

Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

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County of Hawai'i
PLANNING DEPARTMENT

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

January 25, 2018

Trude J. Fawson
15-6111 Akoa Street
Kailua-Kona, HI 96740-3041

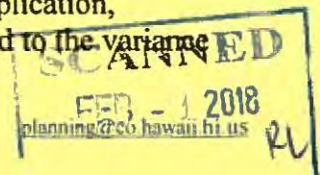
Dear Ms. Fawson:

SUBJECT: Application: Variance – VAR-17-000442
Applicant: TRUDE J. FAWSON AND SCOTT J. FAWSON
Owner: TRUDE J. FAWSON TRUST
Request Variance from Chapter 25, Zoning, Article 5 Division 1, Section 25-5-7 Minimum Yards and Article 4, Division 4, Section 25-4-44(a) Permitted Projections into Yards and Open Space Requirements (Encroachment into Northeast Front Yard Setback and Northeast Front Yard Open Space)
Tax Map Key: 7-5-040:010 (Lot 10)

The Planning Director certifies the **approval** of Variance No. 17-000402, subject to variance conditions. The variance will allow the installation of a 48-panel ground mount photovoltaic system to be located between the existing two 6+ foot retaining walls within the 20-foot front yard setback along Kuakini Highway. These exceptions are in lieu of the required 20-foot front yard setback and the 14-foot open space requirement as required by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-7, Minimum yards and Section 25-4-44 (a), Permitted projections into yards and open space requirements.

BACKGROUND AND FINDINGS

1. **Location.** The subject property, consisting of approximately 1.006 acres (43,821 sq. ft.) of land, situated at Kahakai Estates Subdivision, Puapuaa 1st & 2nd, North Kona, Hawai'i. The subject property's street address is 75-6111 Akoa Street.
2. **Zoning.** Single Family Residential – 10,000 square feet (RS-10).
3. **State Land Use.** Urban.
4. **Required Setback.** 20-foot front and 10-feet for sides. Section 25-4-40, General requirements for yards and open space: (a) On every building site, yards of the minimum width or depth as specified for the established zoning district shall be maintained open and unobstructed from the ground up, except as specified in sections 25-4-40 through 25-4-47.
5. **Variance Application-Site Plan.** The applicant submitted the variance application, attachments, and filing fee on August 21, 2017, and other submittals related to the variance



request and variance application. The variance application's site plan, drawn to scale and prepared by P.A. Harris Electric, denotes the proposed 48-panel ground mount photovoltaic system located between the existing retaining walls within the 20-foot front yard setback along Kuakini Highway. (See attached site map – Exhibit A)

The site plan shows that the proposed ground mount photovoltaic system located between the existing retaining walls within the 20-foot front yard setback along Kuakini Highway. The system is proposed to be approximately 5-feet to 10-feet from the property line along Kuakini Highway, will extend approximately 175-feet along the length of Kuakini Highway and will be constructed to be approximately 3-feet in height.

6. **County Building Records.** Hawai'i County Real Property Tax Division records indicate that a building permit (BK2015-00668) was issued on April 7, 2015 and building permit (BK2016-01788) was issued on November 21, 2016 for the construction of a 4-bedroom, and 3½ bath, single-family dwelling.
7. **Agency Comments and Requirements.**
 - a. State Department of Health (DOH) memorandum dated August 25, 2017: "The Health Department found no environmental health concerns with regulatory implications in the submittals."
8. **Notice to Surrounding Property Owners.** The applicant submitted a copy of notices mailed to surrounding property owners (including affidavits) by USPS. According to these submittals, the first and second notices were mailed on November 9, 2017 and November 21, 2017, respectively. Notice of this application was published in the Hawai'i Tribune Herald and West Hawai'i Today on September 22, 2017.
9. **Comments from Surrounding Property Owners or Public.** Written comments were received December 4, 2017 (COR-17-115305) from Denise Cook Farleigh, in support of the variance application.
10. **Time Extension.** Written request of the applicant for a time extension to process the application was received 12/20/17.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

1. *There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the property.*

The variance application meets criteria (a) for the following reasons:

The applicant provided a site map which shows the development of the property and placement of the dwelling structures, retaining walls of the dwelling and the proposed location of the 48-panel ground mount photovoltaic system with regard to the topography of the parcel.

