



## INFORMATIONAL BRIEFING

# Shoreline Setbacks and the Special Management Area

## Bills 41 & 42 (2022)

City Council Committee on Zoning & Planning  
November 17, 2022

*Office of Climate Change, Sustainability and Resiliency  
Department of Planning and Permitting*

**DEPT. COM. 793  
ZP**





# Public Safety and Acting on Community Voice



## Motivation

- Modernize shoreline management to ensure public health and safety, beaches and coastal access

## Implementation

- **Act 16 (2020), HRS 205A**
- Community-based / Council-adopted **Development and Sustainable Communities Plans, ROH Ch. 24**
- Community-based / Council-adopted **O'ahu Resilience Strategy, Action 29**
- Community-based / Council-adopted / FEMA-approved **Hazard Mitigation Plan, Actions 4 and 7**

## Objectives

- Increase public health and safety
- Review of existing repair / redevelopment regulations
- Support beach preservation and coastal access
- Contextual, place-based solutions
- Accommodations for specific conditions, shallow lots
- Mitigate SMA permitting increases due to Act 16 (2020)
- Establish clearer permitting processes for all parties (applicants, DPP, and City Council)



# Special Management Area and Coastal Hazards



- SMA: designated area requiring additional considerations
- Not a targeted growth area/part of affordable housing strategy
- Increasing recognition of impacts to development, i.e., Act 16
- Problems today for public recreation/community facilities, private development, and public trust resources
- Admin / Council attempt to support public safety through permits







# Need for Enhanced Coastal Management

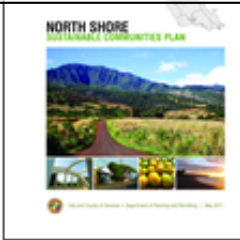




# Community Calls for Action



**Example Policy -- Pol 3.1.3.3: *Provide at a minimum a 60-foot setback and where possible expand to 150 feet based on historic or adopted projections of shoreline erosion rates* ('Ewa DP, 2013)**



North Shore SCP (2011, update in process)



Wai'anae SCP (2012, update in process)



'Ewa DP (2013; amended 2020)



Ko'olau Poko SCP (2017)



Ko'olau Loa SCP (2020)



O'ahu General Plan (2021)



Central O'ahu SCP (2021)



East Honolulu SCP (2021; amended 2022)



Draft Primary Urban Center DP (2022)



# Council Actions / Examples



## SMA Permits and Conditions

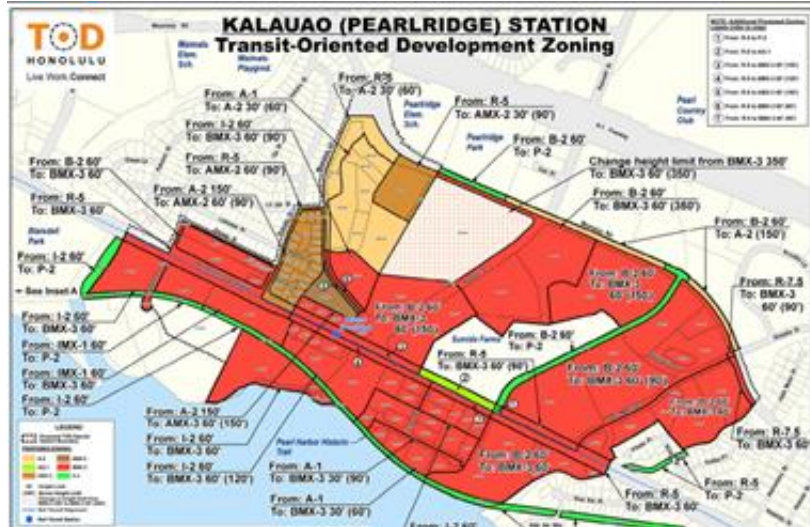
- Admin / Council already complying with Act 16 since September 2020
- Admin encouraging public safety in reports and permit recommendations
- Historically Council has approved greater setbacks than current minimum
- Applicants proactively, though inconsistently, incorporating coastal hazards into structure siting and development proposals







