              |

Fourth and subsequent recurrences will be assessed \$500 per day of additional daily fines from the date that the violation was to cease as set forth in the order.

### **Can you appeal this Notice of Violation?**

**Yes.** In accordance with Section 6-9.2 (a) of the Hawai‘i County Charter, the Board of Appeals is authorized to hear and determine any appeal from the final decisions of the Planning Director.

1. An appeal shall be electronically submitted in the format prescribed by the Board of Appeals and shall specify the person’s interest in the subject matter of the appeal and the grounds of the appeal. Unless otherwise specifically provided by the Board of Appeals rules, an electronic copy of each document shall be filed. A filing fee of \$250 shall accompany any such appeal. (Application must be submitted electronically)
2. The appellant, landowner(s) if not the appellant, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the Board of Appeals.

For your convenience, we have provided the website address for Hawai‘i County’s new EPIC System (Electronic Processing and Information Center) for applications.

**WEBSITE:** <https://hawaiicountyhi-energovpub.tylerhost.net/Apps/SelfService#/home>

### **Due Date for Appeal:**

The appeal must be received within thirty (30) calendar days from the date of receipt of this Notice of Violation and Order. An appeal to the Board of Appeals shall not stay the provisions of the Director’s “Order” pending the final decision of the Board of Appeals. The appeal must be made in accordance with the Board of Appeals Rules of Practice and Procedures, or it may result in the dismissal of the appeal.

### **What happens if I lose my appeal?**

The assessment and accumulation of fines does not stop when you file an appeal. If the Board of Appeals denies your appeal, then you will be required to pay your fines from the day the fines began to the date the violation(s) has been corrected, which must be verified by the Planning Department. You can also take corrective action as described in this letter and stop the daily fines while appealing. If you do not take corrective action, daily fines will continue to accrue incrementally. Should you acquire the services of an attorney/counsel representation, then you are required to also submit a letter of consent with your response letter authorizing the County to correspond and respond to the attorney/counsel representation.

### **Can I get a time extension to have more time to correct the violation?**

If you know you cannot complete the corrective action by the deadline date, you may want to submit a “request for a time extension” before the deadline date. **Include all the following information with your request:**

1. Describe what you have accomplished prior to requesting this time extension.
2. The amount of additional time necessary to complete the corrective action.
3. The name and telephone number of the person assisting you in this effort.
4. The date in which you expect the violation to be fully corrected.

The submission of a time extension request does not guarantee the approval of the request, nor does it extend your right to appeal.

If your time extension is denied, daily fines will continue to accrue from the date as described above and until the violation is corrected. If approved, the daily fines will be delayed until the new deadline date.

Should you have any questions on this matter, please contact Planning Inspector Mark Iwamoto at (808) 961-8151.

Sincerely,

*Zendo Kern*  
[Zendo Kern \(Jun 26, 2024 07:25 HST\)](#)  
ZENDO KERN  
Planning Director

MI/JD:ad

V:\PL\PL\planning\public\Enforcement\TMK Files\ZONE 2\2-7-007-001\NOVOteppyeventspcv-23-00567.doc

CC (via email): Jean Campbell – Corporation Counsel





**Exhibit A**

Photo depicts the advertisement for the upcoming unpermitted event (Falls on Fire) scheduled between November 8-11, 2024, registration.



**Exhibit B**

Photo depicts the Falls on Fire event location.

## **Falls on Fire 2023**

### **Afterburn Report**

#### **Overview**

Falls on Fire 2023 was our inaugural event, the first Burn on Hawaii since 2015. We sold 111 tickets, and 81 participants showed up. We had approximately 8 theme camps, a temple, and an effigy. We had amplified music (2 camps), an art installation (LED Mushroom), and several events in various camps.

We had three swimming spots accessible this year. We used Hawaiian words for animals, mirroring Burning Man's 2023 Animalia theme: "Keko Falls" (Bonobo Ape, 20 minute walk from the main site), "Manakuke Falls" (Mongoose, 5 minute walk) and "Mo'o Pool" (Gecko, 5 minute walk.)

#### **Authorities and Neighbors**

Initial online research indicated that no permits were needed for a camping event on private land. A call to the Hawaii County Planning Department confirmed this. The individual at the planning department suggested we notify the police as a courtesy. We did, and spoke to an officer and a lieutenant. Both appreciated the heads-up, and suggested we also contact the local fire department for advice on burning art. We contacted the fire department and two volunteers came out, inspected the area and indicated that the risk of a wildfire was minimal.

Prior to the event we contacted all 6 homeowners on the access road to let them know what was going on. We followed up after the event to make sure we were not too bothersome. One reported being able to hear amplified music, but that it wasn't bothersome.

As is consistent with local customs, an opening ceremony ("asking permission from the land") was held prior to the event as part of the region's Burning Man Leadership Conference.

#### **Exhibit C**

Photo depicts the overview report for the 2023 Falls on Fire event.

## Gate and Ticketing

Our target was to have between 50 and 100 participants for the first year. Tickets were done a bit differently than most burns: We had participants first RSVP, and then they were sent a link where they could pay via Venmo or PayPal, or they could pay cash at the gate. Tickets were "Pay what you can, \$50 suggested." Payments ranged from \$1 to \$100. 87 people RSVP'd, and several more were added manually (neighbors, locals.) In all, 111 people were registered when the gate opened.

Gate was operated from 6 AM to 8 PM Friday and Saturday. The only time we had a (small) line was between 7:00 PM and 8:00 PM on Friday. Next year we should extend Friday gate hours until 9:00 or 10:00 PM and possibly shorten Saturday gate hours slightly. 81 participants came to the event.

---

---

## Finances

|               |             |
|---------------|-------------|
| Expenses      | \$5412.28   |
| Income        | \$1424.00   |
| Profit (Loss) | (\$3988.00) |

Click [📄 Falls on Fire 2023 Expense Report](#) for details

### **Exhibit D**

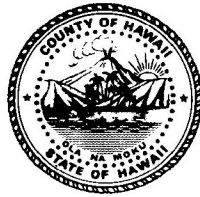
Photo depicts the suggested payment of \$50 and a payment range from \$1 to \$100.



Mitchell D. Roth  
*Mayor*

Deanna Sako  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



## County of Hawai'i

### PLANNING DEPARTMENT

Zendo Kern  
*Director*

Jeffrey W. Darrow  
*Deputy Director*

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

**CERTIFIED MAIL**  
**9589 0710 5270 2163 5116 97**

September 25, 2024

Teppy Mountain LLC  
4717 Middle Road  
Allison Park PA 15101-1174  
Attention: Mr. Andy Tepper

Dear Mr. Tepper:

**SUBJECT: Daily Fines Letter**

**Complaint:** Unpermitted Event (Falls of Fire) and Overnight Accommodations  
**Reference:** Notice of Violation and Order dated June 25, 2024 & Request  
for Time Extension dated August 19, 2024  
**File No.:** PL-PCV-2023-00567  
**TMK:** (3) 2-7-007:001, 27-476 Indian Tree Rd. South Hilo, HI.

We issued you a Notice of Violation and Order (NOVO) with an administrative fine in the sum of \$5,500 dated June 25, 2024, and this letter was received by you on July 19, 2024, for the unpermitted event known as (Falls on Fire) and unpermitted overnight camping accommodations. As stated in the NOVO you we instructed to remove all advertisement related to the upcoming 2024 unpermitted event known as "Falls on Fire". You have not complied with the NOVO therefore daily fines will be imposed as stated in the NOVO letter beginning on the day after the deadline which is July 10, 2024.

### DAILY FINES

As of the date of this letter, your website (<https://www.fallsonfire>) continue to advertise November 8-11, 2024, as your next scheduled Falls on Fire event. Therefore, your fines have accrued to **\$13,200.00** which includes the initial administrative fine of \$5,500.00 Daily fines accrued are based on the Daily Fines Schedule as shown below and will continue to accrue until you notify this office that all advertisement has been ceased or removed. In addition, we are

Planning Dept.  
Exhibit **5**

[hawaiiicounty.gov](http://hawaiiicounty.gov)

Hawai'i County is an Equal Opportunity Provider and Employer

[planning@hawaiiicounty.gov](mailto:planning@hawaiiicounty.gov)

Teppy Mountain LLC  
Attention: Andy Tepper  
Daily Fines Letter  
PL-PCV-2023-00567  
September 25, 2024  
Page 2

informing you that the Falls on Fire event shall not be held until the Special Permit is approved, if you choose to hold the event we shall assess fines to our fullest extent.

**Daily Fines:** According to the County of Hawai'i Planning Department Rules of Practice and Procedure Rule 9-5(d): When a violation is not corrected by the **deadline date** set by the order, the Director may assess additional fines to a maximum of \$500 for each day that the violation remains uncorrected in accordance with the following schedule:

| Daily Fines<br>for Violations                                                                                                                                                                                   | First Three Months | After Third<br>(3 <sup>rd</sup> ) Month | After Sixth<br>(6 <sup>th</sup> ) month | After Ninth<br>(9 <sup>th</sup> ) Month |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------|-----------------------------------------|-----------------------------------------|
| Initial Violation                                                                                                                                                                                               | \$100              | \$200                                   | \$300                                   | \$500                                   |
| First Repeated<br>Violation                                                                                                                                                                                     | \$200              | \$300                                   | \$400                                   | \$500                                   |
| Second Repeated<br>Violation                                                                                                                                                                                    | \$300              | \$400                                   | \$500                                   |                                         |
| Third Repeated<br>Violation                                                                                                                                                                                     | \$400              | \$500                                   |                                         |                                         |
| Fourth (4 <sup>th</sup> ) and subsequent repeated violations will be assessed \$500 per day of additional daily fines from the date that the violation was to cease or be corrected, as set forth in the order. |                    |                                         |                                         |                                         |

## HAWAII REVISED STATUTES 205

**205-13 Penalty for violation.** (a) Any person who violates any provision under section 205-4.5, or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of this chapter, or any regulation established relating thereto, shall be fined not more than \$1,000.

(b) If any person cited for a violation under this chapter fails to remove such violation within six months of such citation and the violation continues to exist, such person shall be subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.

(c) Prior to the issuance of any citation for a violation, the appropriate enforcement officer or agency shall notify the violator and the mortgagee, if any, of such violation, and the violator or the mortgagee, if any, shall have not more than sixty days to cure the violation before citation for a violation is issued.

Teppy Mountain LLC  
Attention: Andy Tepper  
Daily Fines Letter  
PL-PCV-2023-00567  
September 25, 2024  
Page 3

## RESOLUTION

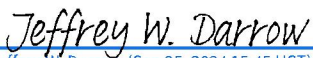
To resolve this matter, you must do the following immediately, or daily fines will continue to accrue as described above and Corporation Counsel may begin legal action against you:

1. Cease and Desist the **Unpermitted Event(s) and Overnight Accommodations** immediately on the subject property and remove/disable all advertisements for any scheduled event(s). Immediately contact the Planning Inspector listed to inform that the advertisement has been removed or disabled.
2. Pay all fines due to this office. Payment may be made only by cash, cashier's check, or money order. Personal checks are not accepted. Make cashier's check or money order payable to the "County Director of Finance". If you do not know the amount you owe on the date you plan to pay, please contact this office for the amount due. As a reminder, daily fines will continue to accrue.

We are informing you that this issue shall also be in the attention of the Office of Corporation Counsel for any appropriate actions.

Should you have any questions, please feel free to contact Mark Iwamoto at (808) 961-8151.