The proposed location of the 48-panel ground mount photovoltaic system between the two (2) existing retaining walls create an area where the photovoltaic system can be located which

blocks the panels from view from the Kuakini Highway and as they are located behind the dwelling will limit the view from Akoa Street.

The applicant notes that the design of the dwelling structures prohibit the installation of the photovoltaic system on the roofs of the dwelling structures. The applicant further notes that should the variance not be approved the applicant would not be able to install the photovoltaic system which consequently: (a) would not allow them cost savings from fully buying all electricity from HELCO, but (b) would also not follow the State's overall goal of energy independence from fossil fuel consumption.

The above special and unusual circumstances exist to a degree which obviously interferes with the best use or manner of development of the property.

2. There are no other reasonable alternatives that would resolve the difficulty.

The variance application meets criteria (b) for the following reasons:

Alternatives available to the owners to allow the installation of a 48-panel ground mount photovoltaic system constructed on the subject property include the following actions:

The owners would need to redesign and reconstruct the dwelling rooflines to accommodate the installations of the photovoltaic panels. This alternative would be deemed unreasonable, the added cost of the redesign and reconstruction of the dwelling's roof(s) would be substantial and prohibitive. The alternative is not practical. Therefore, there are no reasonable alternatives to resolve the difficulty.

3. The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

The variance application meets criteria (c) for the following reasons:

The intent and purpose of requiring building setbacks within a subdivision are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines. The proposed location of the photovoltaic system will still allow for adequate air circulation, as the affected area is within the front yard setback and further located between 2 existing retaining walls and will thus utilize the slope to retain the air circulation and exposure to light.

Based on the foregoing findings and unusual circumstances, the applicant's request for variance would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code, and the County General Plan. Furthermore, the variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

Based on the variance application's site map, the installation of a 48-panel ground mount photovoltaic system to be located between the existing two 6+ foot high retaining walls proposed on the subject property (TMK: 7-5-040:010) will not meet the minimum front yard setback requirements pursuant to Hawai'i County Code, Chapter 25, (Zoning Code).

This variance request is **approved** subject to the following conditions:

January 25, 2018
Ms. Trude Fawson
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1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. Should the single-family dwelling built on the subject property be destroyed by fire or other natural causes, the replacement structure shall comply with the Hawai'i County Code, Chapter 25, (Zoning) and be subject to State law and County ordinances and regulations pertaining to building construction occupancy.
4. Future or new building improvements and permitted uses shall be subject to State Law and County Ordinances and Regulations pertaining to building construction and occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Director may proceed to declare subject Variance VAR-17-000442 null and void.

