



**HONOLULU CITY COUNCIL**  
**KE KANIHELA O KE KALANA O HONOLULU**  
CITY AND COUNTY OF HONOLULU

**COMMITTEE ON ZONING**

**Voting Members:**

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

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**AGENDA**  
**ADDENDUM**  
REGULAR MEETING  
CITY COUNCIL CHAMBER  
WEDNESDAY, JULY 24, 2024  
9:00 A.M.

Remote and in-person oral testimony will be permitted on all items on the agenda when each agenda item is taken up. Each speaker may not have anyone else read their statement and is limited to a one-minute presentation.

Remote Testimony

1. For direct access to submit oral testimony call: +1-253-215-8782, enter ID: **84231728094** and Passcode: **873259**.
2. To testify by videoconference visit: <https://hnlldoc.ehawaii.gov/hnlldoc/testimony>. Videoconference access information will be provided upon registration. Testifiers are encouraged to register/submit testimony at least 24 hours prior to the meeting.

Although remote oral testimony is being permitted, this is a regular meeting and not a remote meeting by interactive conference technology under HRS Section 92-3.7. Therefore, the meeting will continue notwithstanding loss of audiovisual communication with remote testifiers or loss of the public broadcast of the meeting.

Persons wishing to testify in-person in the Council Chamber are requested to register by 9:00 a.m. by filling out the registration form in person outside the Council Chamber. Persons who have not registered will be given an opportunity to speak following the oral testimonies of the registered speakers.

Written testimony may be uploaded at <https://hnlldoc.ehawaii.gov/hnlldoc/testimony>, or mailed to Office of the City Clerk, Attention: Information Section, 530 South King Street, Room 100, Honolulu, HI 96813. If submitted, written testimonies, including the testifier's address, e-mail address, and phone number, will be available to the public at <https://hnlldoc.ehawaii.gov>.

Should you have any questions, please call (808) 768-3816 or send an email to [kiana.pascual@honolulu.gov](mailto:kiana.pascual@honolulu.gov).

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Meeting materials (“*board packet*” under HRS Section 92-7.5) are accessible at <https://hnlldoc.ehawaii.gov/hnlldoc/browse/agendas> by clicking on the appropriate Committee meeting.

After the meeting, the meeting will be viewable on demand at <https://www.honolulu-citycouncil.org/meetings>. Copies of older meeting videos may be requested by calling the City Clerk’s Office at (808) 768-5822, charges may apply.

If you need auxiliary aid/service or other accomodation due to a disability or an interpreter for a language other than English, please call the Office of the City Clerk Information Section at (808) 768-5822 between 7:45 a.m. and 4:30 p.m. or send an email to [kiana.pascual@honolulu.gov](mailto:kiana.pascual@honolulu.gov) as soon as possible or at least three (3) business days before the scheduled meeting. Requests made as early as possible have a greater likelihood of being fulfilled.

**THIS ADDENDUM PROVIDES PROPOSED CD1 AMENDMENTS TO AGENDA ITEMS NO. 1 – RESOLUTION 24-154, NO. 2 – RESOLUTION 24-155, AND NO. 4 – RESOLUTION 24-182.**

**FOR ACTION**

1. **RESOLUTION 24-154 – 3037 KALĀKAUA AVENUE – DIAMOND HEAD (2024/SMA-23)**. Granting a Special Management Area (“SMA”) Major Permit to Tonggs Holdings, Ltd. (“Applicant”) to allow the demolition of an existing two-story single-family dwelling, the construction of a new two-story single-family dwelling, alteration of the driveway, repair or replacement of the fence along the side and rear yards, repair of the existing storm drain pipeline, and landscape upgrades on approximately 5,353 square feet of land zoned R-5 Residential District, located at 3037 Kalākaua Avenue in Diamond Head, and identified as Tax Map Key 3-1-033: 006. (Applicant: Tongs Holdings, Ltd.) (Transmitted by Communication D-427[24]) (Current Deadline for Council action: 8/9/24)

PROPOSED CD1 TO RESOLUTION 24-154 (Submitted by Councilmember Say) – The Proposed CD1 (OCS2024-0619/7/19/2024 1:06 PM) makes the following amendments:

- A. Amends the title of the resolution title to read as follows:

"GRANTING A SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW FOR THE CONSTRUCTION OF A NEW TWO-STORY SINGLE-FAMILY DWELLING AND OTHER IMPROVEMENTS IN DIAMOND HEAD, O’AHU."

