



DEREK S.K. KAWAKAMI, MAYOR
 REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of Class IV Zoning Permit, Use Permit, and Special Permit to allow construction and use of a new solar energy facility and associated site improvements.

Permit Application Nos. Class IV Zoning Permit Z-IV-2026-12
 Use Permit U-2026-9
 Special Permit SP-2026-4

Name of Applicant(s) KAAWANUI SOLAR, LLC.
 Belles Graham LLP, Authorized Agent
 Matsubara Kotake & Tabata, Authorized Agent

II. PERMIT INFORMATION

PERMITS REQUIRED	
<input checked="" type="checkbox"/> Use Permit	<p>Pursuant to Section 8-2.4(r)(22) of the Kaua'i County Code (KCC), 1987, as amended, solar energy facilities are a permitted use within the County of Kaua'i Agriculture Zoning District on lands with soil classified by the State of Hawai'i Land Study Bureau detailed land classification as overall productivity rating class B and C, provided that the project area does not occupy more than ten percent (10%) of the acreage of the parcel, or 20 acres of land, whichever is less. Since the project area occupies more than 20 acres of land, a Use Permit is required.</p> <p>Pursuant to Section 8-2.4(s)(16) of the Kaua'i County Code (KCC), 1987, as amended, a Use Permit is required for private and public utilities facilities in the County of Kaua'i Agriculture Zoning District.</p> <p>Pursuant to Section 8-2.4(u)(14) of the Kaua'i County Code (KCC), 1987, as amended, a Use Permit is required for utility installations within the County of Kaua'i Open (O) Zoning District.</p>
<input type="checkbox"/> Project Development Use Permit	
<input type="checkbox"/> Variance Permit	

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<input checked="" type="checkbox"/> Special Permit	Pursuant to Section 205-2(c)(6)(B) of the Hawai'i Revised Statutes, a Special Permit is required for solar energy facilities located on lands with soil classified as overall productivity rating class B and C, and which the project area occupies more than ten percent (10%) of the parcel's total acreage, or 20 acres, whichever is less. Since the project area occupies more than 20 acres of land, a Special Permit is required.
<input checked="" type="checkbox"/> Zoning Permit Class <input checked="" type="checkbox"/> IV <input type="checkbox"/> III	Pursuant to Section 8-3.1 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Use Permit.
<input type="checkbox"/> Special Management Area Permit <input type="checkbox"/> Use <input type="checkbox"/> Minor	
AMENDMENTS	
<input type="checkbox"/> Zoning Amendment	
<input type="checkbox"/> General Plan Amendment	
<input type="checkbox"/> State Land Use District Amendment	

Date of Receipt of Completed Application:	January 12, 2026
Date of Director's Report:	February 9, 2026
Date of Public Hearing:	March 10, 2026
Deadline Date for PC to Take Action (60TH Day):	April 19, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	The project site is located on lands located on the <i>mauka</i> side of Kaunuali'i Highway in Makaweli, directly across from the Makaweli Post Office facility, and situated along Ka'awanui Village Road.		
Tax Map Key(s):	(4) 1-7-006: 006 (por.) and 010 (por.)	Area:	Project Area: 269.195 Acres Overall Parcel Area: 5,006.74 Acres
ZONING & DEVELOPMENT STANDARDS			
Zoning:	Agriculture (Ag) and Open (O)		
State Land Use District:	Agricultural		
General Plan Designation:	Agriculture		

Height Limit:	Fifty (50) feet
Max. Land Coverage:	60%
Front Setback:	10'-0"
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	West Kaua'i Community Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on January 12, 2026, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	March 10, 2026

V. PROJECT DESCRIPTION AND USE

The Applicant proposes to construct a 52-megawatt direct current (DC) and 43-megawatt alternating current (AC) solar energy facility, encompassing approximately 269.195 acres of the subject property (approximately 5,006.74 acres). The proposed development will consist of the following components:

- Installation and operation of a ground mounted solar photo-voltaic system with solar panels and racking system. The solar panels will be mounted on single-axis trackers that will rotate along a fixed horizontal axis from east to west, tracking the movement of the sun. The average height of the solar panels will be five (5) feet off the ground when in a flat position, with a maximum height of eight (8) feet when panels rotate;
- Installation of power conversion stations;
- Installation of a 172-megawatt hour battery energy storage system;
- Installation and operation of two new substations consisting of the AES Hawai'i Substation and the Ka'awanui Substation, along with associated interconnection lines. The substations will include shield wire metal masts approximately 45 feet in height at the AES Hawai'i Substation and 60 to 70 foot in height at the Ka'awanui Substation;

- A network of electrical collector lines;
- Communications equipment;
- Installation of an operations and maintenance shed that will be 12 feet in height with an overall building footprint of approximately 840 square feet for office purposes, remote site monitoring, equipment, and storage.