Sincerely,

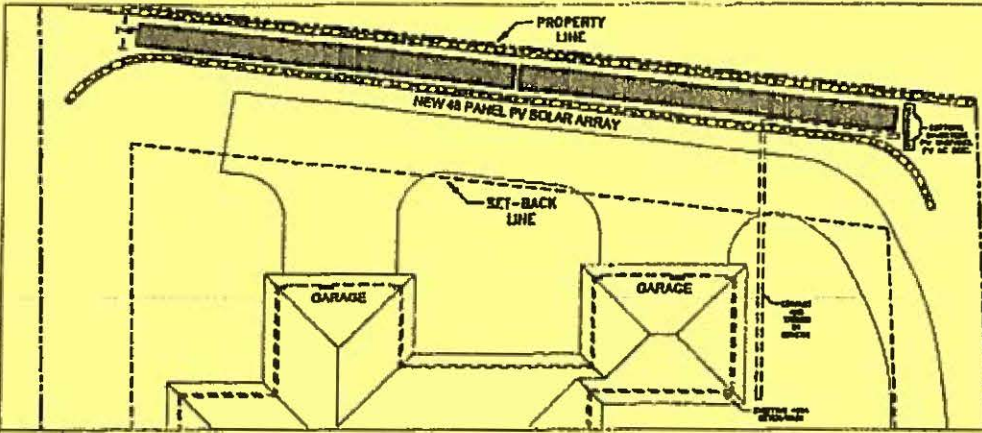


MICHAEL YEE
Planning Director

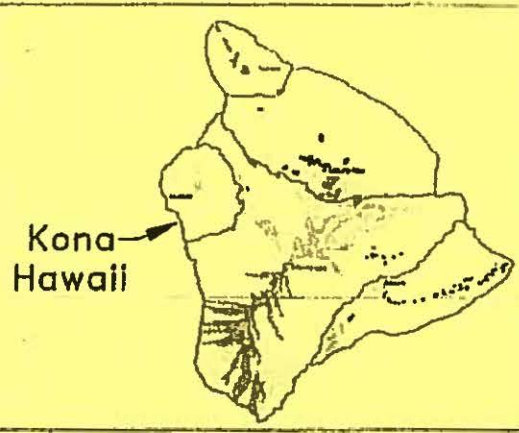
DEB:deb

P:\public\Admin Permits Division\Variance\2017\VAR-17-000442 TMK 7-5-040-010 Fawson

cc: West Hawai'i Office ✓

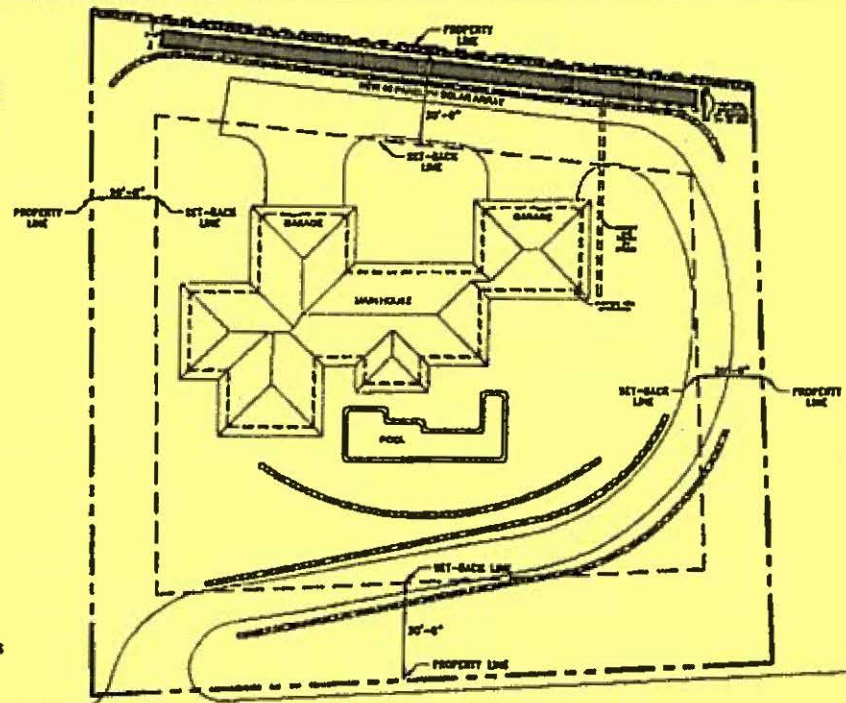


B ARRAY LAYOUT
SCALE: 1/4" = 1'-0"



C SITE LAYOUT
SCALE: N.T.S.

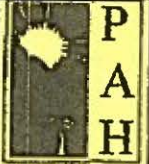
**SET-BACKS REQUIRE
COUNTY VARIANCE**



48 Panels Total
SunPower SPR - X 21 - 335 BLACK Panels
with SMA SunnyBoy SB7700TL-US-22 Inverters

Akoa Street

A PLOT LAYOUT
SCALE: 1" = 32'-0"



**P.A. Harris
Electric**
73-5517 Mauna St., Ste. 11
Kailua-Kona, HI 96743
(808) 329-8794



1-0-04/2011
I, the undersigned, hereby certify that I am a duly licensed Professional Engineer in the State of Hawaii and that I am the author of the drawings herein.