Sincerely,

  
for Jeffrey W. Darrow (Sep 25, 2024 15:45 HST)  
ZENDO KERN  
Planning Director

MI:ta

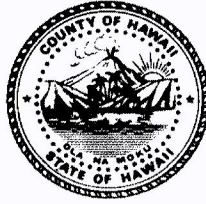
V:\PL\PL\planning\public\Enforcement\TMK Files\ZONE 2\2-7-007-001\DailyfineTepperPCV-23-00567.doc

cc: Jean Campbell, Office of Corporation Counsel  
[jeankcampbell@hawaiicounty.gov](mailto:jeankcampbell@hawaiicounty.gov)  
cc: Lerisa Heroldt, Office of Corporation Counsel  
[lerisaheroldt@hawaiicounty.gov](mailto:lerisaheroldt@hawaiicounty.gov)  
cc: John Pipan: [info@landplanning.hawaii.com](mailto:info@landplanning.hawaii.com)

Mitchell D. Roth  
*Mayor*

Deanna Sako  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**County of Hawai'i**  
**PLANNING DEPARTMENT**

Zendo Kern  
*Director*

Jeffrey W. Darrow  
*Deputy Director*

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

November 4, 2024

Teppy Mountain LLC  
4717 Middle Road  
Allison Park, PA 15101-1174  
Attention: Mr. Andy Tepper

**CERTIFIED MAIL**  
**7021 2720 0001 6760 0955**

Teppy Mountain LLC  
Email: [REDACTED]  
Attention: Andy Tepper

Mr. John Pipan  
Land Planning Hawaii LLC  
194 Wiwoole St. Hilo, HI 96720  
Email: [REDACTED]

Dear Mr. Tepper and Mr. Pipan:

**SUBJECT: 2<sup>nd</sup> Daily Fines Letter and Warning Letter for New Event**

**Complaint: Unpermitted Event (Falls on Fire) and Overnight Accommodations**  
**Reference: Notice of Violation and Order dated June 25, 2024 and Warning**  
**of Holding New Scheduled Event Dated November 8-11, 2024**  
**File No.: PL-PCV-2023-00567**  
**TMK: (3) 2-7-007:001, 27-476 Indian Tree Rd. South Hilo, HI**

We issued a Notice of Violation and Order (NOVO) to you with an administrative fine in the sum of \$5,500 dated June 25, 2024, for the unpermitted event known as "Falls on Fire" and unpermitted overnight camping accommodations, which occurred in 2023. As stated in the NOVO, you were instructed to remove all advertisements related to the upcoming 2024 unpermitted event known as "Falls on Fire" and receive a Special Permit before holding any other unpermitted events. You have not complied with the NOVO and daily fines have been accruing since July 10, 2024.

Planning Dept.  
Exhibit 6



## DAILY FINES

As of the date of this letter, your website (<https://www.fallsonfire>) continues to advertise the next scheduled (Falls on Fire) event to be held on November 8-11, 2024. Please be advised that fines for the initial violation have now accrued to **\$21,400.00**, which includes the initial administrative fine of \$5,500.00 and the accumulated daily fines to the date of this letter, which are now being assessed at \$200.00 a day based on the Daily Fines Schedule as shown below. Fines will continue to accrue until you notify this office that all advertisement has ceased or been removed and that the scheduled (Falls on Fire) event shall not be held until a Special Permit is approved by the Planning Commission. **If you hold or allow the event without a Special Permit, we shall assess fines to our fullest extent and may seek any and all remedies permitted by law including the possibility of criminal prosecution.**

**Daily Fines:** As you have previously been advised in writing, according to the County of Hawai'i Planning Department Rules of Practice and Procedure Rule 9-5(d): When a violation is not corrected by the **deadline date** set by the order, the Director may assess additional fines to a maximum of \$500 for each day that the violation remains uncorrected in accordance with the following schedule:

| Daily Fines for Violations                                                                                                                                                                                      | First Three Months | After Third (3 <sup>rd</sup> ) Month | After Sixth (6 <sup>th</sup> ) month | After Ninth (9 <sup>th</sup> ) Month |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Initial Violation                                                                                                                                                                                               | \$100              | \$200                                | \$300                                | \$500                                |
| First Repeated Violation                                                                                                                                                                                        | \$200              | \$300                                | \$400                                | \$500                                |
| Second Repeated Violation                                                                                                                                                                                       | \$300              | \$400                                | \$500                                |                                      |
| Third Repeated Violation                                                                                                                                                                                        | \$400              | \$500                                |                                      |                                      |
| Fourth (4 <sup>th</sup> ) and subsequent repeated violations will be assessed \$500 per day of additional daily fines from the date that the violation was to cease or be corrected, as set forth in the order. |                    |                                      |                                      |                                      |

## 2<sup>ND</sup> WARNING

You are hereby being given a Second Warning to not hold the scheduled event on November 8-11, 2024. If you choose to hold this event, we will consider this a First Repeated Violation with new fines assessed to our fullest extent.

On multiple occasions this office has verbally instructed you and your planning consultant, John Pipan, not to hold or allow the "Falls on Fire" event this year without a Special Permit. We have

provided you and your planning consultant with instructions and information about the Special Permit process. A pending Special Permit application does not obviate the need for an approved Special Permit prior to initiation of the event.

As you have been informed, the “Falls on Fire” event is not permitted without a Special Permit. If you allow this event to occur, you will violate the Hawai’i County Zoning Code and will be held liable for such violation.

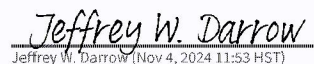
## RESOLUTION

To resolve this matter, you must do the following immediately, or daily fines will continue to accrue as described above and Corporation Counsel may begin legal action against you:

1. Do not hold the scheduled **(Falls on Fire)** event on November 8-11, 2024, on the subject property. Remove/disable all advertisements for this and any other scheduled event(s). Immediately contact the Planning Inspector listed below to inform that the advertisement has been removed or disabled and the event will not be held.
2. Pay all fines due to this office. Payment may be made only by cash, cashier’s check, or money order. Personal checks are not accepted. Make cashier’s check or money order payable to the “County Director of Finance”. If you do not know the amount you owe on the date you plan to pay, please contact this office for the amount due. As a reminder, daily fines will continue to accrue.

We are informing you that this issue has been forwarded to the attention of the Office of Corporation Counsel for any appropriate legal actions. Should you have any questions, please feel free to contact Jeffrey W. Darrow, Deputy Planning Director, at (808) 961-8158 or Mark Iwamoto, Planning Inspector, at (808) 961-8151.

Sincerely,

  
Jeffrey W. Darrow (Nov 4, 2024 11:53 HST)

JEFFREY W. DARROW  
Deputy Planning Director

cc (via email): Mayor Mitch D. Roth, [mitchd.roth@hawaiicounty.gov](mailto:mitchd.roth@hawaiicounty.gov)

Jean Campbell, Office of Corporation Counsel  
[jeankcampbell@hawaiicounty.gov](mailto:jeankcampbell@hawaiicounty.gov)

Teppy Mountain LLC  
Attention: Andy Tepper  
PL-PCV-2023-00567  
November 4, 2024  
Page 4

cc (via email):       Lerisa Heroldt, Office of Corporation Counsel  
                              [lerisaheroldt@hawaiicounty.gov](mailto:lerisaheroldt@hawaiicounty.gov)

Benjamin Moszkowicz, Police Chief  
[Benjamin.moszkowicz@hawaiicounty.gov](mailto:Benjamin.moszkowicz@hawaiicounty.gov)

Reed Mahuna, Deputy Chief of Police  
[Reed.mahuna@hawaiicounty.gov](mailto:Reed.mahuna@hawaiicounty.gov)

Kazuo Todd, Fire Chief  
[Kazuo.todd@hawaiicounty.gov](mailto:Kazuo.todd@hawaiicounty.gov)



7021 2720 0001 6760 0955

U.S. Postal Service<sup>™</sup>  
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☒ Return Receipt (hardcopy)

\$

4.10

☐ Return Receipt (electronic)

\$

☐ Certified Mail Restricted Delivery

\$

☐ Adult Signature Required

\$

☐ Adult Signature Restricted Delivery

\$

Postage

\$

.69

Total

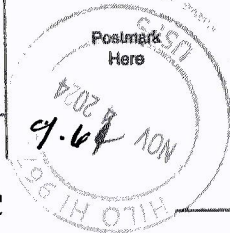
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Sent to

Street

City, S

**Teppy Mountain LLC**  
**Attn: Mr. Andy Tepper**  
**4717 Middle Road**  
**Allison Park, PA 15101-1174**



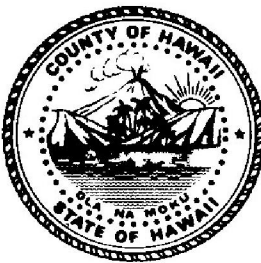
PS Form

Instructions

C. Kimo Alameda, Ph.D.  
*Mayor*

William V. Brilhante Jr.  
*Managing Director*

West Hawai'i Office  
74-5044 Ane Keohokālole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**County of Hawai'i**  
**PLANNING DEPARTMENT**

Jeffrey W. Darrow  
*Acting Director*

Michelle S. Ahn  
*Acting Deputy Director*

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

**CERTIFIED MAIL**  
**9589 0710 5270 2163 5118 33**

December 16, 2024

Teppy Mountain LLC  
Attention: Andy Tepper  
4717 Middle Road  
Allison Park PA 15101-1174

Teppy Mountain LLC  
Email: [teppy@egenesis.com](mailto:teppy@egenesis.com)  
Attention: Andy Tepper

Dear Mr. Tepper:

|                                                                           |                                                                               |
|---------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>SUBJECT: NOTICE OF VIOLATION AND ORDER, REVISED REPEATED VIOLATION</b> |                                                                               |
| <b>Complaint:</b>                                                         | <b>Unpermitted Event (Falls of Fire) and Camping/Overnight Accommodations</b> |
| <b>Landowner(s):</b>                                                      | <b>Teppy Mountain LLC</b>                                                     |
| <b>File No.:</b>                                                          | <b>PL-PCV-2023-00567</b>                                                      |
| <b>TMK:</b>                                                               | <b>(3) 2-7-007:001, 27-476 Indian Tree Rd. South Hilo, HI.</b>                |

We have received complaints stating the that proposed “Falls on Fire” event was held on November 8-11, 2024, on the above referenced property.

On November 4, 2024, we issued a second Daily Fines Letter for the continued advertising for the proposed “Falls on Fire” event, and a Warning letter for the proposed “Falls on Fire” event scheduled to take place between November 8-11, 2024. On multiple occasions our department instructed you and your consultant, John Pipan, not to hold the event without the required Special Permit.

According to information received, the event was held on November 8-11, 2024, on the above refenced property. Therefore, we are increasing the Hawai'i County administrative fines an additional \$500.00 to \$1,000.00 and increasing the Hawai'i Revised Statues (HRS) fines an

Teppy Mountain LLC  
Revised Repeated NOV & Order Ltr.  
PL-PCV-2023-00567  
December 16, 2024  
Page 2

additional \$5,000.00 to \$10,000.00 for the first recurring violation, which totals \$11,000.00  
Daily fines will continue to accrue as shown in the initial Violation schedule below and are now  
being assessed at \$200.00 a day. Prior to the date of this letter, daily fines had accrued to the sum  
of \$23,000.00 Therefore, your total fines to the date of this letter are \$34,000.00

### **FINDINGS**

**Our initial investigation based on a complaint, has revealed the following:**

The property is located at TMK (3) 2-7-007:001, 27-476 Indian Tree Road, and is hereinafter referred to as the “property”. The property is owned by Teppy Mountain LLC and consists of approximately 1,419.17 acres located within the State Land Use (A) Agricultural and within the County of Hawai‘i, Zoning District Agricultural (A-20a).

A recent review of the website advertisement (<https://www.fallsonfire.com/>) for the event known as “Falls on Fire” and information provided to us, indicates that the November 8-11, 2024, event was held. As of the date of this letter, no Special Permit application has been approved for this type of event for this property. **See Exhibit Below.**

### **HAWAI‘I REVISED STATUTES (HRS)**

**HRS Section 205-13(a)** provides that any person who violates any provision of **HRS Section 205-4.5**, or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of Chapter 205, or any regulation established relating thereto, shall be fined not more than \$1,000.

