CITY AND COUNTY OF HONOLULU

PLANNING COMMISSION

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IN RE:

NORTH SHORE-STATE SPECIAL USE PERMIT-2014/SUP-6(RY)

KAWAILEA SOLAR FARM

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PUBLIC HEARING

Taken in the Mission Memorial Conference Room, 550 South King Street, Honolulu, Hawaii, commencing at 1:37 p.m. on April 1, 2015.

BEFORE:  SHIRLEY L. KEYS, RPR, CM, CSR 383
APPEARANCES:

Commissioners: DEAN I. HAZAMA, Chair
KEN K. HAYASHIDA
KAIULANI SODARO
CORD D. ANDERSON
DANIEL S.M. YOUNG
ARTHUR TOLENTINO
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Planning Commission:

JENNIFER WAIHEE-POLK, ESQ.

For Applicant: RANDALL F. SAKUMOTO, ESQ. and
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COMMISSIONER HAZAMA: Okay. Good afternoon. Thank you for waiting. I will call the meeting of the planning commission, April 1, 2015 to order. On our agenda is public hearing, North Shore—Special Use — State Special Use Permit 2014-SUP-6, Kawailoa Solar Farm. At this time I’d call the department up for the report.

MS. ARAKAWA: Good afternoon, Chair Hazama, Commissioners. My name is Bonnie Arakawa, I’m with the Department of Planning and Permitting in the planning division. The staff planner for this project, Ray Young, unfortunately is not here today. He’s on family leave due to personal reasons, but I’m prepared to present a project description to you and try my best to answer any questions you may have.

The applicant is Kawailoa Solar, LLC, and the project is a proposal to construct a 50 megawatt solar energy facility on portions of two tax map parcels totaling 382.2 acres. The petition area exceeds the maximum area of 20 acres permitted by HRS Section 205, and therefore requires a State Special Use Permit.

As you can see on the aerial map here, the project consists of eight sites, with sites one through seven containing the ground mounted photovoltaic or PV panels. Site 8 contains one of two proposed
1 substations, indicated by the yellow dot, and Site 9 is
2 the portion of the project located in the Land Study
3 Bureau lands rated Class A and B and includes underground
4 cables to transmit power to the existing makai
5 switchyard. The director of DPP, George Atta, has
6 determined that this 1.9 acre portion that proposes the
7 underground cables along Ashley Road does not constitute
8 a use requiring a Special Use Permit review and is thus
9 permitted from the petition -- it's not included in the
10 petition area. Therefore, the director's report and
11 recommendation is for the remaining eight sites totaling
12 the 382.2 acres. The panels are mounted about 4.5 feet
13 to 9.5 feet above existing grade. The PV system will
14 include other electrical equipment such as combiner
15 boxes, below surface collector lines, inverters,
16 transformers, weather monitoring stations and switch
17 gear.
18 A second electrical substation is
19 proposed within Site 1, as indicated by the yellow dot,
20 and both proposed substations will be operated by
21 Hawaiian Electric Company, also known as HECO. The
22 substation located in Site 8 is referred to as the mauka
23 substation, and the facility located in Site 1 is
24 referred to as the makai substations in the application.
25 The open switchrack designed substations would occupy an
area of approximately 150 feet by 180 feet and be enclosed by an eight foot high perimeter fence.

Energy generated by the western portion of the project will be transmitted to the electrical grid via the existing makai substation at the makai end of Site 9, which connects to the HECO Waialua-Kahuku 46 kV subtransmission line. Energy from the eastern portion of the project will be transmitted to the electrical grid via an existing mauka switchyard located adjacent to Site 7, which was originally constructed for the existing wind energy generation system. The mauka switchyard connects to the HECO Waialua-Kuilima 46 kV subtransmission line.

Energy generated by the PV panels will be sold to HECO.

In addition, the applicant proposes to construct 20 foot wide internal gravel roadways and perimeter fencing encompassing each of the eight sites for security and for keeping predators from entering these sites. Access to the project site is provided by private road, which is Ashley Road.

With regard to HRS Section 205-4.5, solar energy facility proposed on State Land Use Ag District lands rated Class B or C are permitted to exceed the maximum land of ten percent of the area or a parcel -- of a parcel, excuse me, or 20 acres, whichever is less, if granted a State Special Use Permit, provided that the
One project is made subject to the following three conditions, the first being that the area occupied by the SEF is also made available for compatible ag activities at a lease rate that is at least 50 percent below the fair market rent for comparable properties.

The applicant intends to lease portions of the property to local ranching business to pasture sheep on the site to meet -- to provide meat for consumption and to maintain overgrowth under the panels. The lease would also provide the rancher with use of the fencing and roadways and other infrastructure at the site. Other than perimeter fencing, pasturing support facilities would be provided by the local rancher. The DPP recommends a condition that requires applicant to have ag operations to be established or be actively seeking to have such operations established within one year of the start of its commercial power generation.

The second -- the second condition is that proof of financial security to decommission the facility is provided to the satisfaction of this county planning commission prior to date of commencement of commercial generation.

The applicant suggested the proof of financial security for decommissioning efforts be in the form of a letter of credit. Therefore, the DPP
1 recommends a condition that requires such an issued
2 letter of credit or similar mechanism prior to the
3 closing of the building permit for the SEF, which
4 security shall remain in place for the duration of the
5 project with evidence of the same provided to the DPP on
6 an annual basis. The applicant's preliminary description
7 of its plan for decommissioning is estimated at four
8 million dollars.

