Voting Members: Calvin K.Y. Say, Chair; Tyler Dos Santos-Tam, Vice-Chair; Radiant Cordero, Esther Kia'āina, Matt Weyer

> Committee Meeting Held May 24, 2023

Honorable Tommy Waters Chair, City Council City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Resolution 23-90 entitled:

"RESOLUTION GRANTING A SPECIAL MANAGEMENT AREA ("SMA") USE PERMIT AND SHORELINE SETBACK VARIANCE ("SV") TO ALLOW ROADWAY AND PEDESTRIAN SAFETY IMPROVEMENTS ALONG KAMEHAMEHA HIGHWAY AT TAX MAP KEYS ("TMKS") 6-1-005: 023, 024, 6-1-009: 004, 021, AND 022, 6-1-010: 019 AND 020 IN HALEIWA, NORTH SHORE,"

as transmitted by Departmental Communication 302 (2023) ("D-302 (2023)"), from the Department of Planning and Permitting ("DPP"), dated April 28, 2023, and introduced on May 4, 2023, reports as follows:

The purpose of Resolution 23-90 is to grant a Special Management Area ("SMA") Use Permit and Shoreline Setback Variance ("SV") to the State of Hawai'i, Department of Transportation, Highways Division ("Applicant"), to allow for the construction of roadway and pedestrian safety improvements on approximately 3 acres of various zoning lots, located in the AG-1 Restricted Agricultural District and the right of way on Kamehameha Highway in the vicinity of Laniakea Beach, and identified as TMKs 6-1-005:023 and 024; 6-1-009:004, 021, and 022; and 6-1-010:019 and 020 (the "Project").

In D-302 (2023), the DPP reported that the proposed Project allows for the construction of road improvements necessary to address pedestrian safety, shoreline erosion, congestion, and roadway reliability along Kamehameha Highway in the vicinity

CITY COUNCIL CITY AND COUNTY OF HONOLULU HONOLULU, HAWAII

ADOPTED ON

JUN

7 2023

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of Laniakea Beach. The Project will be approximately 1,000 feet (ft.) in length and will consist of realigning a portion of the highway about 90 ft. mauka; adding grass pavers, vehicle guard rails, a vehicle control gate, streetlights, and a bridge; converting the existing roadway into a shared use path; and drainage improvements. A majority of the Project is within the shoreline setback.

Your Committee notes that the DPP, after a public hearing held on March 30, 2023, recommends approval of the SMA Use Permit and SV, subject to the conditions set forth in the Resolution.

At your Committee's meeting on May 24, 2023, the Applicant provided a brief presentation of the proposed Project and responded to questions from the Councilmembers.

The DPP Director and a representative from the DPP testified in support of the Resolution and responded to questions from the Councilmembers.

Your Committee has carefully reviewed the conditions recommended by the DPP for inclusion in this SMA Use Permit and SV. Although your Committee generally finds the DPP's proposed conditions to be appropriate, your Committee considered and approved a CD1 version of the resolution (OCS2023-0485/5/31/2023 9:23 AM) that makes the following amendments:

A. Amends the resolution title to read as follows:

"GRANTING A SPECIAL MANAGEMENT AREA USE PERMIT AND SHORELINE SETBACK VARIANCE TO ALLOW ROADWAY AND PEDESTRIAN SAFETY IMPROVEMENTS ALONG KAMEHAMEHA HIGHWAY IN HALEIWA, NORTH SHORE."

CITY COUNCIL

CITY AND COUNTY OF HONOLULU HONOLULU, HAWAII

ADOPTED ON

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Voting Members: Calvin K.Y. Say, Chair; Tyler Dos Santos-Tam, Vice-Chair; Radiant Cordero, Esther Kiaʿāina, Matt Weyer

> Committee Meeting Held May 24, 2023 Page 3

- B. In the first WHEREAS clause, clarifies the description of the Project.
- C. Adds a new second WHEREAS clause to provide that the Project, a majority of which is within the shoreline setback area, encompasses an approximately 1,000-foot portion of Kamehameha Highway; includes the realignment of a portion of the highway approximately 90 feet mauka; makes drainage improvements; and involves the addition of grass pavers, vehicle guard rails, streetlights, a vehicle control gate at Pohaku Loa Way, a new vehicular bridge over Lauhulu Stream, and the conversion of a portion of the existing roadway into a shared use path.
- D. Adds a new fourth WHEREAS clause, stating that at the public hearing held on March 30, 2023, 10 members of the public testified that they support the addition of a parking lot on the makai side of Kamehameha Highway.
- E. Adds a new fifth WHEREAS clause, stating that a parking lot on the makai side of Kamehameha Highway in the expanded shoreline area that would be created by relocating the highway further mauka would improve recreational access, traffic along the highway, and pedestrian safety and protect the area from any further development that may obstruct views of the ocean.
- F. Adds a new sixth WHEREAS clause, stating that the outcomes specified in the new fifth WHEREAS clause are consistent with the policies and objectives for development in the special management area as follows:
 - (1) To provide and manage adequate public access to public beaches;

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> Committee Meeting Held May 24, 2023 Page 4

- (2) To support economic uses of the area by ensuring that coastal development is designed to minimize adverse social impacts in the coastal zone management area;
- (3) To protect and preserve the quality of coastal scenic and open space resources; and
- (4) To support development that is consistent with the O'ahu General Plan, which supports the reduction of traffic congestion, and the North Shore Sustainable Communities Plan, which supports establishing access to shoreline areas where justified by public demand, improving and expanding public access to the shoreline with vehicular parking, and improving mobility and connectivity for area residents,

pursuant to Sections 25-3.1 and 25-3.2, Revised Ordinances of Honolulu 2021 ("ROH"), as they read prior to the enactment of Ordinance 23-4, and Sections 205A-2 and 205A-26, Hawaii Revised Statues ("HRS").