The solar project site will consist of six (6) fenced solar array areas, each enclosed by a seven (7) foot high chain link perimeter fence. Access roads will be provided throughout the site to serve all major equipment, and the solar panels will be spaced to allow vehicle access between rows. New landscaping will be installed and maintained around the project site to mitigate visual impacts. As shown in the Preliminary Landscape Site Plan dated September 2025, the Applicant proposes to install a row of indigenous and endemic plants along the portion of the project perimeter adjacent to Kaumuali'i Highway.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for MARCH 10, 2026. At the present time, the department has only received comments from the COK Transportation Agency, and the State Department of Health, and has not received comments from other reviewing agencies that includes the COK Public Works – Engineering Division (DPW) and COK Water (DOW). However, comments are being anticipated and will be presented at the public hearing.

VIII. FINDINGS

1. Project Site and Surroundings

The subject property is located within the County's Agriculture (Ag) and Open (O) zoning districts and the State Land Use Agricultural District. The surrounding properties to the north, south, east, and west are similarly zoned; however, located immediately northeast of the project area is the Ka'awanui Village Urban Zoning Expansion Area that was recently rezoned from the State Land Use Agricultural District to the Urban District, and from the County's Agriculture District to the Plantation Camp (PC) Zoning District.

The project site is situated adjacent to Kaumuali'i Highway and extends approximately one (1) mile *mauka* along both sides of Ka'awanui Village Road. The project area comprises of pastureland and fallow agricultural fields, with surrounding areas consisting of former plantation lands repurposed for grazing or left in open pasture.

Located approximately one hundred (100) yards northeast from nearest point of the project area is Ka'awanui Village, which consists of residential structures. Immediately northwest of the project area is a residential dwelling on TMK: 1-7-006: 011.

Approximately 250 yards further northwest is another residential dwelling situated within the project's subject parcel TMK: 1-7-006: 006.

2. Access

Ingress and egress to the project site will be provided via Ka‘awanui Village Road, an improved private roadway that connects to Kaumuali‘i Highway, as well as a separate access connection to Kaumuali‘i Highway located approximately 0.2 miles west of the Ka‘awanui Village Road and Kaumuali‘i Highway intersection.

3. Soils

The Detailed Land Classification Study prepared by the Land Study Bureau (LSB) identifies the soils of the affected parcels containing a combination of Class “B” & “C” soils. The study provides a “five class” productivity rating from “A” to “E”, with “A” representing the class of highest productivity and “E” representing the lowest. As represented, the solar facilities will occupy areas with primarily LSB B-rated soils and some LSB C-rated soils.

4. Flood Zones

The Federal Emergency Management Agency (FEMA) Flood Insurance Map shows the project site is situated within the flood zone identified as Zone ‘X’. FEMA has identified those areas within the Zone “X” to be outside the 0.2% annual chance floodplain.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant’s request to construct and operate the proposed solar energy facility, the following should be considered:

1. Hawai‘i Revised Statutes (HRS), Section 205

Under HRS §205-4.5, solar energy facilities are a permissible use within the State Land Use Agricultural District on Class B or C soils, subject to the following requirements:

a. HRS §205-4.5(a)(20) specifies:

“(20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser or for which a special use permit is granted pursuant to section 205-6...”