9 The third condition is that the solar
10 energy facility be decommissioned at the owner's expense,
11 including removal of all equipment related to the SEF
12 within twelve months of the conclusion of operation or
13 useful life, and the restoration of the disturbed earth
14 to substantially the same physical condition as existed
15 prior to the development of the SEF.

16 The applicant anticipates that upon
17 receiving all land use and building permit approvals, the
18 construction, operation and decommissioning of the SEF
19 would be completed in 35 years. The DPP has incorporated
20 the above decommissioning conditions in its
21 recommendation.

22 The proposed project is not contrary to
23 the objectives sought to be accomplished by the State
24 Land Use Law. The proposal may be considered unusual but
25 reasonable use of ag lands. Under current technology,
utility scale PV facilities require large amounts of relatively gentle terrain, sited in close proximity to an existing electrical grid. The site was formerly used for pineapple cultivation and is currently in pasture use. The applicant proposes to continue ag use of the site by making available the area under the PV panels for sheep pasturage and the applicant submitted a letter of intent between the applicant and a local rancher to pasture sheep on the petition area. The sheep will be beneficial to the project for vegetation control and also provide a food source in compliance with the intent of Act 55. Therefore, the director of DPF recommends that Special Use Permit Application file number 2014/SUP-6, as shown on Exhibit A within the application be approved subject to conditions noted in this report.

COMMISSIONER HAZAMA: Thank you. Any questions for department at this time? Yes. I have one question. Page 19 under item eight regarding the notification of landlord -- or land owner or applicant, would the change in ag component use be considered something that triggers a requirement to come back to the planning commission? In other words, the applicant proposes to partner with a sheep farm, so say they change their ag component plan and want to partner with a cattle farmer or something, would the change in ag component use
trigger items 8B or change the use of the property?

MS. ARAKAWA: Well, as of this time we really don't have a -- they're still working to develop that arrangement with some rancher, and I guess once they determine and inform us of what that arrangement is, if that were to change, then the department would certainly appreciate knowing that of any new arrangement.

COMMISSIONER HAZAMA: Would that arrangement -- wouldn't that arrangement have to be made prior to getting -- getting approval from LUC for this project though as far as identifying what the specific ag component would be?

MS. ARAKAWA: I think in terms of this -- I don't -- I'm sorry, I don't know if I know the answer to that, but I would have to get back to you on that, Chair.

COMMISSIONER SODARO: On that note, when is the -- so there -- there is reference in ag plan when the ag plan needs to be done, because I think that that's kind of one of the questions I had, is that something that has to be done before it moves to the LUC?

MS. ARAKAWA: I think the way the condition was written it said within -- it was triggered by -- sorry, let me just get to the conditions here.

Within one year of the start of commercial power
COMMISSIONER HAZAMA: I didn't ask when the ag operations have to commence.

COMMISSIONER SODARO: Right.

COMMISSIONER HAZAMA: My question is regarding the applicant's plan for use, what that specific ag component would be. I guess my question is wouldn't that have to be identified specifically prior to approval of the application by either us by the Land Use Commission?

MS. ARAKAWA: Having read the conditions that were written up, I don't see any requirement that there was a -- for an ag plan per se.

COMMISSIONER SODARO: Yeah. Because -- so one of my questions is without the ag plan, you know, the Department of Agriculture has specific comments in their aquatic resources, and they state in the BMPs --

MS. ARAKAWA: Right. Right.

COMMISSIONER SODARO: -- about soil erosion, and so I was wondering how those agency's comments get incorporated without an ag plan, or the timing of when the ag plan happens.

MS. ARAKAWA: I guess we could incorporate, or the commission could incorporate a condition that requires an ag plan.
COMMISSIONER HAZAMA: Well, I guess my point being is how do you expect -- the problem is the commission or even the LUC approve the application when the statute requires an ag component, so basically I don't think we can say okay, well, we're going to approve this application without knowing what the specific ag plans are going to be as far as the component, but back to my first question I guess is if there is one and we get to approve it, then would it change in that ag component that triggered the requirement to come back to the planning commission?

MS. ARAKAWA: We could insert a condition to that effect, but right now it appears that we are giving the applicant one year from the start of commercial operations to -- to meet this condition one. And with regard to the aquatic resources concerns, it seems that once that rancher or ag entity has been identified, then they are to consult with or develop the BMPs for that operation and consult with DAR.

COMMISSIONER HAZAMA: Maybe you could clarify the statement in use of the property to include the ag component as well. So in other words, the use of the property is the ag component for the agriculture activity is considered use of the property. Any change to that would trigger, I guess this requirement needs to
come forward. Okay. Do the commissioners have any questions of the department at this time? Okay, thank you. At this time I will call up the applicant and their representatives.

MR. SAKUMOTO: Thank you, Mr. Chair.

Aloha and good afternoon, Commissioners. My name is Randall Sakumoto, and my colleague, Marguerite Nozaki is with me. Also to my left is Wren Wescoatt, the development director for the applicant. We actually -- I know you have before you the application prepared by the applicant's agent, CH2M Hill, who also submitted supplemental materials for your information, that it looks like you also have, and we have just a very brief presentation that we wanted to do, which consisted of just Mr. Wescoatt providing brief background on the project, and also Crystal Kua of the applicant to provide information on the community outreach efforts.

COMMISSIONER HAZAMA: Okay. Proceed.

MR. SAKUMOTO: Okay. Thank you.