- G. In the seventh WHEREAS clause, provides that the DPP completed its report on April 28, 2023. Also adds references to ROH § 26-1.9 and Ordinance 23-3 (relating to shoreline setback variances) and HRS § 205A-46 (relating to variances).
- H. In the eighth WHEREAS clause, provides that the Council received the DPP's findings and recommendation on May 3, 2023, by Departmental Communication 302 (2023).
- I. In Condition A, provides that any change in the size or nature of the Project that may have a significant effect on coastal resources will require a new

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COMMITTEE REPORT NO.

155

Voting Members: Calvin K.Y. Say, Chair; Tyler Dos Santos-Tam, Vice-Chair; Radiant Cordero, Esther Kiaʻāina, Matt Weyer

> Committee Meeting Held May 24, 2023 Page 5

application, SMA Use Permit, and SV, which will be processed in accordance with the provisions of ROH Chapter 25, ROH Chapter 26, or HRS Chapter 205A, or any combination thereof, that are in effect at the time the new application is accepted as complete by the DPP.

- J. In Condition B, clarifies that the "stop work" requirement for archaeological finds must be clearly stated on all Project construction permit and building permit plans (instead of any earth-moving development permit plans and building plans).
- K. In Condition C, provides that historical and cultural resources in the vicinity of the Project site that must be physically avoided and protected include the Lauhulu Stream Bridge and Site T-1 (a modified bedrock outcrop interpreted to be a possible ceremonial site).
- L. In Condition D:

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- 1. Amends Condition D.3 (relating to shielded exterior light fixtures) to provide that special care must be taken during the seabird fledgling season from September 15 to December 15.
- Amends Condition D.5 to provide that all project-related activities must cease if a Hawaiian monk seal, Hawaiian green sea turtle (Honu), or <u>Hawksbill sea turtle</u> is present within 150 ft. of the Project work area. Clarifies that if a <u>female monk seal and her pup</u> are present, a 300-foot buffer <u>around the monk seals</u> must be observed.
- 3. Adds a proviso that the conditions enumerated in Condition D must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU HONOLULU, HAWAII

ADOPTED ON

Voting Members: Calvin K.Y. Say, Chair; Tyler Dos Santos-Tam, Vice-Chair; Radiant Cordero, Esther Kia'āina, Matt Weyer

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- M. Adds a new Condition E to require the Applicant to plan and design a parking lot that includes managed ingress and egress on the makai side of Kamehameha Highway in the expanded shoreline area that will be created by realigning the highway further mauka to improve recreational access, traffic along the highway, and pedestrian safety and to protect the area from any further development that may obstruct views of the ocean. Realphabetizes the last condition.
- N. In realphabetized Condition F, conforms the language relating to compliance with LUO and other governmental requirements, to the standard language included in SMA Use Permit and SV resolutions.
- O. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee finds, pursuant to HRS § 205A-26 and ROH § 25-3.2, as it read prior to the enactment of Ordinance 23-4, and in agreement with the conclusion of the DPP, as stated in D-302 (2023), that:

- 1. The development, as conditioned, will not have any substantial adverse environmental or ecological effect, either alone or cumulatively with other projects;
- 2. The development is consistent with the objectives and policies set forth in HRS § 205A-2 and ROH § 25-3.1 (as it read prior to the enactment of Ordinance 23-4), and the area guidelines contained in HRS § 205A-26 and ROH § 25-3.2 (as it read prior to the enactment of Ordinance 23-4); and

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CITY AND COUNTY OF HONOLULU HONOLULU, HAWAII

ADOPTED ON

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3. The development is consistent with the County General Plan, development plans, zoning, and other applicable ordinances.

Your Committee also finds, pursuant to HRS § 205A-46 and ROH §§ 26-1.8 and 26-1.9 (as they read prior to the enactment of Ordinance 23-3), and in agreement with the conclusion of the DPP, as stated in D-302 (2023), that the proposed Project is necessary for or ancillary to facilities or improvements by a public agency, is in the public interest, and is the practicable alternative that best conforms with the purpose of ROH Chapter 26 (as it read prior to the enactment of Ordinance 23-3), and the City's Rules Relating to Shoreline Setbacks and the Special Management Area.

Your Committee on Zoning is in accord with the intent and purpose of Resolution 23-90, as amended herein, and recommends its adoption in the form attached hereto as Resolution 23-90, CD1. (Ayes: Cordero, Dos Santos-Tam, Kia'āina, Say, Weyer – 5; Noes: None.)

Respectfully submitted,

At the 6/7/23 Council meeting, the Resolution was further amended and was subsequently adopted as Resolution 23-90, CD1, FD1.

CITY COUNCIL CITY AND COUNTY OF HONOLULU HONOLULU, HAWAII

COMMITTEE REPORT NO.

155

ADOPTED ON

JUN

202



No. 23-90, CD1

RESOLUTION

GRANTING A SPECIAL MANAGEMENT AREA USE PERMIT AND SHORELINE SETBACK VARIANCE TO ALLOW ROADWAY AND PEDESTRIAN SAFETY IMPROVEMENTS ALONG KAMEHAMEHA HIGHWAY IN HALEIWA, NORTH SHORE.