- The Applicant has applied for a Special Permit in accordance with this subsection.

b. HRS §205-4.5(a)(21) further specifies:

“(21) Solar energy facilities on lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:

- (A) The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;*

- The Applicant has made design considerations to maximize contiguous space between solar panels for agricultural cultivation and to enable as many agricultural uses as possible. As identified in the application, AES has selected Kawaihana, Inc. as an agricultural partner for the project. As represented, AES intends to provide lease-free use of the project land, thereby exceeding this requirement.
- (B) *Proof of financial security to decommission the facility is provided to the satisfaction of the appropriate county planning commission before the date of commencement of commercial generation; and*
 - The Applicant acknowledges this requirement and will be required to provide proof of financial security prior to the closing of the building permit for the solar energy facility.
- (C) *Solar energy facilities shall be decommissioned at the owner's expense according to the following requirements:*
 - (i) *Removal of all equipment related to the solar energy facility within twelve months of the conclusion of operation or useful life; and*
 - (ii) *Restoration of the disturbed earth to substantially the same physical condition as existed before the development of the solar energy facility."*
- The Applicant acknowledges this requirement. Please refer to the Applicant's *Decommissioning Plan* in Exhibit L of the application.

2. Special Permit

Pursuant to Chapter 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Planning Commission Rules of Practice and Procedure, a SPECIAL PERMIT may be approved under such protective restrictions as may be deemed necessary if the Commission finds that the proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District, and that the use would promote the effectiveness and objectives of Chapter 205, HRS. The Planning Commission shall consider the following guidelines in determining unusual and reasonable use:

- 1) *Such use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A of the Hawai'i Revised Statutes (HRS), and the rules of the State Land Use Commission;*

The proposed development will not be contrary to any of the State objectives for the following reasons:

- The useable portions of the site will be leased for pasture purposes at a rate or rates that are at least fifty percent (50%) below the fair market rental value. As represented, AES intends to provide lease-free use of the project land, thereby exceeding this requirement.
- The proposed use will not interfere with other agricultural uses that are generally allowed within the Agricultural District.
- Following the anticipated twenty-five (25) to forty (40) year life and operation of the solar facility, all equipment can either be retrofitted with new equipment or will be removed from the site, and the site will be restored to its preconstruction condition.

2) *The desired use would not adversely affect the surrounding property;*

- The construction and operation of the proposed solar facility is not expected to have adverse effects on surrounding properties. The development is not anticipated to generate significant increases in traffic, population, noise levels, or air quality impacts. While there may be minimal visual impacts from Kaumuali'i Highway, these impacts can be mitigated through appropriate visual screening or other design measures. Additionally, the glare produced by the project is anticipated to be minimal and is predicted to affect only certain interior roadways *mauka* of Kaumuali'i Highway during specific times of the day and during certain times of the year. Glare is not predicted for Kaumuali'i Highway as well as for the residential houses and structures located within the vicinity of the project.
- The proposed use will be compatible with the surrounding area, and it will not prevent surrounding lands from being used for agricultural purposes.
- During construction, Best Management Practices will be utilized to ensure that the proposed development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

3) *The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;*

- The proposed development will utilize existing roadways and infrastructure and is not anticipated to place additional burdens on public agencies.
- Water needs for agricultural uses within the project site will be met through an existing irrigation system operated by the property owner and located

within the subject parcel. Potable water will be provided via a private water system.

- Fire and police services are located approximately two (2) miles away in the Town of Waimea. Aside from the standard fire and police protection, the proposed project is not anticipated to significantly impact these agencies.
- The closest schools are Waimea High School and Waimea Canyon Elementary School. It is not anticipated that this project will significantly impact these schools.

4) *Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;*

- As stated in the application, the State has recently recognized the need to promote alternative energy production, including solar energy production. Such facilities require large tracts of land, which are predominantly located within the State Land Use Agricultural District. Provided such new uses do not prevent or adversely impact agricultural uses in the surrounding area, they are recognized as necessary and permissible in the Agricultural District.

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

- As stated in the application, the Applicant will continue to use the project site for agriculture activities. Although the project site is suitable for agriculture uses, it is represented that the project site is better suited at this time for the production of alternative energy production.

b. *Would promote the effectiveness and objectives of Chapter 205, HRS, as amended.*

- Solar Energy Facilities are recognized as a necessary and reasonable utility that may be accommodated within the Agricultural District. While the construction of a new solar energy facility on 'B' rated soils within a project area exceeding twenty (20) acres is not expressly permitted under the allowable uses listed in HRS §205-4.5, a Special Permit is being sought to allow for this use. The permit process provides a mechanism to consider whether such infrastructure, though not directly agricultural, is compatible with the overall objectives of Chapter 205.