MR. WESCOATT: Hi, good afternoon. I'm Wren Wescoatt with SunEdison. The last time I was here I was with First Wind, but we -- we got -- we got merged. We got acquired, so currently it's SunEdison. The Kawailoa wind project is -- occupies -- is going to occupy approximately 384 acres. It's a 50 megawatt
1 ground mounted solar farm similar to -- in function and
design to the project that we presented previously for
the Waiawa project with the one notable exception that
these panels will be installed on racks that track with
the sun east to west throughout the day so that they can
collect more solar energy throughout the day. Otherwise,
it's a 50 megawatt project, 50 megawatts AC, and it's
colocated with the existing Kawaiola Wind Farm on land
owned by Kamehameha Schools.

The panels will be installed on long
racks with approximately -- a width of approximately
eight to ten feet, and approximately eight to ten feet
between the rows. So there is -- there will be room in
between the rows where grass will grow, and that's the
purpose of the aforementioned sheep that we can discuss
further. The approximate operational life of the project
is -- is approximately 30 years, so we're seeking the SUP
to allow for a 35 year period to allow for construction,
operation and the decommissioning effort.

We are planning to begin construction
on or about January 2016, and construction should take
about ten months, including the panels and the
substations for the project, and then interconnection
lines to the HECO switch yards. Once it's operating,
it's fairly passive aside from the motors, the project
will generate very little noise, very little sound. The solar farm, unlike the wind farm, is not staffed daily, we don't have people there on site. There's no buildings associated with the solar farm other than the small structure that holds the control equipment and keeps them out of the rain, but no occupied buildings and no parking. We'll be generally using the roads that were installed for the wind project, and then installing some additional roads that go within the solar arrays, which are the shaded purple areas on the map.

As mentioned previously, we'll have -- we have a letter of intent with Kualoa Ranch that they are planning to run sheep to manage the vegetation within the pasture area. It's sort of a, you know, as I explained before, it's a really positive symbiotic relationship. Once the grass -- the panels, you imagine, are at sort of a -- these sort of tables that will track throughout the day, but when they're at full tilt, the -- at say 45 degrees, the low edge will be between two and three feet off the ground and the high edge will be usually -- let's say six, seven feet off the ground on the high side. As the grass grows up, and the grass out there grows pretty quickly, the guinea grass will shade -- end up shading the panels, and you lose electricity, so one way or another, every solar farm has to maintain
vegetation at a very low level. And this is one of the reasons we are very interested on the solar side for having incurred sheep to help manage the vegetation.

There are two large utility scale solar farms on Kauai that I visited. They're not managed by our company, but by others, and they're owned by the utility on Kauai. There's one where they are going to have a -- they're going to have it manually -- have the grass cut manually, and so right now the grass is about -- I don't know, two feet high, pretty soon it will be shading the equipment, and there's another farm where it's going to be managed by sheep. There's a fixed pasture fence around the whole site, and then there's a movable fence about three feet high, electrified fence that's just moved within the site to create a paddock for the sheep, so he has about 100 sheep on site that he's moving -- the rancher at that site is moving place to place every few days and move the herd so they can graze the grass down, but not overgraze, and move them every few days. So that's sort of the model that we're looking to follow. It's done in other solar farms as well, and that's what we're looking to pursue at the site.

Regarding the question about -- the questions that came up from DLNR regarding the runoff from the site, the BMPs to manage water during the
pasture operation, while this -- if you can imagine the ranching operation probably isn't going to start -- can't start until after the solar project's been installed, all the fencing's been installed and the grasses are grown back enough in places so that we can -- you know, it has enough forage to -- for the sheep to come back on site, so it's still pretty early in our discussions with Kualoa Ranch. They're planning to come on, but we haven't really worked out the details of exactly where the facilities are going to go, where the water's going to go and where the gates need to be, but that -- that discussion will go on, you know, as we get further on in construction of the project.

So it's still fairly early, but Kualoa Ranch, our -- our plan is that we would expect whoever the -- the lessee, or in this case the sublessee is going to be, that they would work with a natural resource conservation service to develop a soil and water conservation plan for the property so that they -- their ranching operation is -- has a plan for sustainable and sort of -- a sort of approved plan for managing for water and soil runoff from the site, so that's what we're planning to do with Kualoa Ranch.

Other than that, our -- regarding the discussion that -- the questions that came up just
recently, we are planning in our -- in both projects where we have a special use permit, we are planning to provide an annual reporting to the planning commission and probably also copying the Land Use Commission where we would advise -- give an update as to the status of the project once per year, so we would be including information on, you know, as it gets further along the line what -- what is the -- who is the agriculture operator and what -- what is the business that's going on, so whether it's sheep or something else, and we can provide information on an annual basis as to the agriculture operations that are going on at the site, as well as any other information that we can provide about the project.

MR. SAKUMOTO: Mr. Chair, if I could just add, there -- one of the photos that we submitted, I think yesterday in that real thin supplemental packet, was taken from a car along the roadway, and the reason for that was actually to depict the drainage that's actually in existence on the property. There was drainage I think before First Wind took over the property to put the -- the wind farm, it was significantly improved and you can see it alongside the road, so I just wanted to make that clear, that there is drainage. I agree with Mr. Wescoatt that, you know, I think NRCS
approval of a soil and conservation plan would be
appropriate, but I -- I didn't want the commission to
think that there's no drainage on the facility right now,
on the property right now.
The -- the other thing I wanted to
mention, it dawned on me, was Miss Arakawa did a very
good presentation of the background, but I did want to
clarify this for the record, that the property actually
is not in pasture use right now, it's basically fallow,
so one of the things we're hoping is that with the
approval of this permit, that this land can be, you know,
put to active agricultural use once again. So that's it.
Do you want to introduce --

MS. NOZAKI: Sure. Good afternoon,
Chair Hazama and Commissioners. I'd like to call up
Crystal Kua to give some brief testimony. Crystal Kua is --
has been with First Wind, now SunEdison, LLC for just
over a year, and she is the director of external affairs,
who's -- who oversees governmental relations, media
relations and outreach community -- community outreach
efforts.