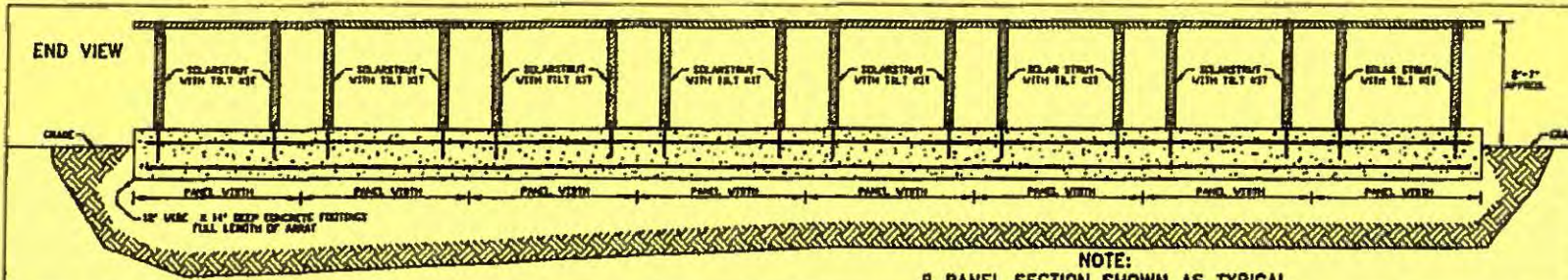
PROJECT:
**Trude Fawson Trust
SOLAR**
75 - 6111 Akoa Street
TMK: 7 - 5 - 040 : 010

REV	DATE

DRAWING DATE:	03-24-16
PROJECT I.S.	
DESIGNED BY:	PAH
DRAWN BY:	BDH
REVIEWED BY:	MD

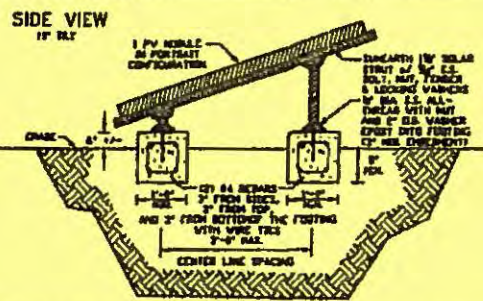
SHEET TITLE:
GROUND MOUNT SITE PLAN

SHEET NO:
PV-1A

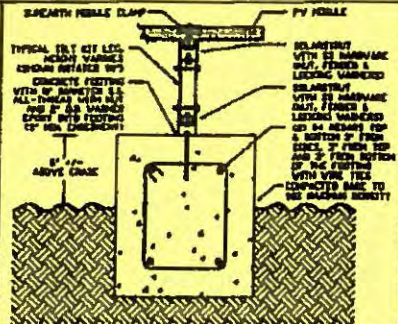


NOTE:
B PANEL SECTION SHOWN AS TYPICAL

B RAIL MOUNTING DETAILS - END VIEW
SCALE: 1/2" = 1'



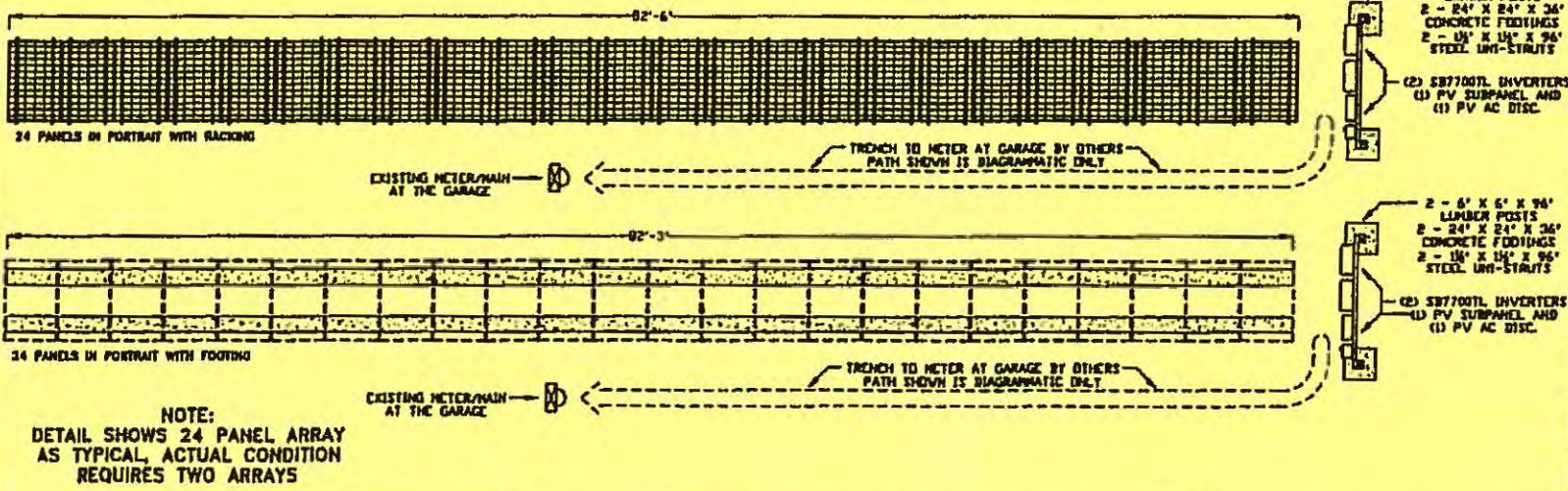
C RAIL MOUNTING DETAILS - SIDE VIEW
SCALE: 1/2" = 1'