3. **General Plan**

Policies to Guide Growth – Section 1.4 of the Kaua'i General Plan (2018):

Policy #13, entitled “Complete Kauai’s shift to Clean Energy.” directly supports this proposal for a solar energy facility. Policy #13 states:

“Mitigate climate change and reduce system-wide carbon emissions by at least 80 percent by 2050 through deep reductions in energy use and by transforming electricity, transportation, and infrastructure systems toward the use of clean energy.”

- The proposed solar project is in line with Policy #13, as it will increase the supply of clean energy on Kaua’i by generating renewable electricity. The project will reduce the amount of fossil fuel-based electricity generation, thereby supporting the ongoing objective of reducing greenhouse gas emissions and transition to clean energy.

4. West Kaua’i Community Plan

The Community Development Plans, which further builds upon the direction set forth in the General Plan, also details region-specific policies, objectives, goals, and actions that support the provisions detailed in the proposed bill. The proposed development is located within the boundaries of the West Kaua’i Community Plan area and is situated on land designated as “Agriculture.” Policy #1 of the West Kaua’i Community Plan specifies that development should be focused in existing towns to protect West Kaua’i’s rural qualities and agricultural resources. The Policy also specifies:

“...Agricultural resources in the built environment include the mill sites, many of which are vacant or underutilized. Through thoughtful redevelopment and reuse, these former nodes of industry can be resurrected as all-purposes activity centers. Furthermore, compact design reduces energy consumption and associated greenhouse gas (GHG) emissions, and it helps reduce the region’s dependence on important energy resources.”

- While the proposed project site lies outside the Urban boundary, it is important to note that the project supports clean energy production. As such, the development does not conflict with the policy’s intent to focus development within existing towns to reduce energy consumption and associated greenhouse gases.

5. Use Permit

Pursuant to Article 3 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kaua’i County Code (1987), the purpose of the Use Permit Procedure is to assure the proper integration into the community of uses which may be suitable only in specific locations of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-3.2 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use:

...is a compatible use and is not detrimental to health, safety, peace, morals, comfort and the general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the

neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters, and will not be inconsistent with the intent of this Chapter and the General Plan.

In evaluating the project in accordance with the criteria for a Use Permit, the following supports the potential compatibility of the proposed use:

- **Footprint:** In considering the total parcel area of approximately 5,006.74 acres, the proposed project will utilize only a portion of the larger parcel, approximately 269.195 acres, thereby minimizing impacts on the agricultural potential of the surrounding lands. Furthermore, in considering the design and layout of the facility, the solar panels will be configured to accommodate continued agricultural activities within the project area, allowing the project to function in conjunction with the overall agricultural use of the parcel.
- **Precedent:** Similar Use Permits have been approved for solar energy facilities on Agricultural lands in the County, establishing precedent for such uses when appropriately sited and justified.
- **Traffic:** As documented in the Traffic Impact Analysis Report (TIAR), the proposed development is not expected to result in significant increases in traffic volumes in the surrounding area during either the construction phases or ongoing operations. Furthermore, the construction of the proposed development is not anticipated to preclude the implementation of any potential enhancements to walking, biking, transit, or auto facilities along Kaunualii Highway.
- **Visual Impacts:** As shown in the view study provided in Exhibit U of the application, the proposed development will result in some visual impacts as seen from Kaunualii Highway in both directions, as well as from higher vantage points along Waimea Canyon Drive. As represented in the Preliminary Landscape Site Plan dated September 2025, the Applicant proposes to install landscaping along the segment of the project perimeter adjacent to Kaunualii Highway to help soften and mitigate visual impacts for motorists and others traveling directly in front of the project area.
- **Air Quality/Noise:** As represented, during operation, the solar panels will be silent. The inverters and transformers will also be very quiet, emitting less than thirty-eight (38) decibels at 100 meters. During construction activities, air quality and ambient noise levels may be affected at a very minimal level. The Applicant acknowledges and will adhere to the standards of the Environmental Protection Agency (EPA), as well as the noise and air quality standards of the State of Hawai'i Department of Health.
- **Wastewater Treatment and Disposal:** The project will utilize an individual wastewater system (IWS) approved by the State of Hawai'i Department of Health.