- B. In the first WHEREAS clause, clarifies the description of the Project.
- C. In the second WHEREAS clause, adds that no written testimony was submitted for the public hearing on the Project.
- D. Combines the third and fourth WHEREAS clauses, and in the newly combined third WHEREAS clause, provides that the Applicant requested an extension of the 45-calendar-day administrative deadline for the DPP to transmit its findings and recommendation to the Council following the public hearing, and references ROH § 25-4.1 (instead of ROH § 25-3.2).
- E. In Condition B:
  1. In Condition B.1, requires the Applicant to obtain a Minor Shoreline Structure Permit for the proposed repair or replacement of the fences

along the side yards, the fence along the rear yard that is anchored to the existing seawall, and the addition of permeable pavers within the eight-foot-wide public access easement to Tongg's beach; and

2. In Condition B.2, clarifies that Project activities involving the existing City storm drain pipeline are limited to repairs, as defined in ROH Chapter 26, and a Shoreline Setback Variance will be required if activities exceed 50 percent of the replacement cost of the storm drain pipeline.
- F. Adds a new Condition E.1, relating to coastal hazards, to provide that prior to the issuance of any construction permit or building permit for the Project, the Applicant is required to incorporate additional adaptation and design measures into the Project building permit plans that have been stamped by a civil engineer licensed by the State of Hawai'i, showing that all structures proposed within the 3.2-foot sea level rise exposure area ("SLR-XA") incorporate foundation or other adaptation or design measures to address potential erosion. Renumbers the subsequent paragraph in Condition E.
- G. Deletes Condition G, which would have prohibited the use of "high risk" plants listed on the Plant Pono website (this landscaping condition generally is not applied to residential projects). Realphabetizes subsequent conditions.
- H. Amends realphabetized Condition G.5, relating to landscaping and irrigation, to conform to the provisions in Condition G.2.
- I. Amends realphabetized Condition H.2 to require the Applicant to consult with SHPD to implement all mitigation protocols approved or otherwise required by SHPD. Also requires that a coordination meeting be held prior to commencing ground-disturbing activity and project construction to ensure that the construction contractor and applicable subcontractors have been informed of all mitigation protocols required by SHPD.
- J. In realphabetized Condition J, relating to fill material importation and invasive species:
1. Amends realphabetized Condition J.1 to clarify that the Applicant is required to minimize the importation of fill material to the extent possible.
  2. Amends realphabetized Condition J.2 to require the Applicant to minimize the movement of plant or soil material on the Project site,

and require that all Project construction equipment, materials, and personnel be cleaned of excess soil and debris prior to entering and leaving a Project worksite, in accordance with the current recommendations from the O'ahu Invasive Species Committee ("OISC").

3. Amends realphabetized Condition J.3 to clarify that prior to the commencement of any ground-disturbing or construction activities, and upon the arrival of any new workers to the Project site, a copy of the most recently updated OISC "Decontamination Protocols for Prevention of Invasive Species" ("Protocols") must be distributed to all workers who will be present at the Project site or posted on the Project site, or both the distribution and posting of the Protocols is required. Also requires that all onsite Project workers review the species photos and all Protocols prior to commencing any ground-disturbing or construction activities.
  4. Amends realphabetized Condition J.4 to provide that if, at any time, species on the OISC invasive species target list website are discovered on the Project site, the Applicant is required to immediately contact the OISC, and implement any measures recommended by the OISC and any responsible federal or State agency charged with the eradication and management of invasive species. Also requires that OISC's current email address and phone number be visibly posted at the Project site during pre-construction and construction activities.
- K. Amends realphabetized Condition K.1, to provide that the Project's building permit application was accepted as complete on May 11, 2023, and the Project's building permit must be issued no later than June 30, 2025. If the Project's building permit is not issued by June 30, 2025, the Project may not rely on the 40-foot shoreline setback that was in effect through June 30, 2024, and must instead comply with the shoreline setback required under ROH Chapter 26 effective as of July 1, 2024.
- L. Makes miscellaneous technical and nonsubstantive amendments.