WHEREAS, on February 3, 2023, the Department of Planning and Permitting ("DPP") accepted the application (File Nos. 2022/SMA-77 and 2022/SV-4) from the State of Hawai'i, Department of Transportation, Highways Division (the "Applicant") for a Special Management Area ("SMA") Use Permit and Shoreline Setback Variance ("SV") to address pedestrian safety, shoreline erosion, congestion, and roadway reliability on approximately 3 acres of land comprised of various zoning lots located in the AG-1 Restricted Agricultural District and the right-of-way on Kamehameha Highway in the vicinity of Laniakea Beach, and identified as Tax Map Keys (1) 6-1-005:023 and 024; (1) 6-1-009:004, 021, and 022; and (1) 6-1-010: 019 and 020 (the "Project"); and

WHEREAS, the Project, a majority of which is within the shoreline setback area, encompasses an approximately 1,000-foot portion of Kamehameha Highway; includes the realignment of a portion of the highway approximately 90 feet mauka; makes drainage improvements; and involves the addition of grass pavers, vehicle guard rails, streetlights, a vehicle control gate at Pohaku Loa Way, a new vehicular bridge over Lauhulu Stream, and the conversion of a portion of the existing roadway into a shared use path; and

WHEREAS, on March 30, 2023, the DPP held a public hearing at the Sunset Beach Recreation Center, which was attended by the Applicant, the Applicant's agent, DPP staff members, and 29 members of the public; two members of the public testified in support, three members of the public testified in opposition, and 10 members of the public provided comments at the public hearing; and

WHEREAS, at the public hearing held on March 30, 2023, 10 members of the public testified that they support the addition of a parking lot on the makai side of Kamehameha Highway; and

WHEREAS, a parking lot on the makai side of Kamehameha Highway in the expanded shoreline area that would be created by relocating the highway further mauka would improve recreational access, traffic along the highway, and pedestrian safety and protect the area from any further development that may obstruct views of the ocean; and

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RESOLUTION

WHEREAS, these outcomes are consistent with the policies and objectives for development in the special management area as follows:

- (1) To provide and manage adequate public access to public beaches;
- (2) To support economic uses of the area by ensuring that coastal development is designed to minimize adverse social impacts in the coastal zone management area;
- (3) To protect and preserve the quality of coastal scenic and open space resources; and
- (4) To support development that is consistent with the O'ahu General Plan, which supports the reduction of traffic congestion, and the North Shore Sustainable Communities Plan, which supports establishing access to shoreline areas where justified by public demand, improving and expanding public access to the shoreline with vehicular parking, and improving mobility and connectivity for area residents,

pursuant to Sections 25-3.1 and 25-3.2, Revised Ordinances of Honolulu 2021 ("ROH"), as they read prior to the enactment of Ordinance 23-4, and Sections 205A-2 and 205A-26, Hawaii Revised Statues ("HRS"); and

WHEREAS, on April 28, 2023, within 20 working days after the close of the public hearing, the DPP, having duly considered all evidence and the objectives, policies, and guidelines, as established in §§ 25-3.1 and 25-3.2, and §§ 26-1.8 and 26-1.9, Revised Ordinances of Honolulu 2021 ("ROH"), as they read prior to the enactment of Ordinance 23-3 and Ordinance 23-4, and §§ 205A-2, 205A-26, and § 205A-46, Hawai'i Revised Statues ("HRS"), completed its report and transmitted its findings and recommendation of approval to the City Council ("Council"); and

WHEREAS, the Council, having received the findings and recommendation of the DPP on May 3, 2023, by Departmental Communication 302 (2023), and having duly considered all of the findings and reports on the matter, desires to approve the subject application for an SMA Use Permit and SV with the conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that an SMA Use Permit and SV be issued to the Applicant for the Project, subject to the following conditions:



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RESOLUTION

- A. Development must be in general conformity with the Project as described in the DPP's findings and recommendation, referenced above, and as depicted in Exhibits A, B, C-1 through C-8, D, E, and F-1 through F-2, attached hereto and incorporated herein by reference. Any change in the size or nature of the Project that may have a significant effect on coastal resources addressed in ROH Chapter 25, ROH Chapter 26, or HRS Chapter 205A, or any combination thereof, will require a new application, SMA Use Permit, and SV. Any new application will be processed in accordance with the provisions of ROH Chapter 25, ROH Chapter 26, and HRS Chapter 205A that are in effect at the time the new application is accepted as complete by the DPP. Any change that does not have a significant effect on coastal resources will be considered a minor modification and may be permitted under this resolution, upon review and approval by the DPP Director.
- B. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls) are encountered, the Applicant shall stop work, protect the find from further disturbance, and contact the State Historic Preservation Division ("SHPD") immediately. Work in the immediate area must stop until the SHPD is able to assess the impact and make further recommendations for mitigative measures. This requirement must be clearly stated on Project construction permit plans and building permit plans.
- C. Historical and cultural resources in the vicinity of the Project site, including but not limited to the Lauhulu Stream Bridge and Site T-1 (a modified bedrock outcrop interpreted to be a possible ceremonial site) must be physically avoided and protected during Project construction activity.
- D. To minimize impacts to Hawaiian seabirds, the Hawaiian hoary bat, and nearshore species that may frequent or traverse the vicinity of the Project site:
 - 1. All new and replacement outdoor light fixtures must not exceed a color temperature of 3,000 degrees Kelvin;
 - Artificial light from exterior light fixtures on the zoning lot, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, is prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to HRS § 205A-71(b);



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RESOLUTION

- 3. Exterior light fixtures on all Project zoning lots (both during and after Project construction) must be fully shielded, using full cutoff fixtures, with the light directed downward so that the light bulb is only visible from below the light fixture; special care must be taken during the seabird fledgling season from September 15 to December 15;
- 4. Woody plants greater than 15 feet in height must not be disturbed, removed, or trimmed during the Hawaiian hoary bat birthing and pup rearing season from June 1 through September 15; and
- 5. All Project-related activities must cease if a Hawaiian monk seal, Hawaiian green sea turtle (Honu), or Hawksbill sea turtle is present within 150 ft. of the Project work area, or as recommended by State or Federal regulations. Project activities may only recommence after the animal voluntarily leaves the area. If a female monk seal and her pup are present, a 300-foot buffer around the monk seals must be observed. Any Project-related debris that may impose an entanglement threat to monk seals and sea turtles must be removed from the work area at the end of each day and at the conclusion of Project-related activities.