- **Solid Waste Disposal**: Solid waste disposal will be provided by private means. During construction, all waste will be transported by the construction contractor for recycling or disposed of at Kekaha Landfill.
- **Biological Resources (Flora)**: According to the natural resources assessment for the project, a total of 97 plant species were identified, including six indigenous species and three early Polynesian-introduced species; however, none are listed as threatened or endangered under state or federal law.
- **Biological Resources (Avian and Mammalian)**: According to the natural resources assessment for the project, the avian survey recorded 25 bird species, including the endangered Hawaiian duck, and two other indigenous species, the Black-crowned Night Heron and Pacific Golden-Plover. For waterbirds, the assessment determined that no suitable nesting habitats exist on the project site for endemic waterbirds and as a result, the project is not expected to impact listed waterbird species. The assessment also found that all other vertebrates observed are non-native, though the endangered Hawaiian hoary bat may use resources in the area, and the Project will implement measures to avoid or minimize potential impacts to this species.

6. **Comprehensive Zoning Ordinance (CZO) Development Standards**

The proposal is consistent with the development standards contained in the CZO in that:

- a. **Lot Coverage** — Based on the acreage calculations provided in G70 Section 3.3.6 (Table 3.1), “Approximate Extent of Project Components,” the proposed development complies with the 60% lot coverage requirement set forth in Section 8-4.3(d)(3) of the CZO.
- b. **Setbacks** — The proposed development complies with the setback requirements for the Agriculture Zoning District. All structures associated with the proposed development are positioned outside the building setback lines.
- c. **Height** — The proposed project complies with the applicable height regulations set forth in Sections 8-1.4 and 8-8.2 of the Comprehensive Zoning Ordinance (CZO).

Section 8-1.4(e) specifies:

“(e) Nothing in this Chapter shall regulate the placement, design and construction of the Hawai’i Emergency Management Agency- (HI-EMA) Managed All-Hazard Statewide Outdoor Warning Siren Systems; or utility poles, towers, and transmission lines by a public utility company as defined in Sec. 269-1, H.R.S., provided, that the siren systems, poles, and towers shall be no higher than 20 feet above the height limits for structures applicable in the Use District in which the poles and towers are constructed.”

Section 8-8.2(a)(1) specifies:

“(1) The maximum height of any building, other than one intended primarily for residential use, shall be 50 feet.”

Under these provisions, utility poles may exceed the standard height limit of the Agriculture District by an additional 20 feet, allowing for a maximum structure height of 70 feet. As represented, the tallest structure associated with the proposed development will be a transmission pole with a height of approximately sixty-five (65) feet. As such, the proposed development remains within the allowable limit.

- d. Design/Layout — There are no objections to the overall design of the project, as it is consistent with the functional aspects of operations associated with a solar energy facility. Furthermore, the property is not located within any special design control areas, such as a Form-Based Code or a Special Planning Area.

7. Native Hawaiian Traditional and Cultural Rights

A Ka Pa‘akai O Ka‘aina Analysis was prepared by Cultural Surveys Hawai‘i, Inc. (CSH). The purpose of this analysis is to: (1) identify valued cultural, historical, and natural resources within the proposed project area and the broader ahupua‘a of Makaweli, including the extent to which traditional and customary Native Hawaiian rights are exercised; (2) evaluate the potential impacts of the proposed action on these resources; and (3) identify feasible measures, if any, that the Applicant may implement to reasonably protect Native Hawaiian rights where they are found to exist.

To address these objectives, the analysis provides a review of historic and traditional accounts associated with the Makaweli ahupua‘a, including a summary of place names and wahi pana (legendary places). It also provides a summary of archaeological studies that have been conducted in the vicinity of the project area as well as a detailed summary of the community outreach that was conducted including oral and written testimony of individuals that were contacted.

The consultation outreach involved attempting to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants in order to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 48 individuals or groups; six responded, one provided written testimony and three Kama‘āina and/or Kūpuna met with CSH for more in-depth interview.