(b) If any person cited for a violation under this chapter fails to remove such violation within six months of such citation and the violation continues to exist, such person shall be subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.

**HRS Section 205-4.5 (b)** and **HRS Section 15-15-25(a)** provide that uses in the State Agricultural District not expressly permitted in **HRS Section 205-4.5(a)** shall be prohibited unless a special permit has been granted by the Planning Commission under HRS section 205-6.

### **HAWAI‘I COUNTY CODE (HCC)**

**Section 25-4-4 Uses Prohibited** provides in pertinent part that any use not listed among the permitted uses in a zoning district is a prohibited use within that district.

**Section 25-5-72(a) Permitted uses:** Events and, overnight camping / accommodations are

Teppy Mountain LLC  
Revised Repeated NOV & Order Ltr.  
PL-PCV-2023-00567  
December 16, 2024  
Page 3

**not** listed as permitted uses within the Agricultural zoned district.

### **NOTICE OF VIOLATION**

Based on the above information, including the information within the above referenced website, there is sufficient evidence to show that you are in violation of Hawai‘i Revised Statutes (HRS) and the Hawaii County Code (HCC) chapter 25.

(“HRS”) Section 205-4.5 (Permissible uses within the agricultural districts), HRS Section 205-2, Hawai‘i Administrative Rules (“HAR”) Section 15-15-25(a) and (b), and Hawai‘i County Code (“HCC”) Section 25-5-72 (Permitted uses within the agricultural district). You are in violation of HRS Section 205-4.5 and HCC 25-5-72(a).

The violations must be corrected as stated in the Order below.

### **ORDER**

**You are hereby ordered to take the following corrective action(s) at your own expense:**

1. Immediately cease and desist all unpermitted events, including the camping/overnight accommodations. Remove all advertisements related to any unpermitted events, including the camping/overnight accommodations.
2. Pay the assessed Hawaii County and HRS fines in the sum of \$11,000.00 for the unpermitted 2023 and 2024 events. In addition, pay the accrued daily fine of \$23,000.00 for a total of \$34,000.00.
3. Pay all fines due to this office and complete corrective actions by the deadline date of 30 days after the postmaster stamped date located on the envelope. Payment may be made by cash, cashier’s check, or money order. **Personal checks are not accepted.** Make cashier’s check or money order payable to the County Director of Finance.
4. Provide a Letter of Understanding, stating that you will not conduct any future unpermitted events or advertise events until you secure the required Special Permit.

Upon satisfactory compliance with all conditions of the above order, we may close the complaint with no further action.

### **GENERAL INFORMATION**

#### **9-19 Administrative Fines**



The Department is authorized to impose administrative fines in accordance with established rules.

**What happens if you do not correct the violation?**

A violation that is not corrected by the **deadline date** may be assessed daily fines.  
**Administrative Fine:** According to County of Hawai‘i Planning Department Rules of Practice and Procedures 9-5(a) Administrative Fines:

Resolution of a violation includes correction of the violation and payment of administrative daily fines not to exceed \$500. In specifying the amount of the fine, the Director shall consider the following:

- 1) The nature and degree of the violation.
- 2) Whether the violation involves a threat to public health and safety.
- 3) Whether there are multiple violations.
- 4) Whether it is a repeated violation.

Note: Items highlighted are the reason for the civil fine.

**What happens if you do not correct the violation?**

A violation that is not corrected by the “**deadline date**” shall be assessed daily fines starting at **\$100 per day beginning the day after the “deadline date”** unless it is a recurring violation. (See table below.) After 3 months, the fine increases to \$200 per day; after 6 months, to \$300 per day; after 9 months, to \$500 per day until the case is resolved. It is in your best interest to correct this problem before or on the “**deadline date**” as indicated above.

**Daily Fines:** According to County of Hawai‘i Planning Department Rules of Practice and Procedure Rule 9-5(d): When a violation is not corrected by the **deadline** set by the order, the Director may assess additional fines to a maximum of \$500 for each day that the violation remains uncorrected in accordance with the following schedule:

| DAILY FINES FOR VIOLATION                                                                                                                                           | FIRST 3 MOS. | AFTER 3 <sup>RD</sup> MO. | AFTER 6 <sup>TH</sup> MO. | AFTER 9 <sup>TH</sup> MO. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------------------|---------------------------|---------------------------|
| Initial Violation                                                                                                                                                   | \$100        | \$200                     | \$300                     | \$500                     |
| First Recurrence                                                                                                                                                    | \$200        | \$300                     | \$400                     | \$500                     |
| Second Recurrence                                                                                                                                                   | \$300        | \$400                     | \$500                     |                           |
| Third Recurrence                                                                                                                                                    | \$400        | \$500                     |                           |                           |
| Fourth and subsequent recurrences will be assessed \$500 per day of additional daily fines from the date that the violation was to cease as set forth in the order. |              |                           |                           |                           |

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### **Can you appeal this Notice of Violation?**

**Yes.** In accordance with Section 6-9.2 (a) of the Hawai‘i County Charter, the Board of Appeals is authorized to hear and determine any appeal from the final decisions of the Planning Director.

1. An appeal shall be electronically submitted in the format prescribed by the Board of Appeals and shall specify the person’s interest in the subject matter of the appeal and the grounds of the appeal. Unless otherwise specifically provided by the Board of Appeals rules, an electronic copy of each document shall be filed. A filing fee of \$250 shall accompany any such appeal. (Application must be submitted electronically)
2. The appellant, landowner(s) if not the appellant, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the Board of Appeals.

For your convenience, we have provided the website address for Hawai‘i County’s new EPIC System (Electronic Processing and Information Center) for applications.

**WEBSITE:** <https://hawaiicountyhinergovpub.tylerhost.net/Apps/SelfService#/home>

### **Due Date for Appeal:**

The appeal must be received within thirty (30) calendar days from the date of receipt of this Notice of Violation and Order. An appeal to the Board of Appeals shall not stay the provisions of the Director’s “Order” pending the final decision of the Board of Appeals. The appeal must be made in accordance with the Board of Appeals Rules of Practice and Procedures, or it may result in the dismissal of the appeal.

### **What happens if I lose my appeal?**

The assessment and accumulation of fines does not stop when you file an appeal. If the Board of Appeals denies your appeal, then you will be required to pay your fines from the day the fines began to the date the violation(s) has been corrected, which must be verified by the Planning Department. You can also take corrective action as described in this letter and stop the daily fines while appealing. If you do not take corrective action, daily fines will continue to accrue. Should you acquire the services of an attorney/counsel representation, then you are required to also submit a letter of consent with your response letter authorizing the County to correspond with respond to the attorney/counsel representation.

### **Can I get a time extension to have more time to correct the violation?**

If you know you cannot complete the corrective action by the deadline date, you may want to submit a “request for a time extension” before the deadline date. **Include all the following information with your request:**

Teppy Mountain LLC  
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1. Describe what you have accomplished prior to requesting this time extension.
2. The amount of additional time necessary to complete the corrective action.
3. The name and telephone number of the person assisting you in this effort.
4. The date by which you expect the violation to be fully corrected.

The submission of a time extension request does not guarantee the approval of the request, nor does it extend your right to appeal.

If your time extension is denied, daily fines will continue to accrue from the date as described above and until the violation is corrected. If approved, the daily fines will be delayed until the new deadline date.

Should you have any questions on this matter, please contact Planning Inspector Mark Iwamoto at (808) 961-8151.

Sincerely,

  
Jeffrey W. Darrow (Dec 16, 2024 17:23 HST)  
JEFFREY W. DARROW  
Acting Planning Director

MI:ta

V:\PL\PL\planning\public\Enforcement\TMK Files\ZONE 2\2-7-007-001\PCV-24-00567\Revised#2NOVOteppyeventspcv-23-00567.doc

cc: (via email) Jean Campbell, Deputy Corporation Counsel  
John Pipan, Land Planning Hawaii LLC



Teppy Mountain LLC  
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# FALLS ON FIRE

## November 8 - 11, 2024

An Event In The Spirit Of Burning Man, On Hawai'i (Island)

Located in Hilo, Falls On Fire is a camping event focusing on art, radical self-expression, community, and swimming in waterfalls!

We are now accepting theme camp registration

# FALLS ON FIRE

An Event In The Spirit Of Burning Man, On Hawai'i (Island)

Located in Hilo, Falls On Fire is a camping event focusing on art, radical self-expression, community, and swimming in waterfalls!

Thank you to everyone that helped make Falls on Fire 2024 a success! We will announce dates for our next event once the Windward Planning Commission responds to our Special Use Permit application, submitted September 3, 2024. (They advised us that it can take up to 3 months to process applications, so we expect a response by early December.)

Tickets

- Tickets are pay-what-you-can, with a suggested contribution of \$50 and a minimum of \$1.

What To Expect

Theme Camps & Activities

Exhibit: A  
 The photo depicts the advertisement for the unpermitted event known as (Falls on Fire) scheduled between November 8-11, 2024, with ticket fees.

Teppy Mountain LLC  
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# LOCATION & DIRECTION

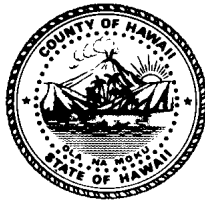
**Address:**

27-476 Indian Tree Rd, Papaikou, HI 96781

**Instruction:**

Instruction will be sent to RSVP e-mail list.

Exhibit B  
 The photo depicts the Falls on Fire event location.



# County of Hawai'i

## BOARD OF APPEALS

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

### GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR OR PUBLIC WORKS DIRECTOR

(Type or legibly print the requested information. *See instructions attached.*)

#### TYPE OF PETITION (check one):

☒ Appeal Decision of the Planning Director

☐ Appeal Decision of Director of Public Works

#### SUBJECT PROPERTY (land in question):

Tax Map Key (TMK): (3)2-7-007-001-0000 Area of Property: South Hilo  
State Land Use  
Designation: A County Zoning: A-20a  
Street Address: 27-476 Indian Tree Rd.

#### APPELLANT INFORMATION:

Name(s): Andrew Tepper, Owner of Teppy Mountain LLC  
Signature(s): [Signature] Date: January 10, 2025  
Mailing Address: 4717 Middle Road, Allison Park, PA 15101-1174  
Telephone: 412-973-7914 Email: teppy@egenesis.com

Interest in Subject Property: Owner of Teppy Mountain LLC, the entity which owns the subject property

#### LANDOWNER INFORMATION:

Name(s): Teppy Mountain LLC  
Signature(s)<sup>1</sup>: [Signature] Date: January 10, 2025  
Mailing Address: 4717 Middle Road, Allison Park, PA 15101-1174  
Telephone: 412-973-7914 Email: teppy@egenesis.com

#### APPELLANT REPRESENTATIVE INFORMATION (leave blank if not applicable):

Name(s)/Title(s): Sara Vargas, Esq. of Vargas Law Hawai'i, LLLC  
Signature(s): [Signature] Date: January 10, 2025  
Mailing Address: P.O. Box 320 Kealahakua, HI 96750  
Telephone: (808)987-6397 Email: sara@vargaslawhawaii.com

Planning Dept.  
Exhibit 8

Landowner is not the Appellant.

**Statement of the nature of Appeal and the Relief Requested. Include Director's decision and decision date:**

See attached Exhibit "1"

**Statement of how the Director's decision violates the law; or is clearly erroneous; or is arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion:**

See attached Exhibit "2"

**Statement of any other relevant facts:**

See Exhibits "1" and "2" for detailed relevant facts.

