

PLANNING COMMISSION  
CITY AND COUNTY OF HONOLULU

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July 19, 2017

Mr. Daniel E. Orodener  
Executive Officer  
State Land Use Commission  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

Dear Mr. Orodener:

**SUBJECT: Special Use Permit Amendment Application  
File No. 2014/SUP-6 Kawaihoa PV, LLC and  
Land Use Commission Docket No. SP15-406**

At its meeting of June 21, 2017, the City and County of Honolulu Planning Commission approved Petitioner's request for amendments to Special Use Permit (SUP) File No. 2014/SUP-6. Attached is the Planning Commission's Decision and Order approving in part the Petitioner's request to modify conditions of the SUP. As the SUP involves land area exceeding 15 acres, the record of the proceedings before the Planning Commission, including original materials, one paper copy, and a digital copy of the record on digital media is transmitted for your consideration. An index of the record is also included for your use.

I am also transmitting for your information a supplemental comment letter from the State Department of Transportation dated June 29, 2017, and received by the Department of Planning and Permitting on July 10, 2017. This letter is not part of the record of the Planning Commission's proceedings on the subject SUP amendment application.

If you or your staff have any questions, please contact Raymond Young of the Department of Planning and Permitting at 768-8049.

Sincerely,

A handwritten signature in black ink, appearing to be "D. Hazama", is written over a faint circular stamp.

DEAN I. HAZAMA, Chair  
Planning Commission

DH:gt  
Attachments  
Doc 1485735

BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION )

FILE NO. 2014/SUP-6

OF )

KAWAIILOA SOLAR, LLC )

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DECISION AND  
ORDER

FOR AN AMENDMENT TO )

STATE SPECIAL USE PERMIT )

**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND DECISION AND ORDER**

This matter came before the Planning Commission of the City and County of Honolulu for public hearing on June 21, 2017, at the Mission Memorial Conference Room in Honolulu, Hawaii. Based on the record in this matter, the Commission hereby finds as follows:

**FINDINGS OF FACT**

A. Background

1. On May 8, 2015, the Planning Commission ("PC") approved with conditions Kawaiiloa Solar, LLC's (also referred to as "Petitioner" or "Applicant") Special Use Permit ("SUP") application to establish a 50 megawatt solar energy facility ("SEF") on 382.2 acres within the State Land Use Agricultural District (hereinafter the "Project").

2. The Project is located primarily on Land Study Bureau Overall Master Productivity rating Class "B" lands. Remaining portions of the Project are located on Class "C" and Class "E" lands.

3. On June 29, 2015, the State of Hawaii Land Use Commission ("LUC") approved the SUP application granted conditional approval by the PC, with modifications ("LUC Order"). Condition No. 6 requires the Petitioner to establish the Project within two years after the date of the LUC Order, or June 29, 2017, and any requests for extension of this deadline shall be filed with the Department of Planning and Permitting ("DPP") prior to the expiration of the deadline.

4. In October 2016, NRG Energy, Inc. acquired Kawaiiloa Solar, LLC and the Project during the bankruptcy proceedings of the Petitioner's former parent company SunEdison, Inc. filed in April 2016.

5. On March 17, 2017, the DPP received a letter from the LUC stating that the PC could not extend the deadline to establish the Project without concurrence from the LUC.

6. On April 21, 2017, the Petitioner filed its request to amend the SUP, LUC File Number SP15-406 and DPP File Number 2014/SUP-6.

B. Description of Proposal

7. The Petitioner proposes the following amendments to the SUP:

- a. LUC Order Condition No. 6. Condition No. 6 requires the Petitioner to establish the SEF within two years after the date the LUC approved the SUP. Petitioner requests that the two-year deadline to establish the SEF be extended by 30 months from the date the SUP amendment is approved by the LUC. Condition No. 6 also specifies a termination date of the SUP, which is 35 years from the date the LUC approves the SUP. The Petitioner requests that the SUP termination date be 35 years from the date the LUC approves the SUP amendment.
- b. LUC Order Condition No. 8. Condition No. 8 allows future major modifications to the SUP to be approved by the PC and subsequently, the LUC. One type of modification which requires PC and LUC review is a significant increase in the number of PV panels proposed. The Petitioner proposes to modify this condition by replacing "number of" to "area covered by" PV panels. The proposed modification removes any reference to the number of panels from Condition No. 8 and adds "area covered by" PV panels as an example of a major modification.
- c. LUC Order Condition No. 4. Condition No. 4 requires a specified amount of funds to decommission the Project. Petitioner requests that the amount specified be an approximate dollar amount.
- d. Petitioner also requests design changes to include a 6-foot high chain-link parameter fencing in place of 4-foot high hog wire fencing and an increase in power production from 50 megawatts to 51 megawatts. This does not require amendments to the LUC conditions of approval, but is disclosed to update the Project description and the Findings of Fact of the LUC Order.

8. The DPP supports the Petitioner's proposal except where the Petitioner proposes in LUC Condition No. 4 that the amount of funds specified to decommission the Project be an "approximate" amount. DPP recommended to the PC that the word "approximate" be replaced with the term "no less than". At the PC hearing of June 21, 2017, the DPP stated that DPP's recommended amendments to Condition No. 1, to address comments submitted by the State Department of Agriculture relating to the potential impacts Project modifications may have on agricultural operations, have been satisfied by the Petitioner and imposition of these amendments were no longer necessary.