Based on the analysis conducted and the historical information available to the Department, it has been determined that the proposed development, as situated at its designated location, is not anticipated to adversely impact any known Hawaiian traditional or customary practices. This determination is supported by the following findings:

- There are no known traditional or customary Native Hawaiian rights or practices currently exercised within the project area.
- There are no documented trails or pathways traversing the project area.
- No known burial sites are located within the project area.

- There are no known mo’olelo (oral histories) or wahi pana (storied or sacred places) with a significant direct or indirect connection to the project site.
- The proposed development is not expected to impede access to streams.
- There are no known religious practices currently taking place within the project site.

It is important to note that, the botanical survey conducted as part of the project’s natural resources assessment, recorded six indigenous plant species as well as three early Polynesian-introduced species within the project area.

Prior to initiating any ground-disturbing activities, the Applicant should identify and implement feasible measures to reasonably protect any indigenous or native plant species, or cultural and natural resources within the project area, based on consultation with applicable government agencies.

X. PRELIMINARY CONCLUSION

Based on the foregoing findings and evaluation, it is concluded that through proper mitigative measures and compliance efforts, the proposed development can be considered, and it should not have significant adverse impacts to the environment or the surrounding area. The proposal is generally in compliance with the criteria outlined for the granting of a Use Permit and Class IV Zoning Permit. In addition, the proposed development is consistent with the policies outlined in the General Plan, as well as the development standards prescribed by the Comprehensive Zoning Ordinance.

It is further concluded that the Special Permit and Use Permit could be considered in that the proposed use should promote the overall goals and objectives of Chapter 205, HRS. While the proposal does not directly increase agricultural productivity, it is a permissible use under Chapter 205, HRS with a Special Permit.

The Applicant should institute the “Best Management Practices” to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELIMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit Z-IV-2026-12, Use Permit U-2026-9, and Special Permit SP-2026-4, be **APPROVED** subject to the following conditions:

1. The project shall be constructed as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.
2. Usable lands of the Petition Area, including areas under PV panels, shall be made available for compatible agricultural use at a lease rate that is at least 50 percent below the fair market rent for comparable properties, as long as the Project is in operation. Compatible agricultural operations shall be established by the Applicant and its successors and/or

assigns within 6 months of the start of commercial power generation. Extensions to this deadline may be granted by the Director of the County of Kaua'i Planning Department for unforeseen extenuating circumstances. Additional consideration may be given if the Applicant is actively seeking to have such operations established.

3. If at any time during the term of the subject permits no compatible agricultural operations exist on the usable lands of the Petition Area for 6 months, the Applicant shall notify the Director of the County of Kaua'i Planning Department in writing within 30 days of the end of the 6-month period. If requested by the Planning Director, the Applicant shall attend a meeting of the Planning Commission and submit a report to the Planning Commission detailing the Applicant's actual and reasonable efforts to establish compatible agricultural operations on the usable lands of the Petition Area. The Planning Commission may determine whether probable cause exists to re-evaluate the subject permits and to hold a hearing pursuant to the Rules of the Planning Commission. Extensions to the 6-month deadline may be granted by the Planning Director for unforeseen extenuating circumstances.
4. The Applicant shall submit for review and obtain the approval of the following from the Director of the County of Kaua'i Planning Department, prior to the issuance of a grading or building permit:
 - a. A survey map accompanied by metes and bounds descriptions of the approved Petition Area.
 - b. A site plan showing the area required under Condition 2, above, relating to the minimum land area to be made available for compatible agricultural use.
5. Prior to the closing of the building permit for the facility, the Applicant shall submit to the County of Kaua'i Planning Department proof of financial security, such as a letter of credit or similar assurance, from a creditworthy financial institution satisfactory to the County of Kaua'i Planning Department. The security shall remain in place for the duration of the operation of the Project, with evidence of same provided to the Director of the Kaua'i Planning Department on an annual basis, in an amount approved by the County of Kaua'i Planning Department as sufficient to decommission the Project and restore the Petition Area to substantially the same physical condition as existed prior to the development of the facility.

The Applicant shall decommission the facility, including the removal of all equipment related to the facility, within twelve (12) months following the termination of operations of the facility. A change in project ownership or change in ownership of the land subject to the Special Permit, which warrants a new proof of financial security to decommission the project, shall be submitted to the County of Kaua'i Planning Department for processing through the Planning Commission, within three (3) months of the ownership change.