D COUPLING AND TILT KIT DETAILS
SCALE: 1/2" = 1'

- MECHANICAL NOTES**
1. CONTRACTOR RESPONSIBLE FOR COMPLYING WITH ALL LOCAL OR NATIONAL CODE REQUIREMENTS AND MANUFACTURERS' MANUALS FOR INSTALLING A PV SYSTEM.
 2. GROUND-MOUNT PV SYSTEM ON CONCRETE FOOTINGS, SUNSHINE SOLARSTRUT RACKING, AND SUN-EARTH TILT KITS.
 3. DISTANCE BETWEEN FOOTINGS NOT TO EXCEED 4 FEET.
 4. RAIL OVERHANG FROM FOOTINGS NOT TO EXCEED 24 INCHES.
 5. DETAILS SHOWN ARE TYPICAL, SIMILAR DETAILS APPLY TO SIMILAR CONDITIONS. QUESTIONS OF IDENTIFICATION FOR APPLICABLE DETAIL OR STRUCTURAL MEMBER SHALL BE BROUGHT TO THE ARCHITECT FOR RESOLUTION BEFORE PROCEEDING WITH WORK. CONTRACTOR SHALL COMPARE STRUCTURAL DRAWINGS WITH ARCHITECTURAL, MECHANICAL AND ELECTRICAL DRAWINGS AS TO LAYOUT, DETAILS, DIMENSIONS AND ELEVATIONS. ALL QUESTIONS, DISCREPANCIES AND CONFLICTS SHALL BE REPORTED TO THE ARCHITECT FOR ADJUSTMENT BEFORE PROCEEDING WITH WORK. CONTRACTOR SHALL PROVIDE TEMPORARY BRACES AND BRACING TO RIGIDLY AND SAFELY SUPPORT STRUCTURAL ELEMENTS, EARTH, OR NEIGHBORING STRUCTURES DURING CONSTRUCTION.
 6. CONCRETE SHALL BE NORMAL WEIGHT AND SHALL ATTAIN A MINIMUM ULTIMATE COMPRESSIVE STRENGTH (FC) OF 2500 PSI AT 28 DAYS. ALL REINFORCING STEEL SHALL CONFORM TO ASTM A-615, GRADE 60.
 7. NO SPECIAL INSPECTION IS REQUIRED.

E MECHANICAL NOTES
SCALE: N/A



A GROUND MOUNT LAYOUT
SCALE: 1/2" = 1'

P A H
P.A Harris Electric
73-6017 Mohai St., Ste. 11
Kalaheo, HI 96740
(808) 329-8764

CONTRACTOR
LICENSED PROFESSIONAL ARCHITECT
NO. 48 1906
HAWAII, U.S.A.
Lic. 04/20/14
WE HAVE BEEN PREPARED BY US IN ACCORDANCE WITH THE PROFESSIONAL CONDUCT OF THE PROJECT WILL BE UNDER THE SUPERVISION OF THE ARCHITECT

PROJECT:
Trude Fawson Trust SOLAR
75 - 6111 Akoa Street
TMK: 7 - 5 - 040 : 010

REV	DATE

DRAWING DATE: 08.21.15
PROJECT LB:
DESIGNED BY: PAH
DRAWN BY: SHJ
REVIEWED BY: HCL
SHEET TITLE:
GROUND MOUNT PLAN MOUNTING DETAILS
NOTES
SHEET NO.:
PV-1B