2. **RESOLUTION 24-155 – 10 PO‘IPŪ PLACE – MAUNALUA (2024/SMA-14).** Granting a Special Management Area (“SMA”) Major Permit to Spencer P. and Patrick K. McInnis (“Applicants”) to allow (retain) unauthorized alterations to an existing single-family dwelling, including the construction of an in-ground swimming pool and spa, upper wood deck with stairways, a roof-top deck with a small bedroom extension below, and the renovation of the existing nonconforming lower wood deck, and handrails on a 39,007 square feet cliff-side shoreline lot zoned R-10 Residential District, located at 10 Po‘ipū Place in Maunaloa, and identified as Tax Map Key 3-9-028: 008. (Applicants: Spencer P. and Patrick K. McInnis) (Transmitted by Communication D-431[24]) (Current Deadline for Council action: 8/11/24)

PROPOSED CD1 TO RESOLUTION 24-155 (Submitted by Councilmember Say) – The Proposed CD1 (OCS2024-0620/7/19/2024 1:32 PM) makes the following amendments:

- A. Amends the title of the Resolution to read as follows:  
  
"GRANTING AN "AFTER-THE-FACT" SPECIAL MANAGEMENT AREA MAJOR PERMIT FOR UNAUTHORIZED MODIFICATIONS TO AN EXISTING SINGLE-FAMILY DWELLING, INCLUDING TWO NEW WOOD UPPER DECKS CONNECTED BY STAIRS, A NEW ROOF-TOP DECK WITH BEDROOM EXTENSION BELOW, RENOVATION OF A LOWER WOOD DECK, AND EXPANSION OF A SWIMMING POOL AND SPA IN MAUNALUA, O‘AHU."
- B. Amends the first WHEREAS clause to clarify the description of the Project.
- C. Amends the third WHEREAS clause to clarify that the DPP completed its report and transmitted its findings and recommendation of approval to the City Council within 45 (instead of 60) calendar days after the close of the public hearing for the SMA Major Permit.
- D. Amends Condition D by replacing the phrase "short-term rentals" with "bed and breakfast homes and transient vacation units;"
- E. In Condition E, relating to coastal hazards:
  1. Adds a new Condition E.2 to provide for a landowner acknowledgement that Tax Map Key 3-9-028:008 is a shoreline zoning lot and may be adversely impacted by coastal hazards; the landowner agrees to assume all risk and liability for any harm to or loss of life and property due to development on a shoreline zoning

lot; and the landowner further agrees to accept all responsibility for the cost and physical removal of materials and structures lost or damaged as a result of coastal hazards, including the cleanup and restoration of the Project site; and

2. Clarifies that the land owner acknowledgement statements relating to adverse impacts from coastal hazards must be clearly stated under "Landowner Acknowledgements on all Project construction permit plans and building permit plans
- F. Adds a new Condition F to provide for a landowner acknowledgement that land makai of the regulatory shoreline is State public land, falls within the State Land Use Conservation District, and must remain available for public use and recreational activities; should any portion of a structure encroach into State public land, the State Board of Land and Natural Resources may require the removal of the structure or a lease for the encroachments extending into the State public land; and the landowner holds harmless and indemnifies the City for any responsibility that may result from adverse impacts associated with sea level rise and coastal erosion.

Realphabetizes subsequent conditions.