The Applicant shall incorporate this condition in the license and/or lease agreement with the landowner and said license and/or lease agreement shall be reviewed for approval by the County of Kaua'i Planning Department.

6. The Applicant shall mitigate impacts to flora on site as follows:
 - a. Prior to initiating any ground-disturbing activities, the Applicant should identify and implement feasible measures to reasonably protect any indigenous or native plant species, or cultural and natural resources within the project area, based on consultation with applicable government agencies.

7. The Applicant shall mitigate impacts to fauna on site as follows:
 - a. Applicant shall develop an endangered species awareness training module, which shall include all potential endangered species that may frequent the Petition Area.
 - b. All construction workers and solar facility employees shall undergo endangered species awareness training prior to starting work.
 - c. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping or the ocean shall be prohibited.
 - d. Barbed wire shall not be used on the top of any fencing.
 - e. Applicant shall monitor avian injuries occurring within the Petition Area, and report occurrences to the United States Fish and Wildlife Service (USFWS).
 - f. The Applicant shall minimize or avoid clearing or grading activities from June 1 through September 15.

8. The Applicant shall establish the Project within two (2) years of the date of the Land Use Commission's (LUC) Decision and Order approving the Special Permit. Requests for an extension of this deadline shall be submitted to the Director of the County of Kaua'i Planning Department prior to the expiration of the deadline. The LUC may grant an extension to the deadline to establish the Project due to unforeseen circumstances that were beyond the control of the Applicant. This Special Permit shall be valid for a period of thirty-five (35) years from the date of the LUC's Decision and Order approving the Special Permit, subject to further extensions upon a timely request for extension filed with the Planning Commission at least one hundred twenty (120) days prior to the Special Permit's expiration. Approval of time extensions shall not be required from the LUC.

9. On or before December 31 of each year that the Special Permit is in effect, the Applicant or its successor shall file an annual report to the LUC, State of Hawai'i Office of Planning, and the County of Kaua'i Planning Department that demonstrates the Applicant's compliance with conditions of the subject permits.

10. Major modifications to: (1) the Project plans, including but not limited to significant increases in the number of PV Panels; (2) amendments to the conditions of approval; (3) significant expansions of the approved area; or (4) change in uses stated herein, shall be subject to the review and approval of the Planning Commission and the LUC. Minor modifications including minor additions to accessory uses and structures, and new incidental uses and structures in the approved area are subject to the review and approval by the Director of the County of Kaua'i Planning Department.
11. The Applicant and/or landowner shall notify the Director of the County of Kaua'i Planning Department of:
 - a. Any change or transfer of licensee on the Petition Area;
 - b. Any change in uses on the Petition Area;
 - c. Termination of any uses on the Petition Area; and/or
 - d. Transfer in ownership of the Petition Area.
12. Enforcement of the conditions of the subject permits shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause as to the reason the subject permits should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions herein.
13. If the PV array creates a hazardous condition for pilots or motorists, the facility operator shall immediately mitigate the hazard upon notification by the State of Hawai'i Department of Transportation (DOT) Highways Division, DOT Airports Division, or the Federal Aviation Administration (FAA).
14. If required to mitigate visual impacts, new landscaping shall be installed and maintained around the Solar Project to screen it when viewed from Kaunualii Highway. The County of Kaua'i Planning Department shall determine whether additional landscape screening is necessary and the degree at which it is provided.
15. In the event that historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes, are identified during grading and/or construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the State Historic Preservation Division (SHPD) and Kaua'i Island Burial Council, as applicable, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the facility, all construction activity in the vicinity of the discovery shall stop until issuance of an archaeological clearance from the SHPD has been obtained that mitigation measures have been implemented to its satisfaction.
16. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent


cultural finds, including human skeletal remains. In the event any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event iwi kūpuna (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.

17. In the event iwi kupuna and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.
18. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirements for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.
19. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.
20. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
21. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
22. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

23. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for March 10, 2026, whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to the staff's report and recommendation as provided herein.

By  _____
KENNETH A. ESTES
Planner

Approved & Recommended to Commission:

By  _____
KA'AINA S. HULL
Director of Planning

Date: 2/18/26