

**DEVELOPMENT PERMIT REQUEST
Presentation Hearing Staff Report**

KAL 21-004: Kalaeloa Home Lands Solar Project

September 1, 2021

I. REQUEST

Kalaeloa Home Lands Solar, LLC (Applicant) is requesting a Development Permit (Permit) to construct a new 29.84-acre photovoltaic solar power generation project on Tax Map Key (1) 9-1-013: 029 (Project) owned by the Department of Hawaiian Home Lands. The Permit is requested in accordance with Hawaii Administrative Rules (HAR) Chapter 15-215, Kalaeloa Community Development District Rules (Kalaeloa Rules).

The Project site is located North of Navy Bio-solids parcel, South of Midway Road, East of Perimeter Road and West of the Kalaeloa Airport crosswind runway 11-29. The Applicant's Development Permit Application (Permit Application) and Project Authorization form, signed by the landowner, were submitted to the Hawaii Community Development Authority (HCDA) on July 22, 2021.

In conjunction with the Permit, the Applicant is also requesting the following three major variances from the Kalaeloa Rules pursuant to HAR §15-215-81 Variances, which provides a mechanism for relief of strict adherence to the Kalaeloa Rules:

1. HAR §15-215-43 (c) Architectural standards – Fences, walls, and hedges – Deviate from the maximum fence height allowed and increase the height of the proposed Project perimeter fence to be constructed/installed, from three feet to six feet.
2. HAR § 15-215-44 (1) and (4) Landscape – Deviate from all landscaping requirements for required yards; Deviate from required automatic irrigation system requirements relating to rain or moisture sensors and a water waste elimination system.
3. HAR §15-215-46 (c) Open space – Deviate from the minimum of 20 percent open space requirement to provide 10 percent (129,808 square feet) of open space.

The Applicant will make a presentation to the Authority at the Request for Major Variances Public Hearing on Thursday, September 2, 2021, at 9:00 a.m.

II. COMPLETENESS REVIEW, AUTOMATIC APPROVAL AND FILING FEES

In a letter dated July 26, 2021, the Applicant was informed that the Permit Application for the Project was complete. The completeness letter is attached as Appendix A. Pursuant to §15-215-84 of the Kalaeloa Rules, the Permit Application will be deemed automatically approved if no decision is made by the HCDA granting or denying approval within 120 days from the date of the submission of a complete application. The automatic approval date for the Permit Application is Friday, November 26, 2021.

Permit Application fees were paid in accordance with the provisions of §15-215-91 of the Kalaeloa Rules and the Applicant has committed to pay its required portion of the public hearing fees when invoiced.

III. PUBLIC HEARING NOTICE AND COMMUNITY OUTREACH

Prior to submitting the Permit Application, the Applicant presented the Project to HCDA at its April 7, 2021, meeting where members of the public were afforded the opportunity to provide comments on the Project. On August 25, 2021, the Applicant presented the Project to the Makakilo/Kapolei/Honokai Hale Neighborhood Board.

In accordance with the provisions of §206E-5.6, Hawaii Revised Statutes (HRS), a notice of public hearings (Notice) for the Project was published in the Honolulu Star-Advertiser, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today and Maui News on July 30, 2021. In accordance with the provisions of §206E-5.6, HRS, the President of the Senate and the Speaker of the House of Representatives were notified upon posting of the Notice. The Kapolei Chamber of Commerce, various elected officials, State and County agencies, and utility companies that service the area were also notified of the public hearings.

The Notice was provided to individuals and organizations that have shown interest in the development in Kalaeloa in the past and requested that they be kept informed of development activities in the district. A copy of the Notice is attached as Appendix B. The Project Application were posted on the HCDA website and the public was encouraged to provide comments on the Project.

In accordance with the provisions of HRS §206E-5.5, the Applicant confirmed that it also notified both owners and lessees of record of real property within a three-hundred-foot radius of the Project.

The deadline for filing for intervention was Thursday, August 19, 2021. HCDA received no requests for intervention.

IV. GOVERNMENT AGENCY AND UTILITY COMPANY CONSULTATION

The Applicant consulted with the following government agencies and utility companies for review and comment on the Project.

Federal

- Federal Aviation Administration

State of Hawaii

- Department of Transportation
- Department of Hawaiian Home Land
- Department of Land and Natural Resources, State Historic Preservation Division (SHPD).

City and County of Honolulu

- Department of Planning and Permitting, and
- Honolulu Fire Department.

Utility Companies

- Kalaeloa Water Company/Hawaii Water, LLC,
- Hawaiian Electric Company, Inc.,
- Hawaiian Telcom, Inc., and
- Spectrum.

The Applicant included the comments received from these agencies and utility companies as part of the Permit Application. Subsequently, after receiving the Permit Application and deeming it complete, the HCDA also provided a link to the Permit Application to the following government agencies and utility companies for review and comment.

Federal

- Federal Aviation Administration

State of Hawaii

- Disability and Communication Access Board,
- Department of Education,
- Department of Transportation,
- Department of Transportation, Highways Division,
- Department of Transportation, Airports Division, and
- Department of Health.