The conditions enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

- E. The Applicant shall plan and design a parking lot that includes managed ingress and egress on the makai side of Kamehameha Highway in the expanded shoreline area that will be created by relocating the highway further mauka to improve recreational access, traffic along the highway, and pedestrian safety and to protect the area from any further development that may obstruct views of the ocean from the coastal highway.
- F. Approval of this SMA Use Permit and SV does not constitute compliance with the Land Use Ordinance ("LUO") and other governmental requirements, including but not limited to construction permit and building permit approvals. The Applicant shall be responsible for ensuring that the final plans for the Project approved under this SMA Use Permit and SV comply with all applicable LUO and other governmental provisions and requirements; and



No. 23-90, CD1

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to Ken Tatsuguchi, Highways Division, Hawai'i State Department of Transportation, 869 Punchbowl Street, Suite 301, Honolulu, Hawai'i 96813; and Dawn Takeuchi Apuna, Director of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawai'i 96813.

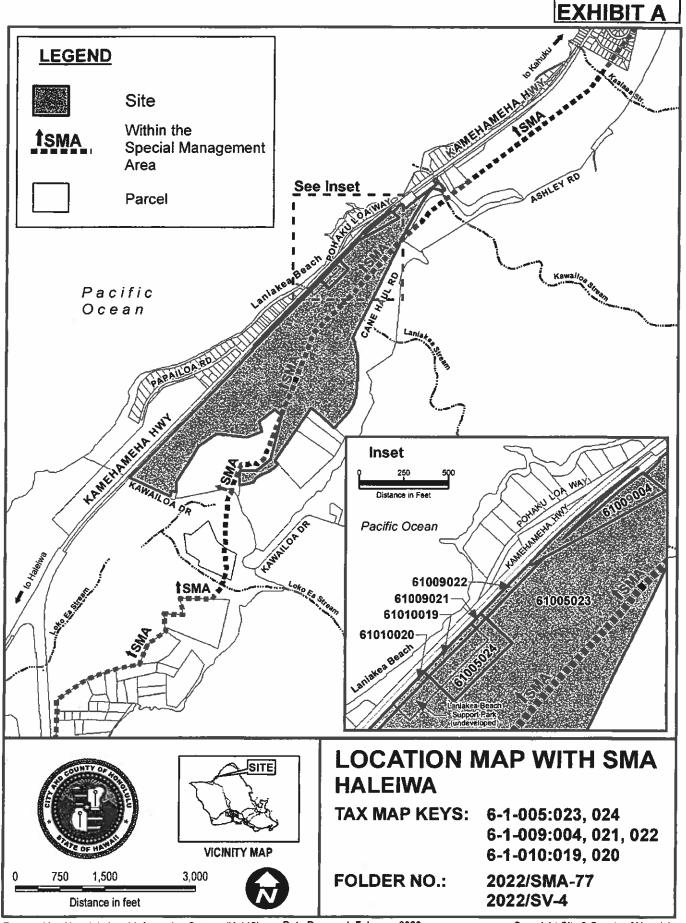
INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

<u>May 4, 2023</u> Honolulu, Hawai'i

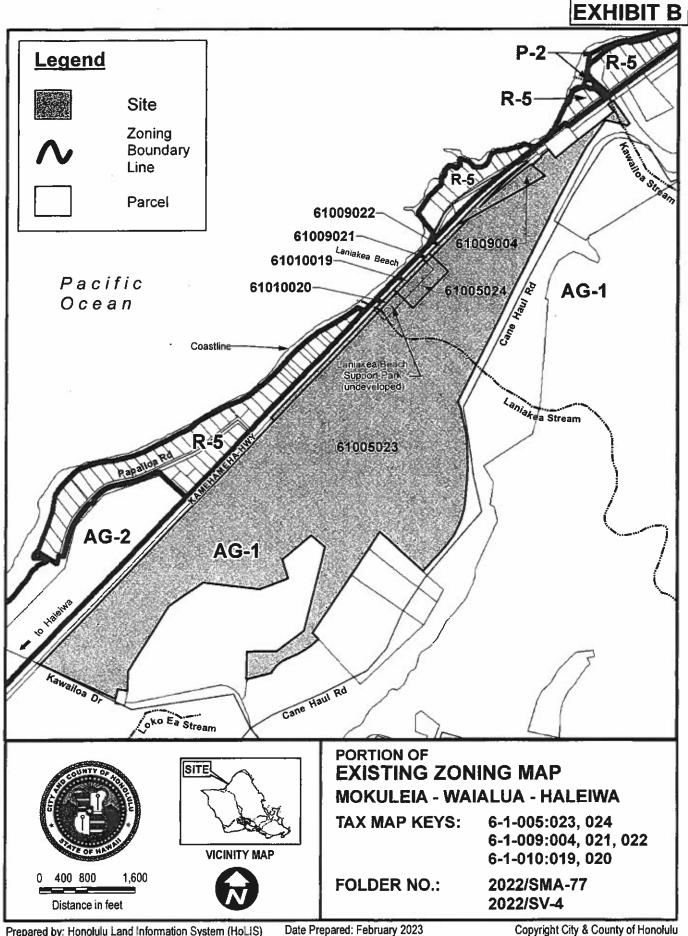
Councilmembers



Prepared by: Honolulu Land Information System (HoLIS) Department of Planning & Permitting City and County of Honolulu