*If there is insufficient space on this form to provide the information, then please include supplemental documents.*

EXHIBIT “A”

VARGAS LAW HAWAII, LLC  
SARA B. VARGAS, 10821  
PO Box 320  
Kealahou, HI 96750  
Phone No. (808) 987-6397  
sara@vargaslawhawaii.com

Attorney for Appellant

**STATEMENT OF THE NATURE OF THE APPEAL AND RELIEF REQUESTED**

I. NATURE OF APPEAL

This appeal comes before the Board after numerous attempts by the Appellant to remedy the concerns of the Planning Department outside of the appeals process. The several actions taken, starting June 25, 2024 to present, specifically the formal action taken on November 4, 2024 and again on December 16, 2024, by the Planning Department Director Zendo Kern (hereinafter “Director Kern”), and the Deputy Director Jeffrey Darrow (hereinafter “Deputy Director Darrow”), on behalf of Director Kern and in his capacity as Interim Director, are retroactive applications of the Hawai`i Revised Statutes which do not apply to the subject property or nature of the event Falls on Fire, as this event has been established and determined to be characterized as camping on private agriculturally zone land, consisting of far in excess of ten (10) acres. These actions completely contradict the clear direction of the Planning Department to the Appellant wherein it was stated to the Appellant by the Department that a Special Use permit was **not required** to lawfully hold the event.

II. RELIEF REQUESTED

Based on the foregoing, Appellant respectfully requests that the findings and decisions of Director Kern and Interim Director Darrow, in the Department’s continuing action against the Appellant be reversed, and all imposed fines be returned to Appellant. Additionally, Appellant respectfully requests that the Planning Department promulgate a clear, concise opinion as to the



confusion referenced by Deputy Director Darrow. Furthermore, Appellant reserves the right to request additional relief, as well as to make additional arguments before the Board of review.

EXHIBIT “B”

VARGAS LAW HAWAII, LLC  
SARA B. VARGAS, 10821  
PO Box 320  
Kealahou, HI 96750  
Phone No. (808) 987-6397  
sara@vargaslawhawaii.com

Attorney for Appellant

**STATEMENT OF HOW THE DIRECTOR'S DECISION VIOLATES THE LAW, IS  
ARBITRARY AND CAPRICIOUS, AND A CLEARLY UNWARRANTED EXERCISE  
OF DISCRETION**

I. THE DIRECTOR'S DECISION IN THIS MATTER VIOLATES THE  
APPLICABLE LAW

- a. No Special Use Permit is required for the activities of the Falls on Fire Event under State Law or the County code.

The first issue on appeal is whether the Planning Department has the authority under the Hawai'i County Code to interfere with the Appellant's right to enjoy and use the subject property based on the language of the applicable statute and code. The Falls on Fire event is in every essence "camping" in its colloquial meaning. The Land Study Bureau evaluated the subject property and designated and classified the existing topographical ratings of C, D, and E. Therefore, the applicable Hawai'i Revised Statute, H.R.S. § 205-4.5, governs the permissible uses of the subject property, and states in pertinent part:

(c) Within the agricultural district, all lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U shall be restricted to the uses permitted for agricultural districts as set forth in section **205-5(b)**. (emphasis added)

H.R.S. § 205-4.5

The pertinent section of H.R.S. § 205-5(b) states:

(b) Within agricultural districts, uses compatible to the activities described in section 205-2 as determined by the commission shall be permitted; provided that accessory agricultural uses and services described in sections 205-2 and 205-4.5 may be further defined by each county by zoning ordinance. **Each county shall**

**adopt ordinances setting forth procedures and requirements, including provisions for enforcement, penalties, and administrative oversight,** for the review and permitting of agricultural tourism uses and activities as an accessory use on a working farm, or farming operation as defined in section 165-2. (emphasis added)

H.R.S. § 205-5(b)

Based on the language provided and incorporated above, the applicable governing body of law which the subject property shall be reviewed under pursuant to H.R.S. § 205-5(b) is Hawai'i County Code Chapter 25, Division 7. Specifically, pursuant to Hawai'i County Code § 25-5-72(a)(8), the Permitted uses of the subject property and other Agriculturally zoned parcels in excess of ten (10) acres include "campgrounds," see governing Hawai'i County Code Sections as follows:

Section 25-5-70. Purpose and applicability.

The A (agricultural) district provides for agricultural and very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate.

H.C.C. § 25-5-70

Section 25-5-72. Permitted uses.

(a) The following uses shall be permitted in the A district:

- (1) Agricultural parks.
- (2) Agricultural products processing, major and minor.
- (3) Agricultural tourism as permitted under Section 25-4-15.
- (4) Animal Hospitals.
- (5) Apiaries.
- (6) Aquaculture.
- (7) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
- (8) **Campgrounds**, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreations facilities, where none of the recreational features are entirely enclosed in a building.
- (9) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this code.
- (10) Crop production... (emphasis added)

H.C.C. § 25-5-72.

Therefore, the activities of the Falls on Fire event taking place on the subject property fall outside the purview of the intent applicable Hawai`i Revised Statute, and a Special Use Permit process cannot be applied to the subject property or its temporary camping event.

II. THE DIRECTOR'S DECISION WAS ARBITRARY AND CAPRICIOUS AND AN UNWARRANTED EXERCISE IN HIS DISCRETION.

- a. The Action taken by the County of Hawai`i Planning Department was and remains an arbitrary and capricious as well and unwarranted exercise in discretion.

It is undisputed that prior to holding the recent Falls on Fire events, Appellant was in contact with the County of Hawai`i Planning Department, wherein Appellant inquired as to the whether or not there was a permit of any kind was required for a camping event on Appellant's private land. The contact originated with County of Hawai`i Planner Sean Naleimaile, wherein Mr. Naleimaile stated to Appellant that there was no requirement for the Falls on Fire event to obtain any kind of permit, and furthermore instructed Appellant to provide courtesy notice to the Hawaii County Police Department, as well as the Hawai`i County Fire Department the date, time, and location the event would take place. All of this advice provided to the Appellant by Mr. Naleimaile was heeded, and the events were held without issue of any kind.

It is worth noting that by its own admission, through the confirmation of Deputy Director Darrow on May 20, 2024, the Planning Department lacks understanding of its own governing body of law, with the following quote:

“There is still confusion whether or not an applicant can even apply for a Special Permit for an overnight campground from the State based on the recent court ruling.”

Follow up on the issue was requested by the Appellant and Appellant’s counsel, to which an opinion or reconciliation by the Planning Department or it’s Corporation Counsel was never provided or disclosed. It is worth noting, subsequent to this filing, the Appellant also intends to seek a Declaratory Ruling pursuant to Rule 3-1 of the County of Hawai`i Planning Department Rules of Practice and Procedure.

After the passage of months after the event was held, Appellant was contacted by the Planning Department and notified of “complaints” which were later clarified to consist mainly of inquiries, wherein the Director took the subject action to retroactively review and determine a violation had taken place with the Falls on Fire event. This action is arbitrary, as at the time of the retroactive review, the decision fails to apply the applicable law as set forth in paragraph I(a) of this Appeal. Additionally, the action appears capricious on its face, as the Planning Department directed the Appellant to hold the event without application for the Special Use Permit, or any permit for that matter, prior to the event. This action fails to take into consideration all of the circumstances surrounding the event, the applicable State and County law, as well as fails to take into account the direction of Director’s own staff, for which he is solely responsible for all accountability and training thereof.

Furthermore, the clear lack of accounting of all circumstances in Former Director Kern’s and Interim Director Darrow’s determinations to find a violation took place is also an unequivocal showing of an unwarranted action. By its own admission, throughout the months



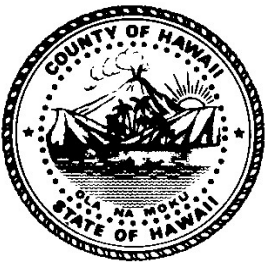
leading up to the Director's initial decision, and the months since the decision was made, there is a clear confusion and lack of understanding of the applicable law upon which the Director relies.

EXHIBIT “C”

C. Kimo Alameda, Ph.D.  
*Mayor*

William V. Brilhante Jr.  
*Managing Director*

West Hawai‘i Office  
74-5044 Ane Keohokālole Hwy  
Kailua-Kona, Hawai‘i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**County of Hawai‘i**  
**PLANNING DEPARTMENT**

Jeffrey W. Darrow  
*Acting Director*

Michelle S. Ahn  
*Acting Deputy Director*

East Hawai‘i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai‘i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

**CERTIFIED MAIL**  
**9589 0710 5270 2163 5118 33**

December 16, 2024

Teppy Mountain LLC  
Attention: Andy Tepper  
4717 Middle Road  
Allison Park PA 15101-1174

Teppy Mountain LLC  
Email: [teppy@egenesis.com](mailto:teppy@egenesis.com)  
Attention: Andy Tepper

Dear Mr. Tepper:

|                                                                           |                                                                               |
|---------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>SUBJECT: NOTICE OF VIOLATION AND ORDER, REVISED REPEATED VIOLATION</b> |                                                                               |
| <b>Complaint:</b>                                                         | <b>Unpermitted Event (Falls of Fire) and Camping/Overnight Accommodations</b> |
| <b>Landowner(s):</b>                                                      | <b>Teppy Mountain LLC</b>                                                     |
| <b>File No.:</b>                                                          | <b>PL-PCV-2023-00567</b>                                                      |
| <b>TMK:</b>                                                               | <b>(3) 2-7-007:001, 27-476 Indian Tree Rd. South Hilo, HI.</b>                |

We have received complaints stating the that proposed “Falls on Fire” event was held on November 8-11, 2024, on the above referenced property.

On November 4, 2024, we issued a second Daily Fines Letter for the continued advertising for the proposed “Falls on Fire” event, and a Warning letter for the proposed “Falls on Fire” event scheduled to take place between November 8-11, 2024. On multiple occasions our department instructed you and your consultant, John Pipan, not to hold the event without the required Special Permit.

According to information received, the event was held on November 8-11, 2024, on the above refenced property. Therefore, we are increasing the Hawai‘i County administrative fines an additional \$500.00 to \$1,000.00 and increasing the Hawai‘i Revised Statues (HRS) fines an

Teppy Mountain LLC  
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additional \$5,000.00 to \$10,000.00 for the first recurring violation, which totals \$11,000.00  
Daily fines will continue to accrue as shown in the initial Violation schedule below and are now  
being assessed at \$200.00 a day. Prior to the date of this letter, daily fines had accrued to the sum  
of \$23,000.00 Therefore, your total fines to the date of this letter are \$34,000.00

**FINDINGS**

**Our initial investigation based on a complaint, has revealed the following:**

The property is located at TMK (3) 2-7-007:001, 27-476 Indian Tree Road, and is hereinafter referred to as the “property”. The property is owned by Teppy Mountain LLC and consists of approximately 1,419.17 acres located within the State Land Use (A) Agricultural and within the County of Hawai‘i, Zoning District Agricultural (A-20a).

A recent review of the website advertisement (<https://www.fallsonfire.com/>) for the event known as “Falls on Fire” and information provided to us, indicates that the November 8-11, 2024, event was held. As of the date of this letter, no Special Permit application has been approved for this type of event for this property. **See Exhibit Below.**

**HAWAI‘I REVISED STATUTES (HRS)**

**HRS Section 205-13(a)** provides that any person who violates any provision of **HRS Section 205-4.5**, or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of Chapter 205, or any regulation established relating thereto, shall be fined not more than \$1,000.

(b) If any person cited for a violation under this chapter fails to remove such violation within six months of such citation and the violation continues to exist, such person shall be subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation.

**HRS Section 205-4.5 (b)** and **HRS Section 15-15-25(a)** provide that uses in the State Agricultural District not expressly permitted in **HRS Section 205-4.5(a)** shall be prohibited unless a special permit has been granted by the Planning Commission under HRS section 205-6.