- G. Adds a new realphabetized Condition G.7 to require nesting surveys to be conducted by a qualified biologist familiar with the biology of wedge-tailed shearwaters, Hawaiian seabirds, and the Manu-o-Kū (white tern) if Project construction activities are scheduled during the breeding and nesting period from March through December (nesting surveys are not required for Project construction activities occurring in January or February). Sets forth procedural requirements for conducting the nesting surveys.
- H. Adds a new Condition H that requires the Applicant to immediately remove any construction debris that enter the shoreline area of the Project site in order to ensure the safe and continued lateral public shoreline access along the lower portion of the Project site (which is within the State Land Use Conservation District).
- I. In Condition I, relating to permits:
1. Adds a new Condition I.1 to provide that the Project's building permit application was accepted as complete on June 18, 2024, and must be issued no later than June 30, 2025. If the Project's building permit is not issued by June 30, 2025, the Project may not rely on the 40-foot shoreline setback that was in effect through June 30, 2024,

and must instead comply with the shoreline setback required under ROH Chapter 26 effective as of July 1, 2024.

2. Amends Condition I.2 to require the Applicant to obtain a construction permit or building permit for the Project no later than June 30, 2025 (this is an after-the-fact SMA Major Permit for which most of the Project construction has already been completed, and to rely on the 40-foot shoreline setback that was in effect through June 30, 2024, the Project's building permit must be issued by June 30, 2025) and provide that the failure by the Applicant to obtain a construction permit or building permit within this period will render the SMA Major Permit null and void.
- J. In realphabetized Condition J, relating to compliance with all applicable City ordinances and other governmental provisions and requirements, adds that the Project's two new upper decks, nonconforming lower deck, and the south wing of the existing dwelling, which are located below the base flood elevation, must comply with the flood regulations of ROH Chapter 21A. Also adds that the Project's nonconforming lower deck must comply with the nonconforming structure requirements under ROH § 26-1.6.
- K. Makes miscellaneous technical and nonsubstantive amendments.

4. **RESOLUTION 24-182 – 3 PO'IPŪ DRIVE – MAUNALUA (2024/SMA-7).** Granting a Special Management Area (“SMA”) Major Permit to Randy Ortanez Trustee (“Applicant”) to allow the construction of a five-level single-family dwelling with lānai, a detached garage, a driveway and ramp to a lower level garage, an above-ground swimming pool, deck and pool pavilion, and various retaining walls on a 35,155 square feet (Cliffside) shoreline lot zoned R-10 Residential District, located at 3 Po'ipū Drive in Maunaloa, and identified as Tax Map Key 3-9-028: 001. (Applicant: Randy Ortanez Trustee) (Transmitted by Communication D-526[24]) (Current Deadline for Council action: 9/1/24)

PROPOSED CD1 TO RESOLUTION 24-182 (Submitted by Councilmember Say) – The Proposed CD1 (OCS2024-0680/7/19/2024 3:08 PM) makes the following amendments:

- A. Amends the title of the Resolution to read as follows:

"GRANTING A SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY DWELLING, INCLUDING TWO LĀNAIS, DETACHED GARAGE AND COVERED PARKING AREA, SWIMMING POOL WITH DECK AND POOL PAVILION, AND RETAINING WALLS IN MAUNALUA, O'AHU."

- B. Amends the first WHEREAS clause to clarify the description of the Project.
- C. Amends the fourth WHEREAS clause to insert the date on which the Council received the findings and recommendation of the DPP (July 3, 2024) and corresponding Departmental Communication number (Departmental Communication 526 (2024)).
- D. Combines Conditions B and C since they are related.
1. In Condition B.1, provides that prior to the issuance of any construction permits or building permits for the Project, the Applicant is required submit to the DPP a copy of the written determination from the State Historic Preservation Division ("SHPD") stating that SHPD has completed its review of the impact of the Project on historic properties pursuant to HRS § 6E-42, and has determined whether any mitigative actions and protocols are required.
  2. Adds a new Condition B.2 to require the Applicant to consult with SHPD to implement all mitigation protocols approved or otherwise required by SHPD. Also requires that a coordination meeting be held prior to commencing ground-disturbing activity and project

construction to ensure that the construction contractor and applicable subcontractors have been informed of all mitigation protocols required by SHPD.