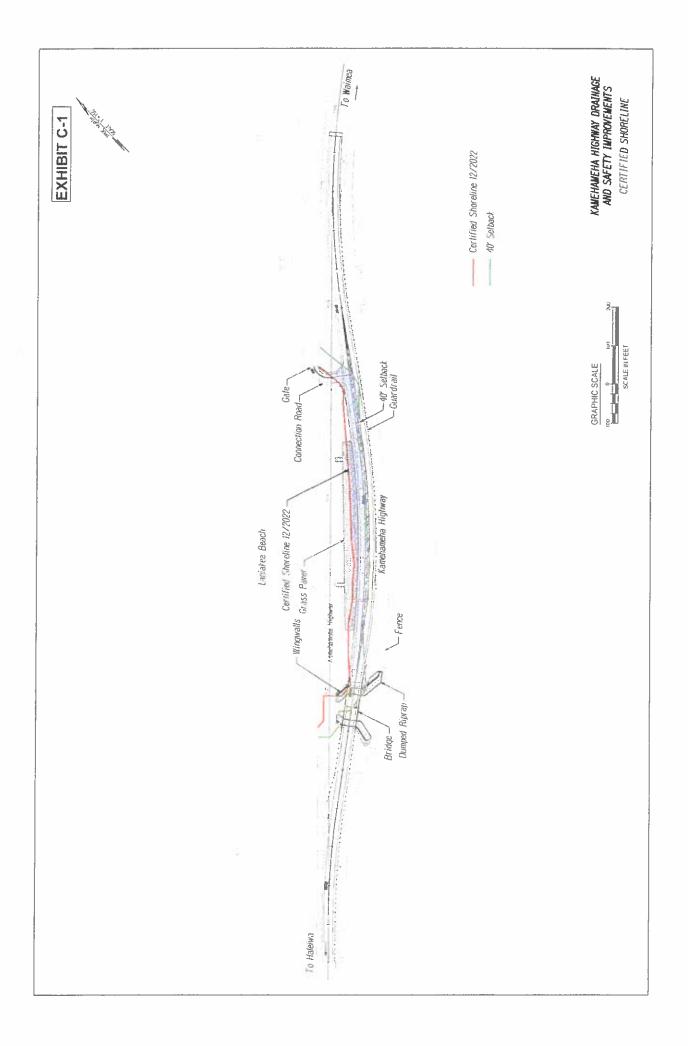
Date Prepared: February 2023

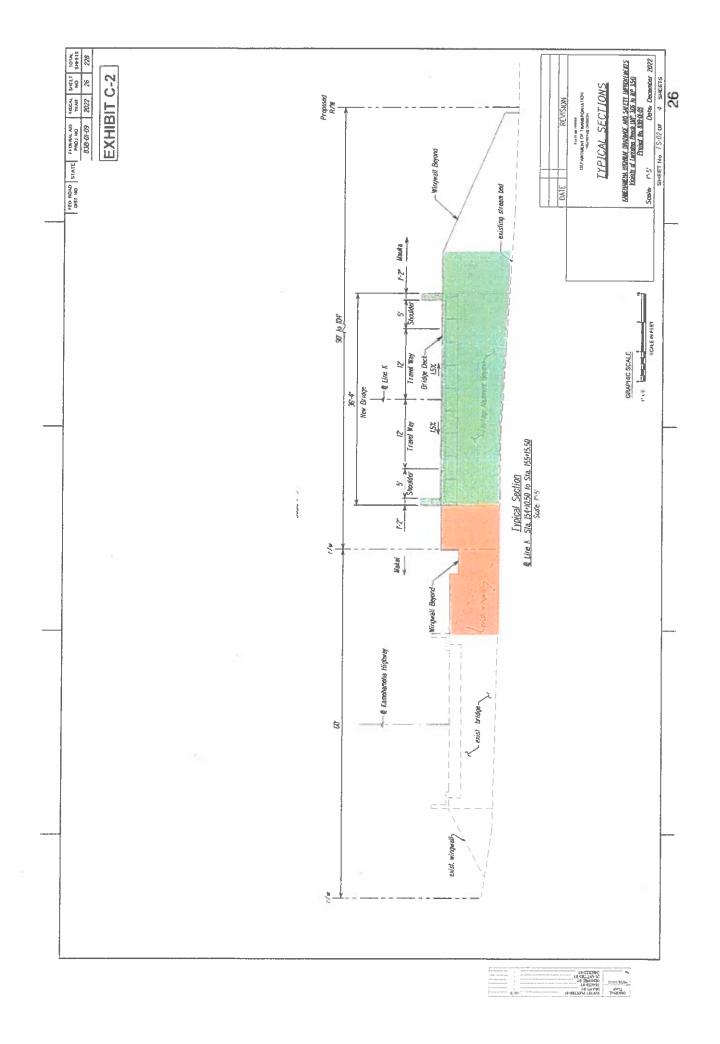
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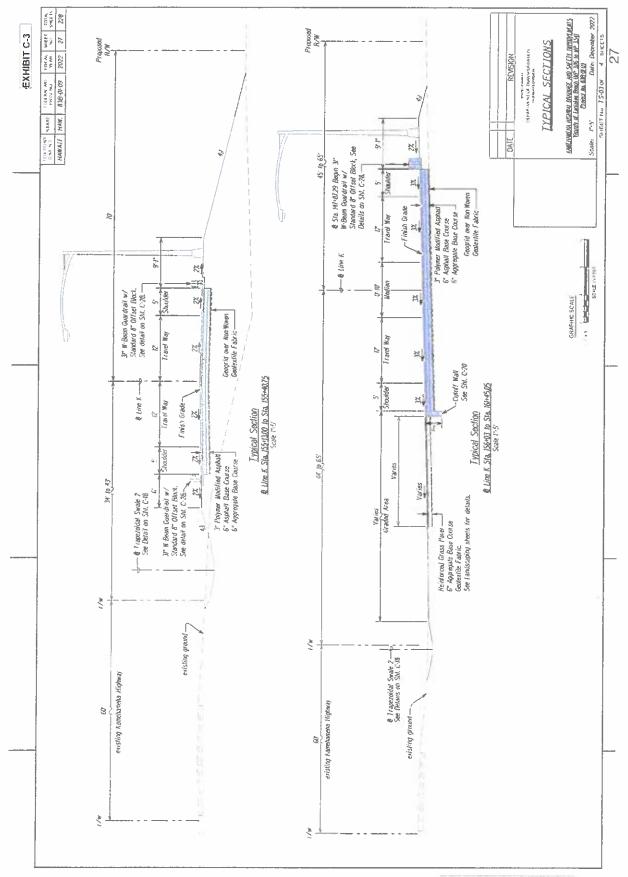