**HAWAI‘I COUNTY CODE (HCC)**

**Section 25-4-4 Uses Prohibited** provides in pertinent part that any use not listed among the permitted uses in a zoning district is a prohibited use within that district.

**Section 25-5-72(a) Permitted uses:** Events and, overnight camping / accommodations are

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**not** listed as permitted uses within the Agricultural zoned district.

**NOTICE OF VIOLATION**

Based on the above information, including the information within the above referenced website, there is sufficient evidence to show that you are in violation of Hawai‘i Revised Statutes (HRS) and the Hawaii County Code (HCC) chapter 25.

(“HRS”) Section 205-4.5 (Permissible uses within the agricultural districts), HRS Section 205-2, Hawai‘i Administrative Rules (“HAR”) Section 15-15-25(a) and (b), and Hawai‘i County Code (“HCC”) Section 25-5-72 (Permitted uses within the agricultural district). You are in violation of HRS Section 205-4.5 and HCC 25-5-72(a).

The violations must be corrected as stated in the Order below.

**ORDER**

**You are hereby ordered to take the following corrective action(s) at your own expense:**

1. Immediately cease and desist all unpermitted events, including the camping/overnight accommodations. Remove all advertisements related to any unpermitted events, including the camping/overnight accommodations.
2. Pay the assessed Hawaii County and HRS fines in the sum of \$11,000.00 for the unpermitted 2023 and 2024 events. In addition, pay the accrued daily fine of \$23,000.00 for a total of \$34,000.00.
3. Pay all fines due to this office and complete corrective actions by the deadline date of 30 days after the postmaster stamped date located on the envelope. Payment may be made by cash, cashier’s check, or money order. **Personal checks are not accepted.** Make cashier’s check or money order payable to the County Director of Finance.
4. Provide a Letter of Understanding, stating that you will not conduct any future unpermitted events or advertise events until you secure the required Special Permit.

Upon satisfactory compliance with all conditions of the above order, we may close the complaint with no further action.

**GENERAL INFORMATION**

**9-19 Administrative Fines**

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The Department is authorized to impose administrative fines in accordance with established rules.

**What happens if you do not correct the violation?**

A violation that is not corrected by the **deadline date** may be assessed daily fines.  
**Administrative Fine:** According to County of Hawai‘i Planning Department Rules of Practice and Procedures 9-5(a) Administrative Fines:

Resolution of a violation includes correction of the violation and payment of administrative daily fines not to exceed \$500. In specifying the amount of the fine, the Director shall consider the following:

- 1) The nature and degree of the violation.
- 2) Whether the violation involves a threat to public health and safety.
- 3) Whether there are multiple violations.
- 4) Whether it is a repeated violation.

Note: Items highlighted are the reason for the civil fine.

**What happens if you do not correct the violation?**

A violation that is not corrected by the **“deadline date”** shall be assessed daily fines starting at **\$100 per day beginning the day after the “deadline date”** unless it is a recurring violation. (See table below.) After 3 months, the fine increases to \$200 per day; after 6 months, to \$300 per day; after 9 months, to \$500 per day until the case is resolved. It is in your best interest to correct this problem before or on the **“deadline date”** as indicated above.

**Daily Fines:** According to County of Hawai‘i Planning Department Rules of Practice and Procedure Rule 9-5(d): When a violation is not corrected by the **deadline** set by the order, the Director may assess additional fines to a maximum of \$500 for each day that the violation remains uncorrected in accordance with the following schedule:

| DAILY FINES<br>FOR VIOLATION                                                                                                                                        | FIRST<br>3 MOS. | AFTER<br>3 <sup>RD</sup> MO. | AFTER<br>6 <sup>TH</sup> MO. | AFTER<br>9 <sup>TH</sup> MO. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------------------|------------------------------|------------------------------|
| Initial Violation                                                                                                                                                   | \$100           | \$200                        | \$300                        | \$500                        |
| First Recurrence                                                                                                                                                    | \$200           | \$300                        | \$400                        | \$500                        |
| Second Recurrence                                                                                                                                                   | \$300           | \$400                        | \$500                        |                              |
| Third Recurrence                                                                                                                                                    | \$400           | \$500                        |                              |                              |
| Fourth and subsequent recurrences will be assessed \$500 per day of additional daily fines from the date that the violation was to cease as set forth in the order. |                 |                              |                              |                              |

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### **Can you appeal this Notice of Violation?**

**Yes.** In accordance with Section 6-9.2 (a) of the Hawai‘i County Charter, the Board of Appeals is authorized to hear and determine any appeal from the final decisions of the Planning Director.

1. An appeal shall be electronically submitted in the format prescribed by the Board of Appeals and shall specify the person’s interest in the subject matter of the appeal and the grounds of the appeal. Unless otherwise specifically provided by the Board of Appeals rules, an electronic copy of each document shall be filed. A filing fee of \$250 shall accompany any such appeal. (Application must be submitted electronically)
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For your convenience, we have provided the website address for Hawai‘i County’s new EPIC System (Electronic Processing and Information Center) for applications.

**WEBSITE:** <https://hawaiicountyhinergovpub.tylerhost.net/Apps/SelfService#/home>

### **Due Date for Appeal:**

The appeal must be received within thirty (30) calendar days from the date of receipt of this Notice of Violation and Order. An appeal to the Board of Appeals shall not stay the provisions of the Director’s “Order” pending the final decision of the Board of Appeals. The appeal must be made in accordance with the Board of Appeals Rules of Practice and Procedures, or it may result in the dismissal of the appeal.

### **What happens if I lose my appeal?**

The assessment and accumulation of fines does not stop when you file an appeal. If the Board of Appeals denies your appeal, then you will be required to pay your fines from the day the fines began to the date the violation(s) has been corrected, which must be verified by the Planning Department. You can also take corrective action as described in this letter and stop the daily fines while appealing. If you do not take corrective action, daily fines will continue to accrue. Should you acquire the services of an attorney/counsel representation, then you are required to also submit a letter of consent with your response letter authorizing the County to correspond with respond to the attorney/counsel representation.

### **Can I get a time extension to have more time to correct the violation?**

If you know you cannot complete the corrective action by the deadline date, you may want to submit a “request for a time extension” before the deadline date. **Include all the following information with your request:**



Teppy Mountain LLC  
Revised Repeated NOV & Order Ltr.  
PL-PCV-2023-00567  
December 16, 2024  
Page 6

1. Describe what you have accomplished prior to requesting this time extension.
2. The amount of additional time necessary to complete the corrective action.
3. The name and telephone number of the person assisting you in this effort.
4. The date by which you expect the violation to be fully corrected.

The submission of a time extension request does not guarantee the approval of the request, nor does it extend your right to appeal.

If your time extension is denied, daily fines will continue to accrue from the date as described above and until the violation is corrected. If approved, the daily fines will be delayed until the new deadline date.

Should you have any questions on this matter, please contact Planning Inspector Mark Iwamoto at (808) 961-8151.

Sincerely,

  
Jeffrey W. Darrow (Dec 16, 2024 17:23 HST)  
JEFFREY W. DARROW  
Acting Planning Director

MI:ta

V:\PL\PL\planning\public\Enforcement\TMK Files\ZONE 2\2-7-007-001\PCV-24-00567\Revised#2NOVOteppyeventspcv-23-00567.doc

cc: (via email) Jean Campbell, Deputy Corporation Counsel  
John Pipan, Land Planning Hawaii LLC

Teppy Mountain LLC  
Revised Repeated NOV & Order Ltr.  
PL-PCV-2023-00567  
December 16, 2024  
Page 7

# FALLS ON FIRE

## November 8 - 11, 2024

An Event In The Spirit Of Burning Man, On Hawai'i (Island)

Located in Hilo, Falls On Fire is a camping event focusing on art, radical self-expression, community, and swimming in waterfalls!

We are now accepting theme camp registration

# FALLS ON FIRE

An Event In The Spirit Of Burning Man, On Hawai'i (Island)

Located in Hilo, Falls On Fire is a camping event focusing on art, radical self-expression, community, and swimming in waterfalls!

Thank you to everyone that helped make Falls on Fire 2024 a success! We will announce dates for our next event once the Windward Planning Commission responds to our Special Use Permit application, submitted September 3, 2024. (They advised us that it can take up to 3 months to process applications, so we expect a response by early December.)

Tickets

- Tickets are pay-what-you-can, with a suggested contribution of \$50 and a minimum of \$1.

What To Expect

Theme Camps & Activities



Exhibit: A  
The photo depicts the advertisement for the unpermitted event known as (Falls on Fire) scheduled between November 8-11, 2024, with ticket fees.

Teppy Mountain LLC  
Revised Repeated NOV & Order Ltr.  
PL-PCV-2023-00567  
December 16, 2024  
Page 8

# LOCATION & DIRECTION



A Google Map of a coastal area in Hawaii. A red pin marks the event location. Landmarks include Onomea Bay Trail, Hāmāku, and the Hawaii Tropical Botanical Garden. A scale bar indicates 500 meters.

**Address:**  
27-476 Indian Tree Rd, Papaikou, HI 96781

**Instruction:**  
Instruction will be sent to RSVP e-mail list.

Exhibit B  
The photo depicts the Falls on Fire event location.

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: November 29, 2024

*Memorandum*

TO: Zendo Kern, Planning Director

FROM: Department of Public Works, Engineering Division



**SUBJECT: Special Permit Application (PL-SPP-2024-000075)**

Applicant: Teppy Mountain LLC

Request: To Allow the Operation of an Annual, Festival Event with  
Overnight Camping for up to 500 Attendees and to  
Legitimize the Storage of up to Six Work Trucks for  
Commercial Use

TMK: 2-7-007:001 por.

We have reviewed the subject request and provide the following comments:

1. The subject parcel is in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain.

We have no other comments since the request takes access from a privately owned road and there are no open violations associated with this property. Questions may be referred to Robyn Matsumoto at 961-8924.

|                  |
|------------------|
| Planning Dept.   |
| Exhibit <u>9</u> |



Mitchell D. Roth  
Mayor



Benjamin T. Moszkowicz  
Police Chief

Reed K. Mahuna  
Deputy Police Chief

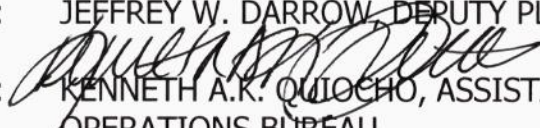
## County of Hawai`i

### POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

November 7, 2024

CDH PLANNING DEPT  
NOV 13 2024 AM 10:38

TO : JEFFREY W. DARROW, DEPUTY PLANNING DIRECTOR  
FROM :  KENNETH A.K. QUIJCHO, ASSISTANT POLICE CHIEF, AREA I  
OPERATIONS BUREAU

REC'D HAND DELIVERED

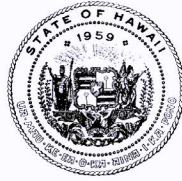
SUBJECT: SPECIAL PERMIT APPLICATION (PL-SPP-2024-000075)  
APPLICANT: TEPPY MOUNTAIN LLC  
REQUEST: TO ALLOW THE OPERATION OF AN ANNUAL,  
FESTIVAL EVENT WITH OVERNIGHT CAMPING FOR UP TO 500  
ATTENDEES AND TO LEGITIMIZE THE STORAGE OF UP TO SIX  
WORK TRUCKS FOR COMMERCIAL USE  
TAX MAP KEY: (3) 2-7-007:001 (POR.) PAPAIKOU, SOUTH HILO,  
HAWAII

Staff, upon reviewing the provided documents, has concerns and objects to this request without the proper approval and permitting from the appropriate agencies involved due to the event activities described.

Thank you for allowing us the opportunity to comment.

If you have any questions, please contact our South Hilo District Commander, Captain Brian Prudencio, at (808) 961-2316 or via email at [Brian.Prudencio@hawaiiicounty.gov](mailto:Brian.Prudencio@hawaiiicounty.gov).