3. Requires that the requirements enumerated in Condition B, and all mitigation protocols approved or otherwise required by SHPD be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

Realphabetizes subsequent conditions.

- E. In realphabetized Condition C, clarifies that the landowner acknowledgement relating to a potential shift of land from the State Land Use Urban District to the State Land Use Conservation District due to anticipated coastal erosion be clearly stated under "Landowner Acknowledgements" on all Project building permit plans (deletes reference to Project construction permit plans).
- F. Conforms realphabetized Condition D, relating to the landowner's acknowledgement that the landowner is precluded from claiming hardship due to erosion, sea level rise, or other coastal hazard to obtain approval for a Shoreline Setback Variance for a new shoreline protection structure, to the standard language for this type of condition.
- G. Amends realphabetized Condition E by:
  1. Replacing the references to "short-term rentals" with "bed and breakfast homes and transient vacation units"; and
  2. Providing that the Tax Map Key for the Project is 3-9-028:001 (instead of Tax Map Key 3-9-028:008).
- H. Adds a new Condition F.2 to provide for a landowner acknowledgement that Tax Map Key 3-9-028:001 is a shoreline zoning lot and may be adversely impacted by coastal hazards; the landowner agrees to assume all risk and liability for any harm to or loss of life and property due to development on a shoreline zoning lot; and the landowner further agrees to accept all responsibility for the cost and physical removal of materials and structures lost or damaged as a result of coastal hazards, including the cleanup and restoration of the Project site.
- I. Adds a new Condition H, relating to importation of fill material and invasive species prevention, to:

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1. In new Condition H.1, require the Applicant to minimize the importation of fill material, and provide that the Applicant proposes the onsite excavation of approximately 620 cubic yards of soil, which may be used onsite for backfill, so no importation of soil fill material is proposed.
2. In new Condition H.2, requires the Applicant to conduct a pre-construction survey of existing landscaping and minimize movement of plant or soil material on the Project site to minimize the risk of spreading invasive species. Also requires that all Project construction equipment, materials, and personnel be cleaned of excess soil and debris prior to entering and leaving a Project worksite, in accordance with the current recommendations from the O'ahu Invasive Species Committee ("OISC").
3. In new Condition H.3, provides that prior to the commencement of any ground-disturbing or construction activities, and upon the arrival of any new workers to the Project site, a copy of the most recently updated OISC "Decontamination Protocols for Prevention of Invasive Species" ("Protocols") must be distributed to all workers who will be present at the Project site, or posted on the Project site (or both the distribution and posting of the Protocols). Also requires that all onsite Project workers review the species photos, and all inspection and cleaning protocols.
4. In new Condition H.4, provides that if, at any time, species on the OISC invasive species target list website are discovered on the Project site, the Applicant is required to immediately contact OISC, and implement any measures recommended by the OISC and any responsible federal or State agency charged with the eradication and management of invasive species. Also requires that OISC's current email address and phone number be visibly posted at the Project site during pre-construction and construction activities.
5. Provides that the requirements enumerated in Condition H be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

Realphabetizes subsequent conditions.

- J. Adds a new Condition I.1 to provide that the Project's original building permit application was accepted as complete on August 3, 2023, but the Project

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plans were subsequently modified. If the Project's original building permit application submittal is allowed to continue, the building permit must be issued no later than June 30, 2025. If the Project's building permit is not issued by June 30, 2025, the Project may not rely on the 40-foot shoreline setback that was in effect through June 30, 2024, and must instead comply with the shoreline setback required under ROH Chapter 26 effective as of July 1, 2024.

- K. Makes miscellaneous technical and nonsubstantive amendments.

CALVIN K.Y. SAY, Chair  
Committee on Zoning