Prepared by: Honolulu Land Information System (HoLIS) Department of Planning & Permitting City and County of Honolulu

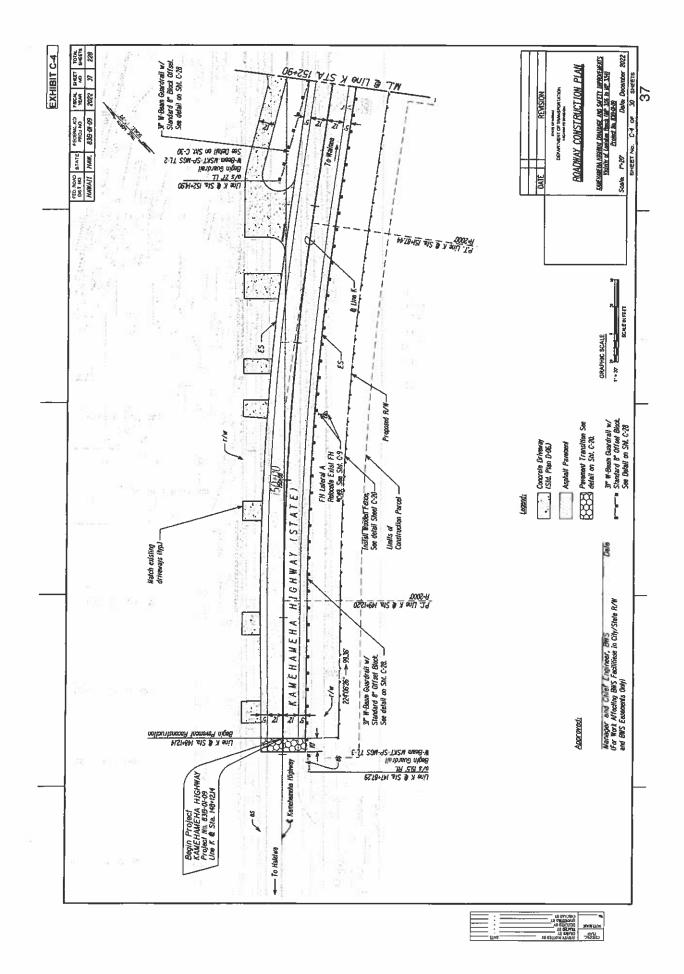
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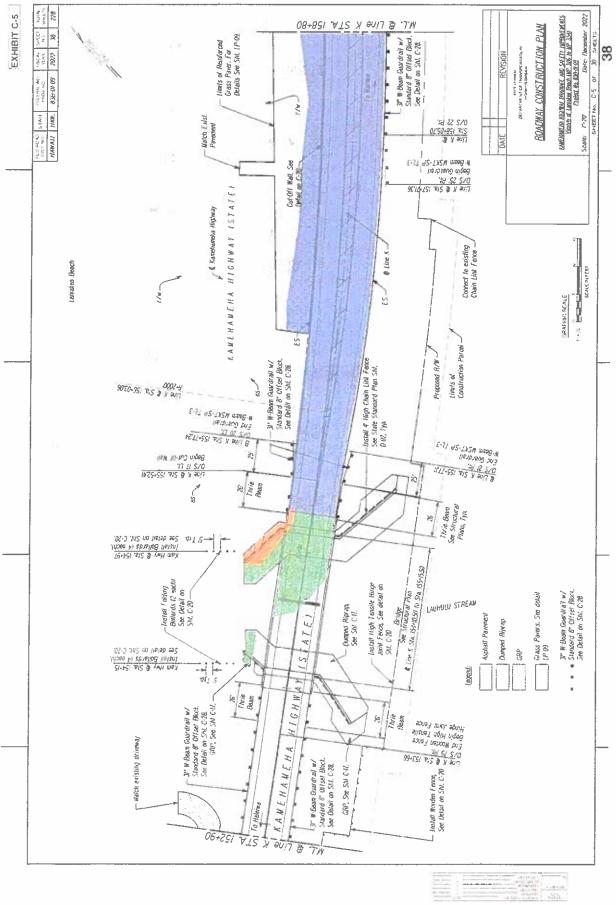