City and County of Honolulu

- Department of Transportation Services,
- Department of Planning and Permitting,
- Honolulu Board of Water Supply,
- Department of Environmental Services,
- Honolulu Authority for Rapid Transportation,
- Honolulu Police Department, and
- Honolulu Fire Department.

Utility Companies

- Kalaeloa Water Company/Hawaii Water, LLC, and
- Hawaiian Electric Company, Inc.

Comments received as part of the Permit Application review were provided to the Authority and posted on the HCDA website prior to the September 1, 2021, Presentation hearing.

V. STATE HISTORIC PROPERTY REVIEW

Pursuant to §6E-42, HRS, the HCDA is required to advise SHPD of any project which may affect historic property, aviation artifacts, or a burial site (collectively, historic properties), and prior to HCDA's approval of a permit for the Project, allow SHPD the opportunity for review and comment on the effect of the proposed Project on historic properties. On May 14, 2020, SHPD concurred with HCDA's HRS 6E project effect determination of "No historic properties effected" SHPD's concurrence letter is attached as Appendix C.

VI. PROJECT DESCRIPTION

The Project will construct a series of ground supported flat panels accompanied by control/cabinet enclosures and transformers. Solar panels will be mounted on tracking mechanisms which allow the panels to follow the sun to maximize power output. All-weather gravel maintenance roads will be constructed around the site perimeter and between rows of solar panels. Each panel is approximately 39 inches wide and 66 inches long, dark in color, and stand between six and eight feet above ground level. The maximum height varies throughout the day as panels move to maintain the best sun angle. The facility will be unmanned except for periodic maintenance activities such as mowing, landscaping or panel cleaning. No employee housing or other habitable structures will be constructed on the site.

Land Use and Zoning

The Project site is identified as a Transect 3 - General Urban zone (T3) in the Kalaeloa Rules. The T3 zone is characterized as mixed use with a commercial

emphasis. Pursuant to HAR § 15-215-79, *Conditional Use Permit* and Figure 1.7, *Land Use*, 'Solar Farm' is permitted as a Conditional Use and requires a Conditional Use Permit (CUP) approval by the Authority. At its July 7, 2021, meeting the Authority approved the CUP which is attached as Appendix D.

The Applicant for the Project is consistent with the provisions of §15-215-23(b)(3) T3 zone and Fig. 1.7 Land Use of the Kalaeloa Rules.

Building Height

Pursuant to HAR § 15-215-42 and Figure 1.3 of the Kalaeloa Rules restricts building heights to sixty (60) feet in the T3 zone. The proposed maximum height of the Project is approximately ten (10) feet.

Landscape

Pursuant to HAR § 15-215-44 and Figure 1.10 Preferred Plant Species of the Kalaeloa Rules provides landscaping requirements applicable to the Project. The Project fronting the West Perimeter Road will comply with the landscaping requirements by planting new naupaka shrubs or similar selected from the figure listed above.

Due to the nature of the Project, with no active uses, floor areas and buildings, the following provisions of HAR Chapter 215 are not applicable:

- HAR Chapter 215, Figure 1.3, Development Standards Summary, pertaining to Density,
- HAR Chapter 215, Figure 1.3, Development Standards Summary, pertaining to Building Form,
- HAR § 15-215-38, Building Type,
- HAR § 15-215-39, Frontage Type,
- HAR § 15-215-41, Building Placement,
- HAR § 15-215-45, Recreation Space,
- HAR § 15-215-47, Parking,
- HAR § 15-215-47 (1), Loading,
- HAR § 15-215-48, Green Building,
- HAR § 15-215-62, Large Lot Development,
- HAR § 15-215-64 (a), Public Facilities Dedication; and
- HAR § 15-216-17, Requirement for Reserved Housing

VII. DEVELOPMENT PERMIT PROCEDURES

Pursuant to §15-215-78 and Figure 1.1 of the Kalaeloa Rules, developments within the Kalaeloa CDD require a Development Permit that is subject to Authority review

and approval. Section 206E-5.6, HRS, requires that when rendering a decision regarding the acceptance of a developer's proposal to develop lands under the Authority's control, the Authority shall render its decision at a public hearing separate from the hearing at which the proposal was presented. This essentially requires that the Authority conduct two separate public hearings in rendering a decision regarding a Development Permit.

Section 15-215-78(e) of the Kalaeloa Rules requires the following findings of fact in approval of a Development Permit:

- (1) **Consistency with the Kalaeloa Master Plan:** That the Project complies with and advances the goals, policies, and objectives of the Kalaeloa Master Plan;
- (2) **Consistency with the Kalaeloa Rules:** That the Project complies with the Kalaeloa Rules; and
- (3) **Compatibility of the Kalaeloa CDD:** That the Project proposal will not have a substantial adverse effect on the surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area.

The Applicant's proposed findings in response to the requirements listed above are provided in Table 1 and 2 of the Permit Application.

VIII. PUBLIC TESTIMONIES

All Project related public testimony that was submitted by noon on the day prior to the presentation public hearing was provided to the Authority and posted on HCDA's website.

Attachments: Appendix A Completeness and Automatic Approval Letter
Appendix B Notice of Public Hearing
Appendix C SHPD Concurrence Letter
Appendix D Conditional Use Permit