BP:ws/24HQ1048



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P.O. BOX 916  
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: November 15, 2024

TO: Mr. Zendo Kern  
Planning Director, County of Hawaii

FROM: Eric Honda  
District Environmental Health Program Chief

SUBJECT: Special Permit Application (PL-SPP-2024-000075)  
Applicant: Teppy Mountain LLC  
Request: To Allow the Operation of an Annual, Festival Event with  
Overnight Camping for up to 500 Attendees and to Legitimize the  
Storage of up to Six Work Trucks for Commercial Use  
Tax Map Key: (3) 2-7-007:001 (por.); Pāpa'ikou, South Hilo, Hawai'i

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

**Clean Air Branch**

<sup>1</sup> All project activities shall comply with the Hawaii Administrative Rules (HAR),

- Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
  3. Standard comments for the Clean Air Branch are at: <https://health.hawaii.gov/epo/landuse/>

### **Clean Water Branch**

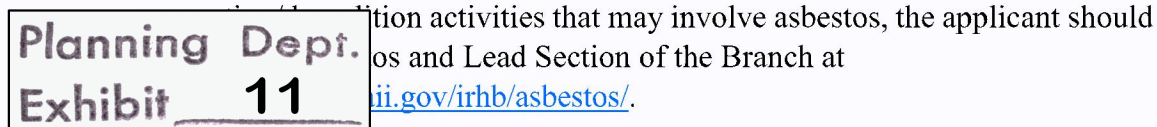
1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55.
  1. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55: <https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standard-comments/>.

### **Hazard Evaluation & Emergency Response Office**

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

### **Indoor and Radiological Health Branch**

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, and 11-504.
2. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
3. Construction/Demolition Involving Asbestos: If the proposed project includes



### **Safe Drinking Water Branch**



1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related to the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H, and 342I, and HAR Chapters 11-58.1 and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse, and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

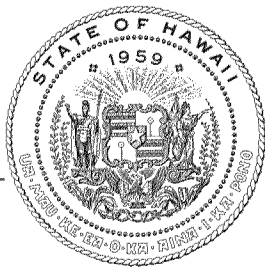
For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

### **Sanitation / Local DOH Comments:**

1. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure. A demolition permit is required prior to demolition.

**Other**

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Hawaii District Health Office, at (808) 933-0917.



# LAND USE COMMISSION

*Komikina Ho'ohana 'Āina*

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

*Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i*

235 S. Beretania Street, RM 406, Honolulu, Hawai'i 96813

Mailing Address: P.O. Box 2359, Honolulu, Hawai'i 96804

Email Address: [dbedt.luc.web@hawaii.gov](mailto:dbedt.luc.web@hawaii.gov)

JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR

DANIEL ORODENKER  
LUC EXECUTIVE OFFICER

Telephone: (808) 587-3822

Fax: (808) 587-3827

Website: [luc.hawaii.gov](http://luc.hawaii.gov)

November 12, 2024

County of Hawai'i  
Planning Department  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
[planning@hawaicounty.gov](mailto:planning@hawaicounty.gov)

SUBJECT: Comments on Special Permit Application PL-SPP-2024-000075 for Teppy Mountain LLC (Falls on Fire) on TMK: (3) 2-7-007:001 (por.)

Dear Christian Kay:

Thank you for providing the Land Use Commission ("LUC" or Commission") with the Special Permit Application PL-SPP-2024-000075 for Teppy Mountain LLC (Falls on Fire Event) on TMK: (3) 2-7-007:001 (por.). The application is requesting a Special Permit to host an annual four (4) – day event with overnight camping on a portion of the property, and to allow vehicle storage on the property for up to six (6) trucks. LUC staff has reviewed the application and provides the following comments:

Hawai'i Revised Statute ("HRS") §205-4.5 relating to permissible uses within the agricultural districts, specifically, §205-4.5(a)(6) which states that overnight camps are not a permissible use in the Agricultural District.

Further, pursuant to *Ho'omoana Foundation v. Land Use Commission* (CAAP-17-0000173 CAAP-17-0000181), The Hawai'i Supreme Court held that uses expressly not permissible in the state agricultural district need to be addressed in a district boundary amendment proceeding, rather than through special permits.

Pursuant to Hawai'i Revised Statutes §205-12 and relevant court cases, the County of Hawai'i Planning Department has the authority to enforce HRS §205-4.5.

Should you have any questions, please contact our office, at (808) 587-3822 or via email at [dbedt.luc.web@hawaii.gov](mailto:dbedt.luc.web@hawaii.gov)

Planning Dept.  
Exhibit 12

Special Permit Application PL-SPP-2024-000075

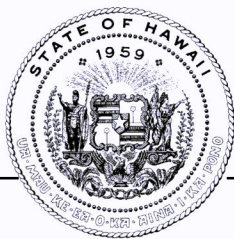
November 12, 2024

Page 2

Sincerely,

A handwritten signature in black ink, consisting of several loops and a trailing horizontal line.

Daniel Orodener  
Executive Officer  
Land Use Commission  
State of Hawai'i



**STATE OF HAWAII  
OFFICE OF PLANNING  
& SUSTAINABLE DEVELOPMENT**

**JOSH GREEN, M.D.**  
GOVERNOR

**SYLVIA LUKE**  
LT. GOVERNOR

**MARY ALICE EVANS**  
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawai'i 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawai'i 96804

Telephone: (808) 587-2846  
Fax: (808) 587-2824  
Web: <https://planning.hawaii.gov/>

Coastal Zone  
Management  
Program

Environmental Review  
Program

Land Use Commission

Land Use Division

Special Plans Branch

State Transit-Oriented  
Development

Statewide Geographic  
Information System

Statewide  
Sustainability Branch

DTS 202410301507NA  
PL-SPP-2024-000075

November 26, 2024

Mr. Jeffrey Darrow, Deputy Director  
Planning Department  
County of Hawai'i  
101 Pauahi Street  
Hilo, HI 967820  
Attn: Christian Kay

Dear Mr. Darrow:

Subject: Special Permit Application (PL-SPP-2024-000075)  
Applicant: Teppy Mountain LLC  
Request: Annual multi-day overnight camping event and storage  
of commercial vehicles  
Tax Map Key: (3) 2-7-007: 001 (por.)  
Pāpa'ikou, South Hilo, Hawai'i

The Office of Planning and Sustainable Development ("OPSD") received your October 29, 2024, memorandum requesting comments on Special Permit (SP) File No. PL-SPP-2024-000075. Thank you for the opportunity to comment on the subject application.

The Applicant seeks SP approval to host an annual event with overnight camping and storage of work vehicles in the State Agricultural District ("Project"). The area of special use involves 14.7 acres in the State Land Use Agricultural District ("Petition Area"). The Petition Area is situated within a larger 1,419.17-acre parcel identified as Tax Map Key (3) 2-7-007: 001 ("Property") and located in Pāpa'ikou, South Hilo.

Approximately 14.24 acres of the Petition Area are proposed for camp use (10.6 acres), access roads (3.33 acres), and a bonfire area (0.31 acres). The remaining 0.46 acres would be used to store the six (6) work vehicles. The Applicant currently leases 1,000 acres of the Property to a local rancher for pasturing cattle. The work vehicles are used for on-site cattle ranching purposes and deliver gravel to local businesses. No permanent structures are being proposed.

The application describes the event as a four-day, annual event that is centered on principles of inclusion, gifting, self-reliance, self-expression, communal effort, civic responsibility, and respect for the environment. The event will be concluded with a "burning ceremony" involving the burning of a symbolic effigy. The application notes that the fire and police departments were consulted. The Fire Department indicated that water and access requirements would apply, and they would be willing to assist with



Mr. Jeffrey Darrow, Deputy Director  
November 26, 2024  
Page 2

additional safety provisions if needed. The November 2024 event will host 200 attendees, with future events eventually expanding to up to 500 attendees. The event is offered on a donation basis and there is no base ticket fee. Amplified sound will be permitted during the event and directed in a westerly direction. The site plan displays parking for approximately 200 vehicles.

The Land Use Pattern Allocation Guide designates the Petition Area as Important Agricultural Lands and the Land Study Bureau's detailed agricultural land productivity rating rates the Petition Area's soil as a combination of "C," "D," and "E." Finally, the Agricultural Lands of Importance to the State of Hawai'i classifies the Petition Area as primarily "Prime Agricultural Lands," with portions of the property along the streams unclassified.

OPSD Comments:

1. The primary purpose of the State Agricultural District is to promote long-term agricultural use of Hawai'i's agricultural lands. For this reason, the encroachment of higher-value, non-farm uses should be discouraged to keep land affordable for farming. Of course, trends and needs have arisen since 1961, when the State Land Use Law was effectuated. The application highlights the current need for local farmers to supplement their farming income with accessory uses.
2. Overnight camps are explicitly called out in HRS Section 205-4.5(a)(6) as a use that is not permitted in the State Agricultural District. In 2024, the State Legislature revised HRS Section 205-4.5(a)(6) in response to a recent court decision—which prohibited SP approval of overnight camps in the State Agricultural District on lands containing soils with high potential for agricultural productivity. The revision allows SP approval for overnight camps on high quality soils only if those camps were established before 1961. The proposed Project has not been in place since before 1961.
3. If the County Planning Commission considers the request unusual and reasonable, OPSD suggests limiting the permitted use to an annual event as requested in the application.

Thank you again for the opportunity to review the Special Permit application. If you respond to this comment letter, please include DTS 202410301507NA in the subject line. If you have any questions, please contact Brandon Soo of our Land Use Division at [brandon.a.soo@hawaii.gov](mailto:brandon.a.soo@hawaii.gov).

Sincerely,



Mary Alice Evans,  
Director





194 Wiwoole St. Hilo, HI 96720  
(808) 333-3393  
info@landplanninghawaii.com

January 9, 2025

Mr. Jeffrey Darrow  
Planning Department  
COUNTY OF HAWAII  
101 Pauahi Street  
Hilo, HI 96720

Dear Mr. Darrow:

**Subject: Attn: Christian Kay**  
**Response to Comments and Additional Information Regarding Special Permit Application (PL-SPP-2024-000075)**  
**Applicant: Teppy Mountain LLC**  
**Agent: Land Planning Hawaii LLC**  
**Pāpa‘ikou, South Hilo, Hawaii TMK: (3) 2-7-007:001 (por)**

This letter is intended to address questions/concerns expressed by the Planning Department as well as comments received from other agencies with regard to the subject application. This application requests a Special Permit to host an annual four (4) – day event with overnight camping on a portion of the subject property. The application also requests approval to store up to six work vehicles on the property as well. The property is located at the top of Indian Tree Road, approximately 0.7 miles west of Hawaii Belt Road in Pāpa‘ikou, South Hilo, Hawai‘i.

In response to a November 7, 2024 memo sent from the County of Hawai‘i Police Department, the applicant will not hold the proposed event until proper approvals and permits are issued. The applicant is currently going through the Special Permit process in order to obtain the necessary approvals. Additionally, prior to the annual event, the applicant will notify the Planning Department, the Police Department and the Fire Department of the proposed event dates, anticipated number of attendees and anticipated number of vehicles. The applicant will also review his event security plans with the Police Department prior to each event. Currently, the security plans involve having approximately 4-10 “rangers” on site, depending on how many attendees are anticipated. 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. All parking will be on-site and no attendees will be permitted to park along the roadway.

The applicant will also notify his immediate neighbors and all landowners along Indian Tree Road prior to the event via email. Should any complaints be received from neighbors during the event, the applicant will be available to hear those complaints and will immediately address all reasonable complaints. Any attendees found to be disorderly or disruptive will be ordered to leave the event and will not be permitted back to the event in subsequent years.