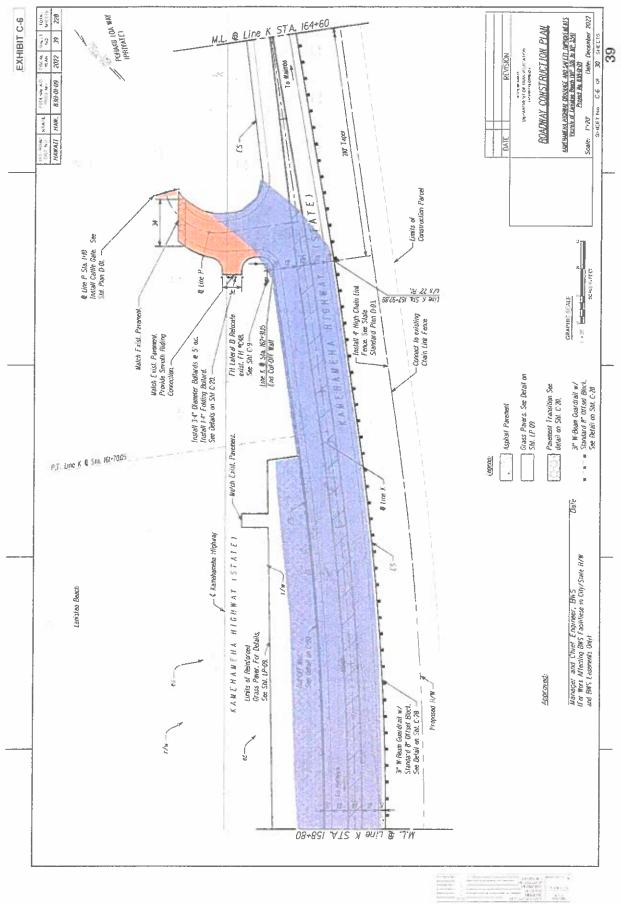


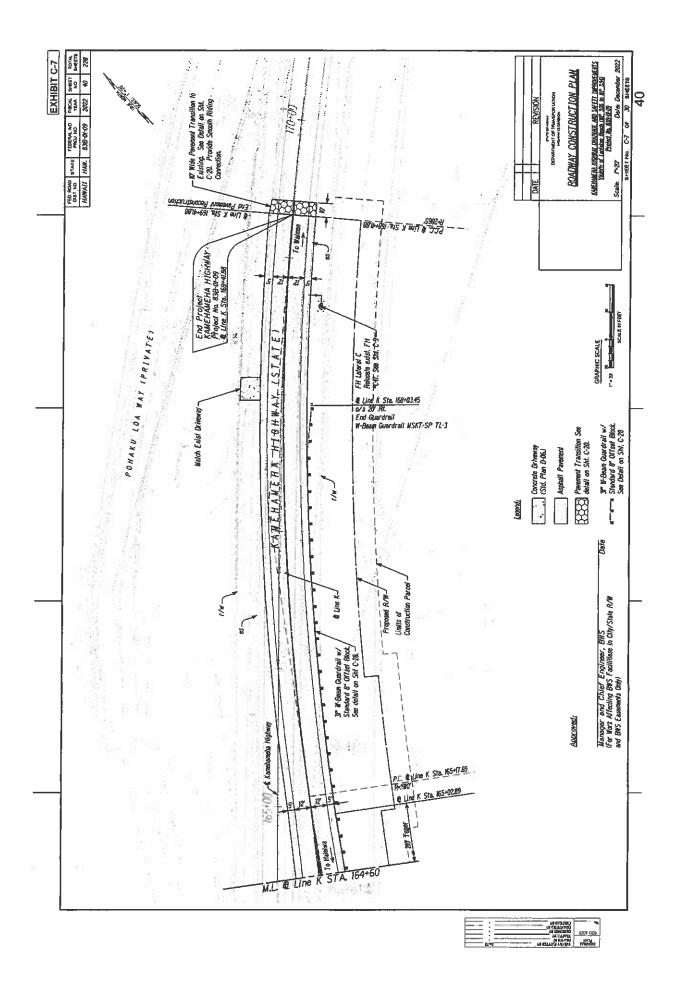


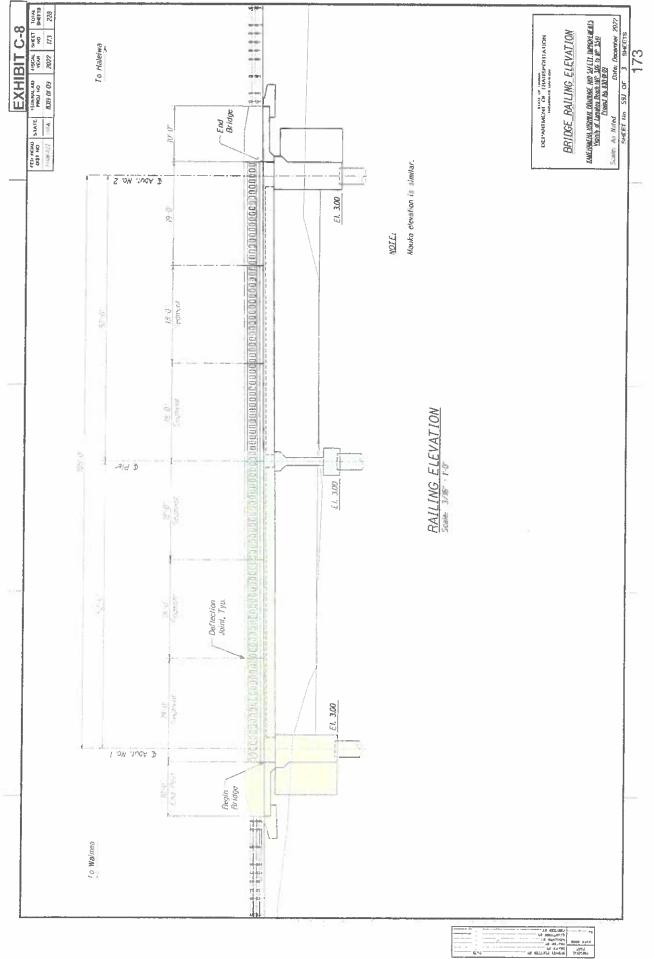