MS. KUA: Aloha, Chair Hazama and
members of the commission. Thank you for the opportunity
to testify. Basically the -- my testimony is about the
community outreach that we've done for this and other --
our other solar projects, but in essence, we began community outreach back in October 2013, we have reached out to individuals, small groups, large groups and also large conference in other community events. The -- the categories that we've reached out to folks are government officials, community leaders, business leaders, agricultural groups and environmental groups. Some of those, particularly the North Shore, some of the more important stakeholders are the -- reached out to both individually and as a group the members of the North Shore Neighborhood Board, the Sunset Beach Community Association and the Waialua Community Association.

We did present twice to the North Shore Neighborhood Board, one in January of 2014, it was a quick outline because of the -- the board had a full agenda, but we wanted to make sure that members of the community did know that we were working on this project, so we did a quick -- an outline of -- of our plans for solar, including the Kawailoa site.

Then in January 2015, this year, January 27, we did a full ten minute presentation and then took questions from the -- the community. We not only answered questions, we also accepted feedback on -- on, for example, one of the things that that community did talk to us about was the concern about visual
impacts. So what we did was we got some feedback from -- from them about, you know, where we should focus some of our work on -- on view amenities, and we did things like talk to different residents who have a view of our site, went to their homes and brought them along to the site.

And also, we are in the process of bringing the members of the North Shore Neighborhood Board and some other community leaders to show them the solar site, to show them where the site is in relation to the nearby residents, but our outreach does not end. We -- we -- I think we have a track record of continuing to reach out to the community and also to -- to get feedback and questions as projects are ongoing, and even after they're completed.

MR. SAKUMOTO: That's it.

COMMISSIONER HAZAMA: Any questions for applicant at this time?

COMMISSIONER SODARO: Actually, thank you, Miss Kua. You touched on it as it relates to scenic impact regarding the view, so you mentioned that you have toured individual residences. I would be interested in maybe for consideration for the commission before it goes to LUC that an actual view impact study be done. We appreciate the photos on the site, but obviously the windmills are visible. But I'm happy to hear you're
reaching out to people on an individual basis, but could you speak to the potential or give a study about Kamehameha Highway or commercial lines coming into Wahiawa in the past, right?

MS. KUA: Maybe -- maybe Mr. Wescoatt can elaborate, but we -- we have done simulations from different vantage points, and one of the things that we wanted to learn from the community was if there are other areas that we should be focusing our simulations on, so we did get a lot of good feedback from them, we did things like, you know, we sent a photographer out to surf sites, we sent people out to -- photographers out to the parks just so we could get an idea from different vantage points across the -- across the North Shore.

We also went to residents in Pupukea, who have the potential for visual impact, went to people's homes, talked with them, we sent a photographer up there so they could shoot pictures for simulations from those vantage points, and -- and then we're still in the middle of -- of getting those back, but we got a lot of really good feedback from the residents and some of the community leaders on some of the areas we should be focusing on for those -- for those simulations.

MR. WESCOATT: We have -- so we've done about -- probably done about 30 or 40 different what is
it going to look like from here, what is it going to look
like from here, and modeled where the solar farm's going
to be laid out and where can you see it from, and if you
think of -- so based on those, we've also done sort of a --
sort of a -- like a view plane study, just using the
elevation of the ground, and you know, from how far away
can you see it.

So basically it -- in general, it looks
like you can -- the project is going to be visible from --
from points along the Pupukea Ridge where you're actually
up higher than the farm, and then along Kamehameha
Highway, because there is a bluff between the highway and
the project, it's very difficult to see, you -- you
cannot -- it's difficult to get to a place where you can
actually view the panels. The panels are only let's say
average of six feet off the ground, and so unlike the
wind turbines, which are -- so in most cases near the
project it's -- it's very difficult to be anywhere where
you can see the project. However, once you get to -- I
think the first location where the panels were visible
was at Haleiwa Harbor, where if you were looking at the
right vantage you can see the panels in the distance from
Haleiwa Harbor, and again at Waialua, Mokuleia, so we
modeled some of those locations.

So as you move out from the project
past Haleiwa town, you can see the project in the distance, and I think mainly the concerns were people wanted to know where can we see it from, what's it going to look like. And so we've gotten a lot of follow up, we had a photographer, like Crystal said, take pictures from the water, Waimea, Haleiwa, Chun's, various locations, surf sites, and in all of those cases the panels were out of view because of the bluff, the land form is between the panels and wherever you would be on -- on your surfboard, so --

MR. SAKUMOTO: Commissioner, if I could point you to attachment nine of the application, there's a visual simulation that contains I think the photos that Mr. Wescoatt was referring to. So this is actually very helpful because you can get a sense of the scale of the property and roughly how far away you need to be just to be able to see it.

MR. WESCOATT: And some of the simulations in the water that I'm referring to are still being put together, so they're not all in that packet.

COMMISSIONER SODARO: What attachment?

MR. SAKUMOTO: Attachment number nine.

MS. NOZAKI: To the application.

MR. SAKUMOTO: Yes, to the application, the original SUP application. Can you pull that out and
circulate it?

MS. NOZAKI: If the commission would like, we can circulate a couple of copies, because it wasn't attached to the exhibit list, but to the original application.