Comments received from the State of Hawai‘i Land Use Commission dated November 12, 2024, and the State of Hawai‘i Office of Planning and Sustainable Development (OPSD)

dated November 26, 2024 note that Hawai'i Revised Statutes Section 205-4.5(a)(6) states that overnight camps are not a permissible use in the Agricultural District. However, it is noted that this statute pertains only to lands within the agricultural district with soil classified by the land study bureau's overall productivity rating scale as class A or B. Since the subject property contains only soils classified as C, D or E, this statute does not apply. Thus, overnight camping is not expressly not permissible on the subject property and a district boundary amendment should not be required in order for the County to issue the Special Permit.

The OPSD also suggests limiting the requested camping event to an annual event. It is noted that the applicant only wishes to hold one event annually. As noted in the background report submitted with the application, the applicant had originally planned to hold the event annually in November. However, the applicant would like to reserve the opportunity to hold the event during other months of year under the strict condition that no more than one (1) event may be held within any calendar year.

With regard to the offering of food during the event. Attendees will be 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 under Chapter 11-50. As the event will only be held annually, if determined necessary, the applicant will pursue a special event food permit as needed prior to the event.

We trust that everything is in order for your acceptance and processing of this additional information. If not, or if there are questions relating to this matter, please feel free to direct them to me. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Pipan', with a stylized, flowing script.

John Pipan  
Planning Administrator

Oda, Michelle

---

**From:** Jim McMahon <jimlichun@gmail.com>  
**Sent:** Monday, January 13, 2025 4:43 PM  
**To:** harry.h.takiue@hawaii.gov  
**Cc:** Planning Internet Mail; Kay, Christian  
**Subject:** Re: Special Permit Application (PL-SPP-2024-000075)  
**Attachments:** ITR\_H19 Issue.pdf; 2024-01-03 Memo DOT Teppy Mountain PL-SPP-2024-075.pdf

Aloha Harry

You or someone in your department should have received a memo (attached for your convenience) from the Hawaii County Planning Department dated January 3, 2025 is regards to *Special Permit Application (PL-SPP-2024-000075) - Request: To Allow the Operation of an Annual, Festival Event with Overnight Camping for up to 500 Attendees and to Legitimize the Storage of Commercial Vehicles*. The Planning Director is hoping that you will be able to provide your department's comments by Jan 22, 2025.

The attached application indicates that the proposed event is to be accessed via H-19 at its junction with Indian Tree Rd. which is located just north of the 8 mile marker. In December, 2021, I sent you an email in regards to some safety concerns at this intersection (see attachment). Although there have been recent visibility improvements resulting from the recent and more effective removal of vegetation near this intersection, the collision hazard mostly remains unmitigated. Therefore, allowing large numbers of vehicles to use this intersection by members of the public who are far less likely to be aware of the risks than the local residents is a concern.

Please also note that the special permit application package contains 2 unrelated proposed uses:

1. Annual 4-day "Camping Event" called "Falls on Fire". This event has been held without required permits and in violation of the County's orders for the past 2 years (Nov 2023 and Nov 2024). The most recent event had ~350 attendees - ~200 official registrants and ~150 "gate crashers" or unregistered participants. According to our security camera logs this resulted in ~200 additional vehicle trips on Indian Tree Road on each of the 4 days of the event. There were also approximately ~100 additional vehicles on the road in the days preceding the event and after the event for setup and take down. The SP application is for 500 attendees. So based on extrapolation from past year events, we could have an additional 500 vehicle trips per day or far more than what is estimated by the application. Also during the recent event many of the attendees arrived late at night after the gates located near the entrance to Indian Tree road were closed. This reportedly resulted in several vehicles backing up and parking along the shoulder of H-19 while waiting until exiting vehicles would trigger the automatic gate and thus allow those waiting vehicles to piggyback in. For more perspective about the "Falls on Fire" event, you can check the following news article: [Hundreds of Burning Man-style campers to descend on rural Hawaii, angering locals](#)
2. Storage of Commercial Vehicles. We believe this proposed use is for the benefit of a ranching tenant who also operates a heavy equipment rental operation called "Indian Tree Ranch and Rentals LLC". If true, then a more accurate description of the use would be a Heavy Equipment Baseyard. The resulting daily traffic turning onto or from Indian Tree Road would thus consist of large dump trucks and tractor trailers hauling other heavy construction equipment. This would

result in large and slow vehicles turning onto or from H-19. Again this intersection is located in a 55MPH passing zone without designated turning lanes on a section of the highway having limited sight distance.

It is my opinion that both the existing single lane Indian Tree Road and its intersection with H-19 cannot safely support the expected traffic resulting from the proposed Special Permit uses without significant upgrades. I would therefore encourage you to provide your own analysis and feedback to the Planning Dept. on this matter. Again, the Planning Director is hoping that your department will be able to provide comments by Jan 22, 2025

Please feel free to contact me if you require any additional information.

Sincerely  
Jim McMahon  
[jimlichun@gmail.com](mailto:jimlichun@gmail.com)

--

Jim & Lichun





# Indian Tree Road / State HWY-19 Blind/Hidden Intersection Safety Issue

South Hilo District,  
Big Island



# Indian Tree Road / State Route H-19

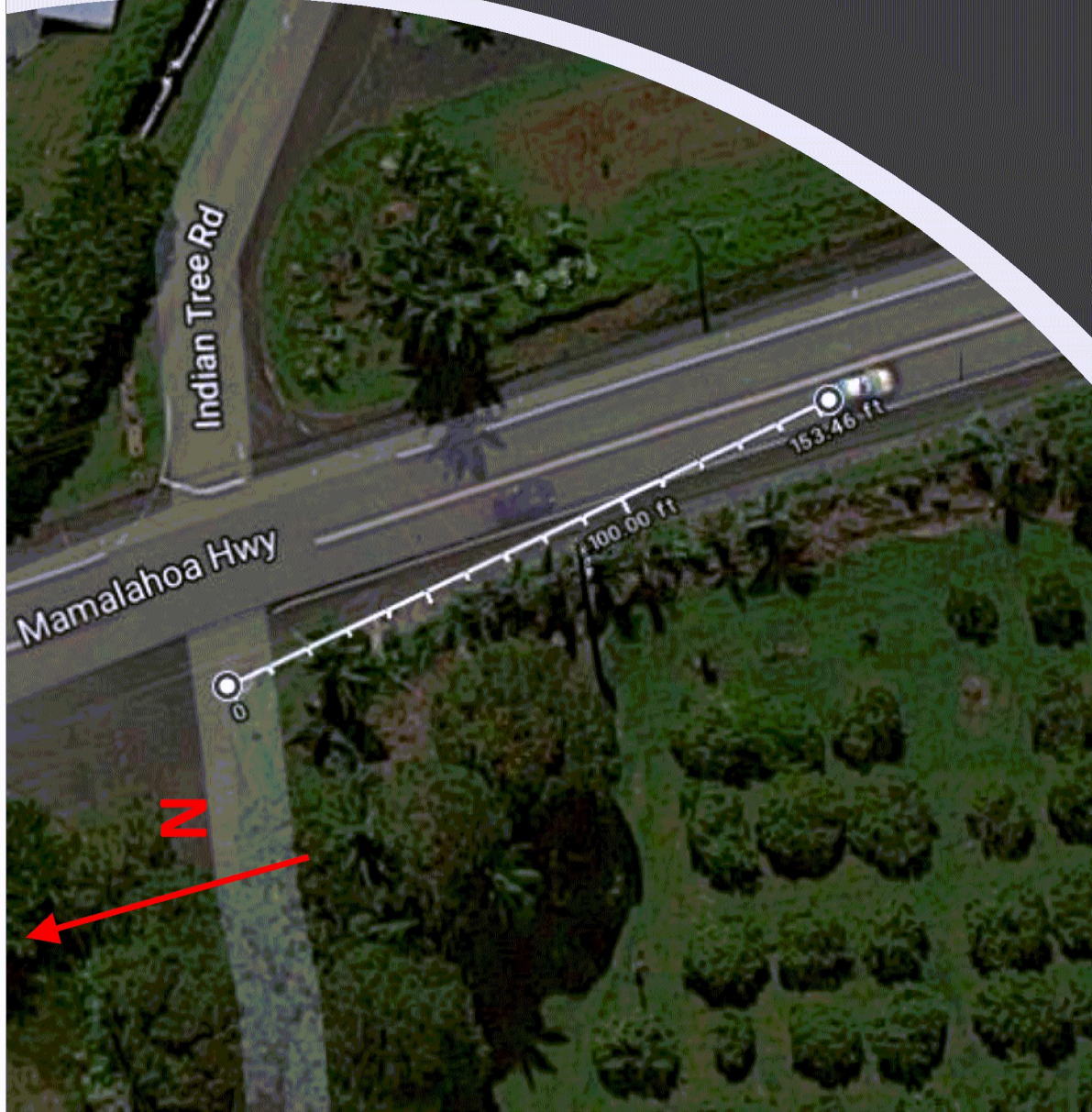
## Blind/Hidden Intersection Safety Issue

- **Summary:** In my opinion, a hazard exists at this intersection due to the combination of limited viewing distance (150') from Indian Tree Road mauka (~8.3 milepost) in the direction of H-19 south, the high speed limit (55MPH), and the intersection being within a passing zone.
- Details:
  - The posted min-max speed range for this section of H-19 section is 40-55MPH.
  - The area is a passing zone and vehicles traveling northbound on H-19 while overtaking vehicles by traveling in the southbound (passing) lane are obscured by an embankment and often also by vegetation which typically covers this embankment. H-19 also bends around this intersection slightly further reducing the available sighting distance.
  - The estimated sight distance for a vehicle stopped at a safe distance at the Indian Tree Road intersection turning south on H-19 is ~150'. This is assuming no vegetation is present.
  - The reaction distance for a vehicle travelling at 55MPH is ~200' assuming a 2.5second reaction time recommended by AASHTO. The corresponding total sight stopping distance is ~600'.
  - The shoulders on the same H-19 mauka are also constrained by the same embankment. Meaning there is limited space for collision avoidance.
  - The mauka portion of this intersection is extremely difficult to see from H-19 northbound due to the road curvature, vegetation, no signage, and no shoulder line markings.
  - Traffic rapidly increasing on Indian Tree Road mauka due to ongoing development including growing traffic by tourists/visitors who unlikely to be familiar with the intersection hazards. Traffic volume is about ~120-150 vehicles per day with many of them consisting of large heavy trucks.
- It is likely similar hazards exist along this section on H-19 at other road intersections. So I believe other similar intersections should be evaluated.



# Google Maps View H-19 / Indian Tree Road Intersection

~150' Sight  
Distance







Unobstructed Driver's  
View Looking South  
on H-19 from Indian  
Tree Road Mauka

NOTE: Vegetation was  
just cleared. Meaning  
that this is the time of  
maximum visibility





Intersection Approach  
Perspective from H-19  
Northbound while in the  
Southbound Passing  
Lane

Indian Tree Road mauka  
is ahead on the left  
~500'

Google StreetView  
c2021





Intersection Approach  
Perspective from H-19  
Northbound while in the  
Southbound Passing  
Lane

Indian Tree Road mauka  
is ahead on the left  
~150' just past the white  
vehicle

Google StreetView  
c2021



Oda, Michelle

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**From:** B&M Luz <betoandmaia@gmail.com>  
**Sent:** Tuesday, January 14, 2025 2:16 PM  
**To:** Planning Internet Mail  
**Subject:** Teppy Mtn LLC, TMK (3)2-7-007:001, PL-SPP-2024-000075  
**Attachments:** Teppy and Luz properties.png

To whom it may concern,

I write this letter regarding a special permit request (PL-SPP-2024-000075) regarding Teppy Mountain LLC and TMK: (3) 2-7-007:001.