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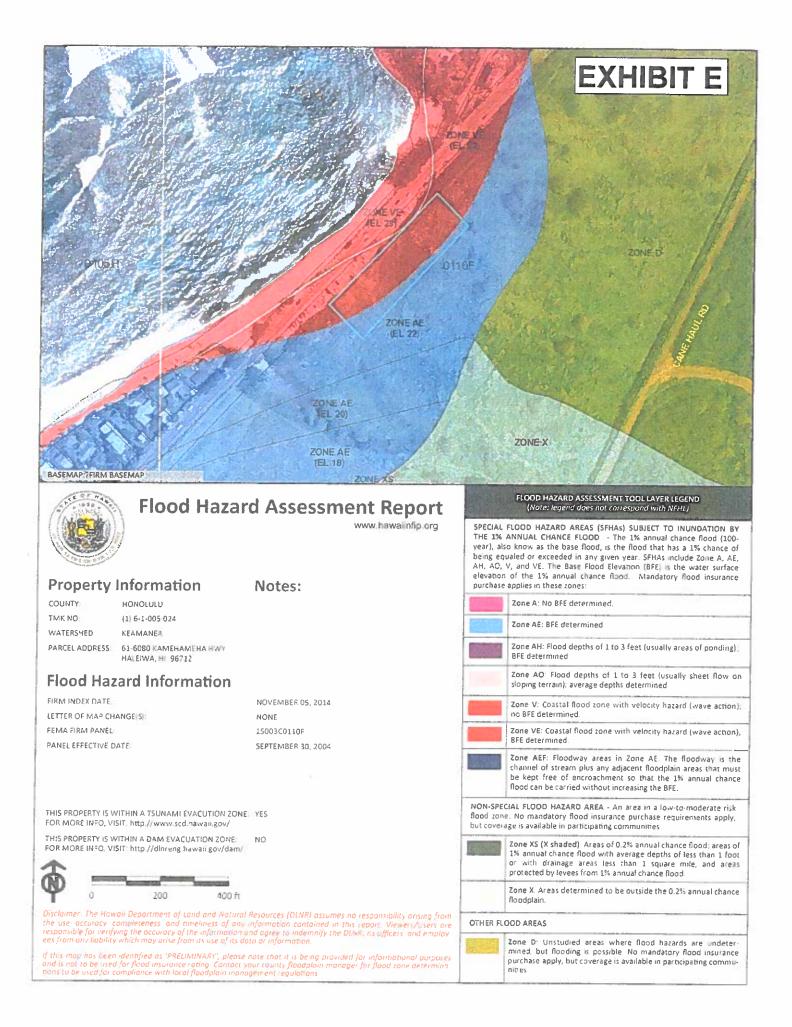












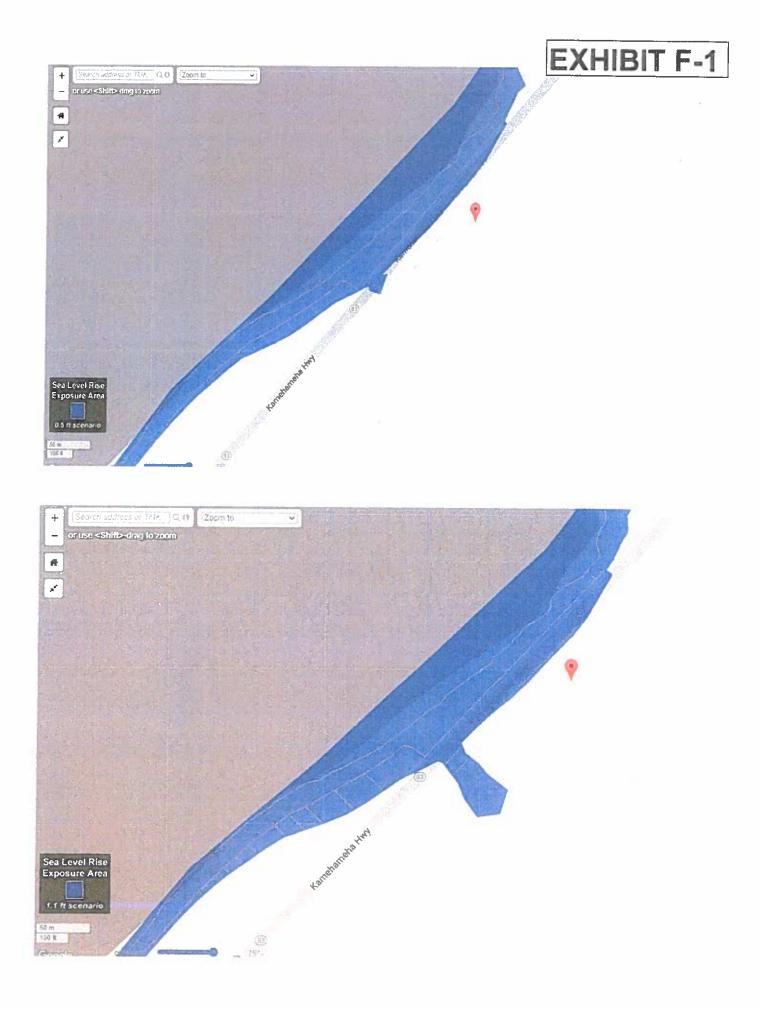


EXHIBIT F-2