COMMISSIONER HAZAMA: Commissioners, any questions of applicant at this time? Any other questions? Okay. I'm going to ask -- ask some questions, it's going to be a little unusual, but regarding your agricultural component, this -- this project is logistically as far as how the sites are set up, it's a lot different than your other project. This site seems to have several different separate penned off areas instead of just one big area. However, the whole amount of acreage is significant as far as the total map size. So based on your prior experience with other farmers from other islands, how many -- how many animals are going to be farmed for this whole project as far as a head count?

MR. WESCOATT: Yeah. No, that's a -- that's a great question. We've talked about that with several of the ranchers that we've met with, and the answer is they're not sure. And the reason why is because the -- normally let's say the normal metric is one acre of grass will support two sheep, for instance.
So you would, you know, we have 384 acres, you could presume there would be over 700 sheep.

However, because the solar modules are going to be providing shade, creating shade, there's not going to be as much grass growing on the -- underneath the panels, so we're going to need to -- the ranchers have said that they really need to understand what the shading is going -- what impact it's going to have on the grass growth, going to grow slower, it's not going to grow, you know, continuous, and so they have said -- I've asked could we at least say at least one to 200, and they said one to 200, no problem, hopefully more. So one to 200 is the best estimate, but they want to be able to manage the herd so that it is not too small to be able to keep all the grass down, but not too large in which they would have too many animals and there would be overgrazing. So I think the -- you know, about one to 200 is the number we've talked about so far. It's going to need some refinement as we get into the operation and they understand how the grass growth is impacted by the panels.

COMMISSIONER HAZAMA: So is the plan to move the herds between the sites or to permanently leave the herds at specific sites?

MR. WESCOATT: Okay. The plan is to
move the herds between the sites.

COMMISSIONER HAZAMA: So there is a path where they're going to be able to do that?

MR. WESCOATT: Correct. Correct.

COMMISSIONER HAZAMA: Between --

MR. WESCOATT: So where the -- where there's spaces between the purple shaded areas, there's existing roads, and Kamehameha Schools as the land owner also wants to be able to traverse the -- easily traverse the property from one side to the other, so they want those roads maintained. So rather than create gates and gradings where they have to cross, we try to fence the paddocks so that we could allow free access along the roadways, which is why the site is broken up, as you mentioned.

We would have -- the sheep would move -- the herd would move from site to site, spend a few days in each site moving with temporary fencing until that site is grazed and then move to another site. Each rancher probably is going to have to modify their size -- herd size and their methodology to keep the vegetation down at the whole site.

COMMISSIONER HAZAMA: So as far as farm structures for sheep, I don't know, what -- what do they need as far as -- just leave them out in the open and
they go on their merry way or --

MR. WESCOATT: Yeah.

COMMISSIONER HAZAMA: -- or you have to provide covering for them and the rain bothers them or --

MR. WESCOATT: No, the rain doesn't seem to bother them, but these guys would have the most covered lanai of any sheep farm that you can imagine. They can walk under the panels easily and get out of the rain if they wanted to. But there will be -- there's no additional facilities that need to be created other than fencing and loading areas, loading ramps, sheep on and off. And they'll be moving -- there will be gates installed facing the roadways so they can be moved across from one paddock to another.

COMMISSIONER HAZAMA: All right.

MS. NOZAKI: Chair Hazama, if I may supplement Mr. Wescoatt's testimony, I just want to provide some clarification as far as the site map, which was included as an exhibit to the director's report. And Mr. Wescoatt, please correct me if I'm wrong, but although the site map shows nine different sites, eight of which are petition areas in purple, each of those sites are not separated and won't be separately penned off, so there -- it's -- it may have roads going in between those portions, but they're not going to be
individually penned off like that.

Also, if -- if it gives you some sort of context as to the number of sheep that may be grazing on the operation or project site, the Kauai project, the solar farm, sheep grazing project has 20 to 30 sheep per several acres. It could be also as big as 350 sheep per 100 acres, so the estimate that Mr. Wescoatt gave you as far as one to 200 sheep is -- is pretty conservative, and the number of actual sheep would depend somewhat on the arrays -- the way they're arranged.

COMMISSIONER HAZAMA: So fence line then does not go around each site. Where are the perimeter fence lines located?

MR. WESCOATT: The -- so -- sorry. To -- to correct Ms. Nozaki, there will be fencing around most of the areas shown, but there may be some additional fixed fencing other than what's shown, so those areas might be broken up a little bit further just to facilitate a roadway where you don't have to have gates all the way along. So there may be some additional fencing in addition to that. It's not reflective of the final fence design.

COMMISSIONER HAZAMA: But the herd's basically penned in?

MR. WESCOATT: Correct. Correct.
COMMISSIONER HAZAMA: They're not free roaming?

MR. WESCOATT: Exactly. Yeah. And --

and that will also -- so they'll be within that fence
within a temporary fence, so they'll be in a smaller area
than shown on -- on there.

COMMISSIONER HAZAMA: Okay. Thanks.

COMMISSIONER HAYASHIDA: What do they do with lambs when they're -- when they give birth?

MR. WESCOATT: They generally stay with
the herd. And they -- they -- once they're raised to a
certain size, the rancher will -- once they're marketable
size, the rancher may take them off and may do some
finishing in another area or make sure that they're very
well fed before they head on onto the next phase of their
lamb existence. The farmer on Kauai that I was
mentioning earlier sells his lamb to Merriman's
restaurants, and so he has a good -- they get their solar
energy and lamb burgers at the restaurant.

COMMISSIONER YOUNG: Mr. Wescoatt, you
mentioned that the City would be informed if there were a
change besides sheep. What is the alternative?