# Council Actions / Examples



## TOD Plans and Zoning

Ords 22-29 and 22-30 (i.e., Bills 49 and 50 (2022)), 'Aiea-Pearl City TOD Special District Regulations and Zoning and Height Limits

Limit upzoning / new development on lots very susceptible to coastal hazards / sea-level rise exposure area; concentration of new development outside of hazard zones



# Plans for Continued Engagement



## Now - January 2023

- One-on-one/small group stakeholder meetings
- Neighborhood Board communications and resources, i.e., fact sheets / FAQs
- New DPP web resources
- Coastal issues PSAs (*grant from OPSD CZM*)

## January 2023

- Virtual Open House(s)
- Site visits

## Into the New Year

- Additional Council / Councilmember briefings
- Consideration of effective and sensible amendments





# **Bills 41 and 42 (2022)**

Relating to Shoreline Setbacks  
and the Special Management Area

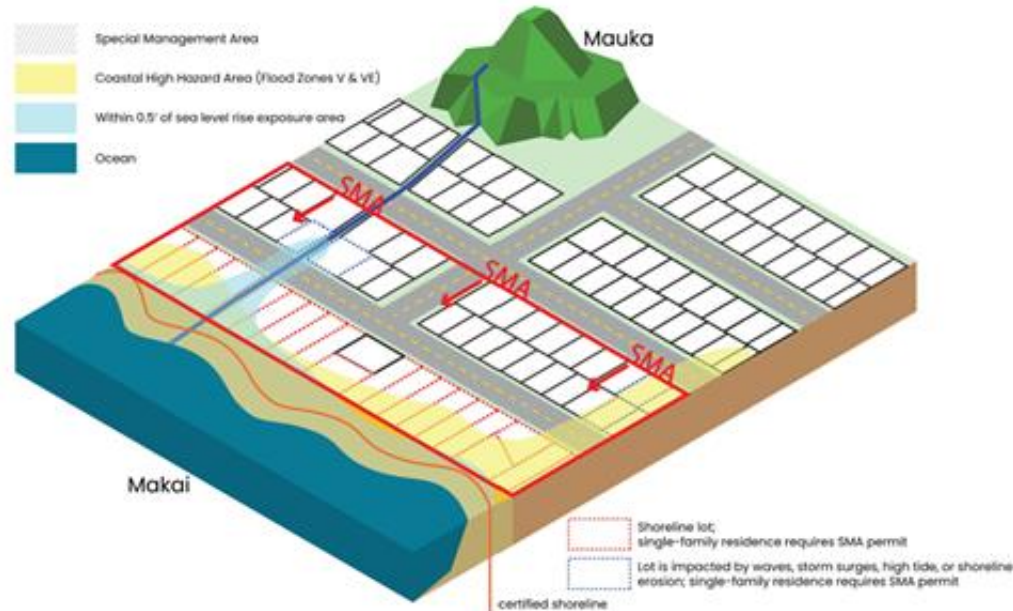




# Act 16 (2020), Coastal Zone Management, HRS 205A

- **Defined coastal hazards:** hurricanes, wind, storm surge, high tide, and sea level rise
- **Defined protected beach areas:** beaches, coastal dunes, and coral reefs
- **Stronger prohibitions against shoreline hardening:** Now requires proof of public benefit
- **New minimum statewide shoreline setback** of 40 ft from the regulatory shoreline, up from 20 ft. *Setback is already 40 ft on O'ahu or 60 ft with a subdivision action.*
- All **dwellings** on shoreline lots or lots impacted by sea level rise, waves, storm surge, high tide or shoreline erosion require **SMA Permits**; *previously SMA Permit was required for dwellings of 7,500 sf or more, or lots with more than 3 dwellings.*