While I have no personal issues with the owner Andrew "Teppy" Teppers nor his lessee Roger Uchima, I feel the need to voice my concerns about allowing this special use permit.

My family and I will arguably be the most affected by this permit, should it be granted. Our property is located on the corner of the road, at 27-467 Indian Tree Road, directly across from the main entrance where the existing base of the Teppy Mountain LLC property is located. (See image) Our property is in a small valley and as a result the noise pours into our space from every direction, often sounding much closer than it really is.

Since my family and I moved to this property over eight years ago the road quality and condition is worsening from wear and tear. The volume of traffic has increased significantly, both to the Teppy Mountain property and others.

Year round there is noise and pollution from the trucks and equipment that come to and from the property. If more trucks are permitted then the traffic will multiply greatly, and in the past the arrival and departures of trucks has not been limited, resulting in their arrival/departure very early in the morning (5-6am at times) and late at night (9pm or later). Multiple times a year the cattle that Roger raises must be rounded up and receive routine care. The cattle make noise throughout the night for a few days, which causes sleepless nights for our family. We understand that this is a working ranch and permissible on ag land, but nonetheless it does affect us. I don't think it is right to add additional uses that are not permitted that will disturb the peace and life of my family.

While Teppy has been courteous about the past events held on the property more traffic is a concern for us, especially allotting 500 people onto a road that we value as being a private road with only seven parcels and limited easement access to non residents/land owners. It doesn't make sense to live on a private and gated road with limited access but then allow up to 500 random strangers access up and down the road. We value our family's safety and privacy, and we seek to protect what is ours. It is important to note that there will not just be more movement during the festival, but the months leading up to the festival will certainly require preparation and workers on the property, as was the case in 2024.

What attracted us to our property in the first place was the security and peacefulness that a private and gated road with few residents afforded us. Permitting these other uses will jeopardize the very thing that we wanted from this land which we have intended to pass on to our children one day. We have many hopes and dreams for this piece of land, but should the need to relocate ever occur, I am afraid that this permit will devalue our land.

Sincerely, Maia Munoz Luz





# GATE

PEPPY MOUNTAIN LLC  
27-476 INDIAN TREE ROAD  
Acres: 1,419.17  
Value: \$5,573,700  
View: [Report](#) | [Google Maps](#)

**Situs/Physical Address** 27-476 INDIAN TREE ROAD  
**Mailing Address** TEPPY MOUNTAIN LLC  
4717 MIDDLE RD  
ALLISON PARK PA 15101 1174

| Date      | Price     | Reason                  | Qual |
|-----------|-----------|-------------------------|------|
| 7/16/2021 | \$9750000 | ARMS LENGTH TRANSACTION | Q    |
| 8/23/2019 | 0         | OTHER REASONS           | U    |

(Note: Not to be used on legal documents)



Oda, Michelle

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**From:** Beto Luz <betoluzfilho@gmail.com>  
**Sent:** Tuesday, January 14, 2025 2:33 PM  
**To:** Planning Internet Mail  
**Subject:** Teppy Mountain LLC, TMK (3)2-7-007:001, PL-SPP-2024-000075

Aloha,

This letter regards a special permit request (PL-SPP-2024-000075) regarding Teppy Mountain LLC and TMK: (3) 2-7-007:001.

Indian Tree Road is a private road with limited easement rights that extend to the seven parcels that utilize the road on a regular basis. I have owned and resided on my property on 27-467 Indian Tree Road for over 8 years. I have a wife and young children who are homeschooled, and we have a small farm with animals.

The first few years that I resided here the property pertaining to tmk (3) 2-7-007:001 was utilizing a portion within it as a base yard to store work vehicles/equipment. Due to another neighbor's complaint and the lack of a special use permit, the trucks were relocated. There seemed to have been 3 to 4 semi trucks in use at the time, with unlimited access meaning that at times they would come and go multiple times in a single day, with no time restriction.

In my experience, those first few years that the trucks were in use were not very pleasant. Indian Tree Road is on a hill, and I am right on the corner of the end of the main portion of the road. My property is the closest to the gate and entry to the property in question, being a narrow road's length away from the gate, where all traffic to the property must stop to open and close it. My property is also in a small valley, so all of the sound around us, on every side, is amplified for my family and I. This special use permit will affect me and my family more than anyone else because we are in such close proximity.

Those first few years my family and I worked from our property in hospitality. It was not ideal to have loud trucks coming up and down the road before 5 or 6am for my family and our guests. The noise from the semi trucks would wake us up very early most mornings. My wife also works the evening shift in the restaurant industry, getting home later than most and needing to rest. The early morning trucks make that especially difficult. We already have sleepless nights a few times a year when the cattle on that property must be rounded up. We understand that this is allowable as this is clearly agricultural activity happening on ag land. However adding to the truck movement year round would aggravate the situation. If six trucks are authorized we can do the math: to and from there will be a truck driving by a dozen times in a single day. If there are busier days, we could expect that number to be multiplied, causing disturbances dozens of times a day and adding excessive wear and tear to the road.

|                                     |
|-------------------------------------|
| Planning Dept.<br>Exhibit <u>17</u> |
|-------------------------------------|

The upper portion of the road is unpaved and in poor condition, which worsens the situation due to the rocky nature which makes loud noises as trucks pass, and the vibrations caused by the trucks can actually be felt on our property.

We have seen the road deteriorate over the years. Allowing trucks to park on the property and allowing a 500 person event will not only add to the deteriorating condition, but also poses other safety issues. The road is inadequately paved for high amounts of traffic, it's gravel. We have witnessed people who seem to think that due to being on a country road, no one else is using it, and so we have seen distracted and careless driving.

All of the traffic that goes to and from the parcel must drive past our property. We have concerns for the safety of our children and animals who are almost always present, to our physical property as our property line and fence is next to and parallel to the road, and we fear that our privacy is at stake. In the past we have also experienced people trespassing on our property as they tend to get lost while looking for a neighboring parcel. More movement means more noise pollution and air pollution. A weekend long event hosting 500 people also requires a lot of preparation, which means much more movement in the months leading to the event.

We have absolutely no quarrel with the owner of parcel (3) 2-7-007:001 nor his lessee, in fact we believe that we maintain a friendly relationship with them both, but we simply want to protect our family, our investment and our interests as well as maintain a peaceful, private lifestyle in the countryside.

When we moved here the traffic on the road was a fraction of what it is now. We understand that in order for farms to prosper movement is needed, but we are concerned that allowing these special uses will diminish our property's value as well as negatively impact our family, our projects and our lifestyle.

Sincerely,

Francisco Roberto Goncalves Luz Filho



**From:** [Lichun Huang](#)  
**To:** [WPCtestimony](#)  
**Subject:** Written Testimony oppose application TEPPY MOUNTAIN, LLC (PL-SPP-2024-000075)  
**Date:** Saturday, January 18, 2025 2:25:02 PM

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## Written Testimony PL-SPP-2024-000075

### Position: oppose

#### Who We Are:

We are a husband-and-wife team operating Pinapinao Farm, LLC, a small, diversified fruit farm. Our farm is a proud recipient of the 2024 GoFarm Hawaii American AgCredit Matching Grant and the NRCS EQIP.

#### Our Location:

Our farm and residence are located between the subject property and Hawaii Belt Road. The proposed "camping" and "vehicle storage" activities would utilize a private easement that bisects our property (0.26 miles of a 0.7-mile stretch) as the sole access to Hawaii Belt Road.

#### The Situation:

Our farmable land is a narrow 10-acre strip flanked by gulches and bisected by the easement road. This road serves as the primary access to our orchards, pasture, and barn and is essential for transporting inputs and harvests. As a private road, it lacks police oversight, a maintenance agreement, or HOA management.

While we, the servient property owners, maintain the road with limited farm equipment, dominant easement users—including those running non-farm businesses—enjoy free road services. We have experienced theft, trespassing, vandalism, bullying, and numerous near-miss incidents threatening our safety. The approximately 12-foot-wide pavement has eroded at the edges and along shallow ditches. Contrary to the applicant's claim of "a few potholes," the road's condition is severely degraded.

#### Negative Impact:

The proposed "camping" event and semi-truck "storage" activities pose serious risks to our farm, residence, and the surrounding community:

1. **Safety and Security Risks:** Increased traffic, reckless driving, and lack of oversight jeopardize road safety.
2. **Environmental Harm:** Similar unpermitted activities have already caused soil erosion, pollution, and damage to roadside vegetation.
3. **Farm Disruption:** Heavy vehicle traffic and camping events overlap with our peak cacao harvest season, creating logistical challenges and exposing our crops to damage.

### Specific Concerns

#### A. Camping Event:

We oppose the applicant's camping event, marketed as "Falls On Fire," due to its environmental, safety, and community impacts:

1. **Misleading and Incomplete Information:**

- The event is promoted as a "Burning Man"-style gathering emphasizing "radical self-expression," which raises concerns about illegal activities like drug use and unruly behavior.
2. **Irresponsible Behavior:**
    - Despite a county cease-and-desist letter, the applicant held the 2024 event without a permit.
  3. **Inadequate Infrastructure:**
    - Indian Tree Road is a 12-foot-wide private driveway lacking maintenance agreements, police oversight, and capacity for heavy traffic. (Easement users already complain about existing traffic without additional trucks/events.)
    - The intersection with Hawaii Belt Road, in a 55-mph zone, poses significant accident risks.
  4. **Environmental Impact:**
    - Burning activities release unknown chemicals into the air.
    - Campfires generate smoke that travels downhill and lingers in our valley, creating health and safety hazards.
    - The area is surrounded by potential fire fuel, including eucalyptus and guinea grass, posing extreme danger under favorable weather conditions.
  5. **Safety and Security Risks:**
    - The event invites the public without background checks, exposing residents to potential criminal activity.
    - The servient property owners and the county would bear the burden of managing safety for attendees.

## **B. Gravel Truck "Storage":**

The proposed "storage" is misleading, as the semi-trucks would remain operational. The rancher operates "Indian Tree Ranch and Rental LLC," effectively requesting permission to run a heavy equipment rental business in an agricultural zone, violating zoning regulations.

1. **Previous Zoning Violations:**
  - The rancher has previously been cited for using the ranch to operate heavy equipment rentals (Warning letter ZCV 2021- 015E).
2. **Road Damage:**
  - Heavy trucks have already caused significant road damage, including unauthorized removal of speed bumps near our residence by the rancher and worsening drainage issues.



No dominant easement users, particularly the heaviest user, the applicant or rancher, contributed to the proper repair of the road.

### 3. **Air Pollution:**

- Diesel trucks emit toxic chemicals that harm our health, pollute crops, and degrade air quality. The rancher's truck is particularly polluting (Picture below) showing “Indian Tree Ranch and Rental” does not take care of its fleet of vehicles despite multiple communication channels (through the applicant landowner, neighbor and police).

### 4. **Unfair Advantage:**

- Operating a rental business in an ag zone exploits subsidies and tax benefits intended for farmers, undermining competitors who comply with industrial zoning requirements.

### **Incorrect reference for easement grant**

The easement grant attached to the application references Easement 6, which lies entirely north of Kawanui. Therefore, the application is inaccurate and incomplete in the access information.

### **Conclusion:**

We oppose this application in its current form. The information is incomplete and misleading. The proposed activities jeopardize our safety, disrupt farming operations, and conflict with the county's agricultural priorities, particularly given Hawaii's food insecurity and environmental challenges.



Security camera next to our cacao processing building captured an image of heavy exhaust emission on our farm by a truck used by “Indian Tree Ranch and Rental.” This is one of the documented events out of 177 (dark smoke thick enough to obscure visibility behind the truck) in the past year alone. The black soot contaminates the food we produce and jeopardizes our health.

Sincerely,

Lichun Huang

Pinapinao Farm LLC

27-380 Indian Tree Road  
Papaikou, HI 96781