MR. WESCOATT: There have been some
other possibilities that have been discussed for
agriculture operations, including possible -- on this
type of site, which include bees, we have a lot of interest from beekeepers in the area, and aquaculture is another possibility. There -- there's small pond aquaculture that might also be compatible with this type of site. We have for the -- for the reasons of grass management, I think we definitely favor sheep because that's a -- you know, both sides really benefit from that, so we're really hoping we can find a partnership where the sheep operation is feasible.

COMMISSIONER YOUNG: But if it weren't for sheep, bees and sheep aren't the same, right? So would there be any other animals that you could use for grazing?

MR. WESCOATT: There is also apparently -- I've heard of a small -- like what they call a low lying cattle, which is a very low profile type of cattle, which is another -- potentially could be another possibility. We could also do -- in terms of grazing, there are other animals that, you know, potentially could do, you know -- I don't know, pheasant or some other type of bird, but they wouldn't provide the grazing benefit, so we'd really -- we're really hoping to find a -- a compatible use would be grazing.

COMMISSIONER YOUNG: Are there different permits for different animals?
MR. WESCOATT: Not that I'm aware.

And -- and my understanding is the special use permit --

that the -- the agricultural operation itself would not

require, you know, doesn't require the -- the special use

permit, but the -- and so I'm not really familiar, I've

sort of been focusing on permitting for the -- for the

energy project, I'm not really familiar with the permits

for livestock.

COMMISSIONER HAYASHIDA: Goats are
destructive to the --

MR. WESCOATT: Goats, they're jumpers

and climbers, so I think I could envision them on our

solar panels, it would not be a good fit, probably.

MR. SAKUMOTO: Commissioner Young, if I

could just add to Mr. Wescoatt's response, I think if we

had livestock on the property, because this is ag one

zoning, I think we can put that on the property just as a

permitted use, in other words, you know, without any

zoning permit, just building permits that we would need

to fence it in. So it's, you know, it is in an

agricultural area, and it's zoned for ag, so I think --

yeah, we wouldn't need any other type of permits just to

have livestock grazing on the property. That's my

understanding.

COMMISSIONER HAZAMA: Any other
questions, Commissioners, at this time? No? Okay.

Thank you very much.

MR. WESCOATT: Thank you.

COMMISSIONER HAZAMA: Okay. At this
time, Commissioners, I'll open up public testimony on
this matter. Is there anyone wishing to testify before
the commission at this time? Okay. Anybody? Okay.
Seeing none, Commissioners, I'll have a motion to close
public testimony.

COMMISSIONER TOLENTINO: So moved.

COMMISSIONER HAZAMA: So moved and
seconded?

COMMISSIONER YOUNG: Seconded.

COMMISSIONER HAZAMA: Seconded. Any
objections to closing public testimony? Any abstentions?

Okay, public testimony is closed.

COMMISSIONER ANDERSON: I'd like to
make a motion to move to executive session.

COMMISSIONER HAZAMA: So moved, and
seconded?

COMMISSIONER SODARO: By myself.

COMMISSIONER HAZAMA: Any objections?

Any abstentions? Okay, at this time the planning
commission will move into executive session to consult
corporation counsel on the roles, responsibilities and
the duties of the planning commission. I ask that the room be emptied at this time.

(Break from 2:22 p.m. to 2:44 p.m.)

COMMISSIONER HAZAMA: Okay, thank you for your patience, I call the meeting back in order. At this time we'll call applicant and department up. Okay, Commissioners, any questions of applicant or department at this time?

COMMISSIONER SODARO: If the department could -- you may have touched on it, but could you go back to your report and just review the IAL component of this application?

MS. ARAKAWA: What specifically are you looking for?

COMMISSIONER SODARO: I -- I wanted to verify if all the sites were in the IAL. But the language says and surrounding lands, so I'm -- we're just trying to have clarity. All 300 and -- or let me look at the -- also, all 382 acres in the application are in the IAL.

MS. ARAKAWA: Okay. I'm sorry, but I don't -- I don't have the docket with me.

COMMISSIONER SODARO: Okay.

MS. ARAKAWA: So I wouldn't be able to identify which sites fall into the IAL.
COMMISSIONER SODARO: Does the agent of
the applicant know?

MR. SAKUMOTO: No, I'm sorry, I don't
know the answer to that.

COMMISSIONER SODARO: Okay.

MR. SAKUMOTO: The petition was filed
by another -- the landowner, Kamehameha Schools, so -- as
opposed to we're -- we're the lessee of a portion of
their land. I know the IAL covered a significant portion
of the property.

COMMISSIONER HAZAMA: Referring to the
IAL Land Use, 382 acres applies specifically to this
project.

COMMISSIONER SODARO: Right. So I'm
trying to understand are these 382 acres in that IAL
designation? That's -- that's what I'm asking.

MR. WESCOATT: My understanding is that
the entire project is within the IAL.

COMMISSIONER SODARO: Okay. Okay.

Thanks.

COMMISSIONER HAZAMA: Any other
questions at this time? I'm going to enter that this
particular project is on IAL land and that is
significant, to me anyway, it's a significant -- held at
a higher level as far as the ag lands since the State
approved the designation of this land. Of concern to me
is that we do have comments from the Department of
Agriculture with regards to the concerns regarding use,
agriculture use on this IAL land, and the lack I think of
the agricultural plan at this time during the application
submission. Taking into consideration the type of land
it is and the designation does raise some concerns for us
as far as submitting the recommendation in a package
forwarded to the LUC.

There are some concerns as well
regarding the requirement, and the statute regarding IAL
is not necessarily clear at all times regarding the
agricultural component use concurrently with the use of
the property for a non ag use. I understand what the law
does provide, however, some of the provisions in Act 55
as well as 205 leave some interpretation as far as which
way to guide the applicant, so those are my concerns.