## Chapter 25: Special Management Area (SMA) Impacts of Act 16 (2020) on Residential Permitting



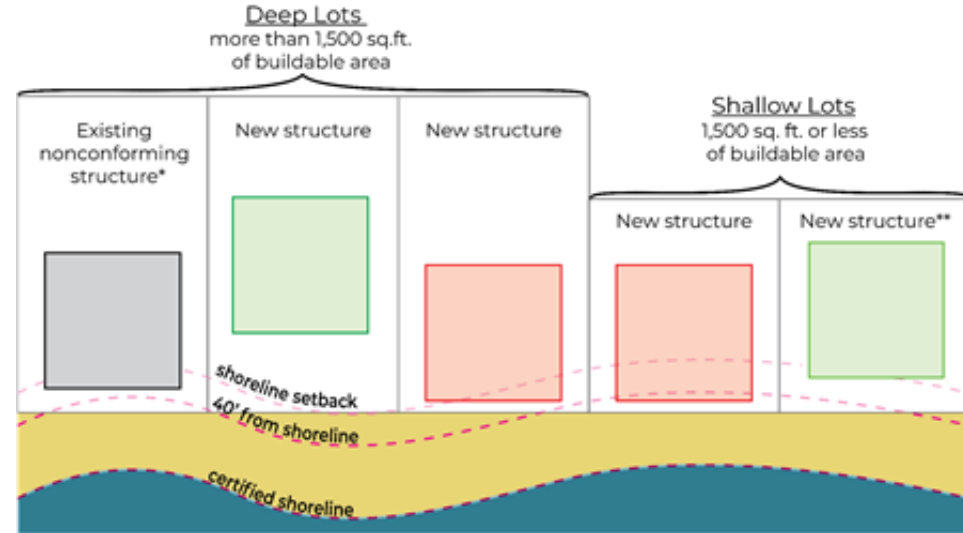






# Proposed Shoreline Setbacks Revisions, Bill 41 (2022)

- **Current Shoreline Setback:**
  - 40 ft from regulatory shoreline
  - 60 ft after a subdivision action
- **Proposed Shoreline Setback:**
  - 60 ft for properties in the Primary Urban Center (PUC)
  - 60 ft + 70x annual coastal erosion rate, up to a max. 130 ft, outside the PUC
  - 60 ft for properties outside the PUC that do not have erosion data or for lots that show 0 ft/yr erosion rate or accretion
- **Proposed Accommodations for Shallow Lots:**
  - Minimum buildable footprint, 1500 sf
  - Adjusted side/front yard setbacks
  - Reduced shoreline setback
  - Additional resilient design requirements



*\*Legal non-conforming. Repair allowed not to exceed 50% of the structure's replacement cost over a 10-year period.*

*\*\*Conforming when new structure is positioned as far mauka as possible and no closer than 40 feet from the shoreline.*



# Questions on Proposed Bills



## Bill 41 (2022) - Shoreline Setbacks

- My house is within the proposed shoreline setback area. Do I need to move? **NO**
- Can repairs be made to structures located partially or fully within the proposed larger setback area? **YES\***
- If the proposed larger shoreline setback area covers an entire lot, can something new be built? **YES, between the 40 ft and maximum setbacks**
- Can a property partially or fully in the proposed larger setback area be reconstructed exactly where it was? **GENERALLY NO under the proposal because it is limited to 50% replacement value under EXISTING UNCHANGED REGULATIONS**

## Bill 42 (2022) - SMA

- Will Bill 42 (2022) require me to get an SMA permit to make repairs to my existing structure in the SMA? **NOT CURRENTLY REQUIRED, UNCHANGED IN BILL 42**
- If I'm currently in the process of getting an SMA permit, will I have to start over because of Bill 42 (2022)? **NO**

*\*additional details*



## Bill 42 (2022) Proposals in Addition to Act 16 (2020)

Does Bill 42 (2022) propose anything new **in addition to amendments made by Act 16 (2020)**?

**YES**. Certain proposals serve to **reorganize and streamline already existing sections** relating to permit application requirements and processing so that they are more easily understandable.

Others serve to **enhance SMA regulations at the City-level**:

- **Added definitions** for “significant effect” and “cumulative impact,” terms already in use in HRS Chapter 205A, the Coastal Zone Management Act, along with “repair” and “replacement” to provide clarity regarding permitting requirements.
- **Clarified that SMA permits are not required** for residential additions or accessory structures up to 300 sf.
- **Specified** that agricultural activity dedicated to manufacturing, processing, or packaging facilities are **considered development** and subject to SMA permitting requirements.
- **Removed allowance for concurrent processing** of SMA permits and environmental disclosure documents.



# Mahalo and Discussion