Commissioner, do you have a motion?

COMMISSIONER SODARO: I'd like to offer
a motion to continue with the request of the applicant to
submit on the agricultural site plan, I guess maybe
detailing what you shared with us in a narrative. The
motion is to continue with a request for the applicant to
submit an agricultural site plan.

COMMISSIONER TOLENTINO: So moved.
COMMISSIONER HAZAMA: Moved and seconded. Commissioners, we're in discussion. As far as putting together one or development of one, where's the applicant sit in the process?

MR. SAKUMOTO: Chair Hozama, I think the -- the answer to that is -- Mr. Wescoatt touched on it, the ability of the sheep rancher to put together a plan. We can ask them to do that. It would be based on a number of assumptions obviously that they would have to make, because as he mentioned, you know, the actual implementation is going to depend upon how the -- the grass actually reacts to the solar panels above it before they can commit to a certain amount of sheep on the property.

But if that type of plan is acceptable, you know, I think it's a reasonable request. I just have one request of the commission, if we could find our way onto your agenda sooner rather than later on the continued hearing. We are trying to meet a schedule of actually being able to turn on the -- or activate the solar energy facility by January 1 of 2017. So to do that, you know, we need to get an approval from this commission, and as you know, then get an approval from the Land Use Commission, and then we'll have ten months of construction, which is going to put us well into, you
know, 2016 to try and rush and get it done and activated
by 2017. So we are kind of racing against that clock, so
that's -- that's the request I have if the commission is
inclined to actually continue this, that we try to be
placed on an agenda as soon as possible.

COMMISSIONER HAZAMA: Well, if we can
try and make a commitment, however, a lot of that would
rely upon your ability to come up with a plan. I guess
to be fair to the applicant to explain the commission's
dilemma as far as our concern, being IAL land, like I
said, it's held at a higher standard, so obviously there
must be -- there must be an agricultural component to
this project. We don't hold the applicant at fault,
because you didn't write Act 55, you didn't write 205,
and there are areas, like I said, that aren't clear as
far as clarity in regards to IAL land specifically.
So we're just trying to make sure that,
like I said, when we get your plan, it may not be -- it
may not be perfect, it may not be able to address issues
that will probably come up during construction, things
like that, but we need to see something in order to
forward this on to the LUC to ensure them that there is a
agricultural component and what that component is in
order for us to pass it on. Is that clear as far as the
commission's point of view or --
is Wren from SunEdison, I would -- we're still really at
the early stage. Clearly, we're -- we're the solar
operator, so we're not the sheep rancher. We've been in
discussion with several ranchers, but we're at -- that is
at the very early stage. We have not selected -- well,
we have a letter of intent, we haven't selected the final
lessee. They haven't developed an exact -- they haven't
developed an exact plan for the site because it's still a
few years out before they would begin operation. So we
are, you know, we're at the very early stages of this.
It would be difficult to give a lot of detail, which I'm
sure you'd want to see in an agricultural plan. I think
we're at the -- a very early stage.

COMMISSIONER HAZAMA: I guess maybe
this train of thought. If hypothetically your leasing --
or your leasing plans fall through, would you be able to
locate another sheep farmer that could do the same thing?
In which case I guess we're asking your plan to not be
specific necessarily to a specific farmer, but what your
overall plan concept is as far as what your agricultural
component is going to be for this property.

MR. SAKUMOTO: Chair Hozama, if I could
offer this one suggestion for the commission to consider,
I think that, you know, based on the timing of events,
what -- what might also work is that the commission impose a condition on the applicant to produce that ag plan under a certain timetable, and obviously we don't do that, you can call us back, you have the power to revoke the permit later. But what it would allow us to do is, you know, keep the process moving forward and stay within the timetable. If we don't produce the plan that's acceptable, you can always bring us back before this commission to answer for, you know, where we are at that time.

I think the meaningful ag plan, one that you may be looking for, can probably be produced once we get closer to the actual operation of the project, but I guess if we're to do one now, it would be, you know, based on a number of factors that we'd be speculating on at this point. That's my only thought.

COMMISSIONER HAZAMA: I guess -- I guess -- don't you think the LUC would ask -- they can stop you, too. They are actually the planner, and you know, you have to come back to two parties instead of just one so --

MR. WESCOATT: It could be a condition of the -- one of the conditions of the permit that's made at this level, and then the LUC could approve as well.

We could submit a plan, having more time would give us a
1 chance to submit, you know, a more -- I think a plan
2 that's more reflective of what would actually be built in
3 the field.

COMMISSIONER HAZAMA: Why don't we do
5 this? I will -- we can schedule a relatively quick date
6 back to the commission, and we will request that you
7 submit a preliminary ag plan to us. Then a condition
8 will be going forward that you'll have a final ag survey
9 at a certain time in the process. Yes?

COMMISSIONER TOLENTINO: Chair, we only
11 set you up on a timeline, and you know, speaking of the
12 ag plan, you know, if you -- if you consulted 13
13 different farmers, you would have 13 different plans, but
14 I think what we're also looking for, more importantly, is
15 the commitment of the applicant for the continuous use of --
16 of the ag parameters, and if you could incorporate that
17 in the next report, I think that would move you a little
18 bit further.

MR. SAKUMOTO: If I may add to -- the
20 plan is, as you probably know, that the City has an
21 agricultural dedication process where we can file a
22 petition with the City where we commit to dedicating the
23 land to agricultural use for -- I think it's periods of
24 one year, five years and ten years. And that's available
25 to, you know, landowners that have agricultural lands,
1 and I think the -- the applicant is committed to doing
2 that once they are in a position to do ag use. But I
3 guess the point I wanted to make was that even the City's
4 ag dedication process, they'll give you a break on the
5 tax assessed value of your land as long as you're using
6 it for agriculture purposes, but the law also recognizes
7 the reality that there will be times when, for example,
8 one rancher will fail and the landowner's looking for
9 another one, and they find one, but there's a gap in
10 time. So it's not 100 percent continuous, but as long as
11 it's generally continuous and then during the gaps the
12 owner is actively seeking another active agricultural use
13 that I think the City has recognized the reality of
14 agriculture in Hawaii, that you know, there isn't 100
15 percent, but you can always get as close to that as -- as
16 you can possibly do. So yeah, that -- I guess what I'm
17 just saying is that we can make that commitment, and I
18 think to -- if it's not being actively used at that
19 moment, that we're actively seeking another user.
20
21 COMMISSIONER HAZAMA: How long is your
22 lease? What is your lease period?
23
24 MR. WESCOATT: It is -- it follows the
25 power purchase agreement with HECO, so currently it's 27
26 year -- if the PPA is 27 years, the lease is 27 years.
27 It could go longer if the project continues.
COMMISSIONER HAZAMA: So does applicant have any objections to coming back to the commission on the 15th of this month to submit a preliminary agricultural plan?

MR. SAKUMOTO: No, we have no objections to that.

COMMISSIONER HAYASHIDA: Chair, I have a comment.

COMMISSIONER HAZAMA: I'm sorry.

COMMISSIONER HAYASHIDA: So I mean I -- I appreciate sheep on the -- as a preliminary plan, but I would like you to also be able to have a backup plan that would address another ag use, whether -- of those three, which is beekeeping, aquaponics or whatever it was, at least have a backup plan that shows that you have made provisions that another use can come in as you -- that would be my request.

COMMISSIONER HAZAMA: Okay. Any other comments or questions? Department, do you have any?

MS. ARAKAWA: So just to clarify, in our recommendation to planning commission, we have this condition, condition number one, which requires the applicant to have such operations established within a
1 year, or actively seeking to have this operation
2 established, and we also require an annual report to that
3 effect where they need to report back to us on their
4 progress, so this ag plan would be on top of that, I
5 guess is what you're asking for, some kind of commit --
6 written commitment.

COMMISSIONER HAZAMA: The ag plan is
7 more from the applicant side as far as what their plan is
8 on what the ag component plan is going to be for this
9 project in detailing, you know, more specifics as far as
10 what they've got to do, who -- who their potential
11 partners are or not, things of that nature. We will wait
12 to review the preliminary plan, I think, before we move
13 onto the other conditions as far as the director's
14 report, because it does mention in the director's report
15 that it requires a plan. It's kind of -- we have a
16 question with that, too, as far as what -- it doesn't say
17 when or what the plan entails, it just says the director
18 wants a plan. So we're trying to figure out the plan
19 before construction, before permits are issued or --
20 because it's not specific in the report as far as what --
21 the director basically says I want a plan, too, but he
22 doesn't say what the plan should entail and when the plan
23 should be submitted. So, okay.

MS. ARAKAWA: And I think that goes
back to the Chapter 205 language in there that basically just says that, and again, ILSI, right, this is just that the applicant shall actively seek, or make the lands available, not necessarily have it in ag production.

COMMISSIONER HAZAMA: I'll go with your read. The department and the DLNR's response to the application, they mention or -- that they would like to see specifics as far as what the ag component entails. Of course, they're only comments. They are the agricultural department that leads the State, so we would like to kind of somewhat be able to address or include in that -- in our package to the LUC something that addresses those concerns as well. Yes, ma'am.

MS. SOKUGAWA: Just a point of information. I recognize the difficulty the planning commission has, which is balancing a vague Chapter 205, but the State's clear policy to adopt alternative resources for energy, and that any delays in the delivery of alternative energy, you know, we need to weigh very carefully, because we do want to be more self sustaining in our energy. So there are two balancing public policy issues that you're grappling with. But I just want a point of simple information, so if you've closed the public hearing, does that mean that they're required to render a decision within 30 days of the close?
COMMISSIONER HAZAMA: That's correct.

MS. SOKUGAWA: According to the rules?

So I just want everybody to be aware of the time issue.

COMMISSIONER HAZAMA: If we close the public hearing, we have 30 days to render a D&R on this application, so having a meeting on the 15th will meet that requirement. Okay. Any other questions for the department, or department, do you have any other comments?

MS. ARAKAWA: No. Thank you.

COMMISSIONER HAZAMA: Okay. All right.

Commissioners, I have a motion on the floor to continue the hearing until April 15 at 1:30 here. Any objections? Any abstentions? Okay, we will continue this meeting until April 15. I thank the applicant and the department. At this time, Commissioners, we have no other items on the agenda. Do we have a motion to adjourn?

COMMISSIONER CHANG: So moved.

COMMISSIONER YOUNG: Seconded.

COMMISSIONER HAZAMA: Moved and seconded. Any objections? Any abstentions? This meeting is adjourned. Thank you very much.

(Meeting adjourned at 3:04 p.m.)
CERTIFICATION

I, SHIRLEY L. KEYS, Certified Shorthand Reporter of the State of Hawaii, do hereby certify that the foregoing is a true and correct transcript of the stenographic notes of the testimony taken by me in the above-captioned matter.

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SHIRLEY L. KEYS, CSR #383

Dated: April 7, 2015