HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 53 (2024)

A BILL FOR AN ORDINANCE

FILED
AUG 29 2026
PURSUANT TO ROH Sec. 1-2.4

RELATING TO THE SPECIAL MANAGEMENT AREA.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose and findings. In 2020, the State of Hawai'i ("State") Legislature enacted Act 16, Session Laws of Hawaii ("SLH") 2020, which set forth several amendments to strengthen coastal zone management policy to protect beaches around the State and reduce residential exposure to coastal hazards. More specifically, these amendments included expanding the definition of "development" as it relates to the special management areas to include the construction or reconstruction of all single-family residences situated on shoreline parcels or parcels impacted by coastal hazards. The State Legislature found, among other things, that the convergence of dense development along shorelines, the landward migration of the shoreline due to sea level rise and other human and natural impacts, and the extensive beach loss due to shoreline armoring necessitated this revision of existing policies and regulations.

The expanded definition of "development" has led to an increase in applications to permit development within the special management area (under a special management area minor permit or a special management area major permit). Historically, the City Council ("Council") has acted as the approving authority for special management area major permits and the Director of Planning and Permitting ("DPP Director") has acted as the approving authority for special management area minor permits. However, the Council finds that it heavily relies upon the subject matter expertise of the Department of Planning and Permitting ("DPP") to analyze permit applications and each project's impact on the special management area, and to apply the policies, guidelines, and objectives of the State Coastal Zone Management Act and Chapter 25, Revised Ordinances of Honolulu 2021, relating to the special management area, in considering and adopting resolutions that grant special management area major permits, including those that permit development of single-family and two-family residences. Given the expertise of the DPP and pursuant to the Council's delegation authority set forth in Section 205A-1, Hawaii Revised Statutes ("HRS"), the Council wishes to delegate to the DPP Director its authority to take action on special management area major permits for certain types of development, particularly those developments that were not designated as "development" prior to the enactment of Act 16, SLH 2020.

In 2023, the State Legislature enacted Act 229, SLH 2023 ("Act 229"), finding that the broad definition of "development" as it relates to the special management area, combined with rising labor and materials costs, were triggering special management

area use permit review for improvements, facilities, and incidental structures that did not warrant such intense scrutiny, and resulted in unnecessary costs and delays. Act 229 contained targeted amendments to the definition of "development" to address these concerns, while promoting the environmental controls and quality that the special management area laws and regulations are intended to protect. The Council finds that amendments to Chapter 25, Revised Ordinances of Honolulu 2021, are necessary to maintain consistency with the State Coastal Zone Management law, as amended by Act 229.

The purpose of this ordinance is to amend Chapter 25, Revised Ordinances of Honolulu 2021, relating to the special management area, including by incorporating amendments made by Act 229 to HRS Chapter 205A, the State Coastal Zone Management law.

SECTION 2. Section 25-1.3, Revised Ordinances of Honolulu 2021, is amended by amending the definition of "Development" to read as follows:

"***Development.*** Any of the uses, activities, or operations on land, or in or under water, that occur within the special management area, as follows.

(1) Development includes but is not limited to the following:

(A) The placement or erection of any solid material, or any gaseous, liquid, solid, or thermal waste;

(B) [~~Grading,~~] The grading, removing, dredging, mining, or extraction of any materials;

(C) [~~Change~~] A change in the density or intensity of use of land, including but not limited to the division or subdivision of land;

(D) [~~Change~~] A change in the intensity of use, ecology, or access to water; and

(E) [~~Construction,~~] The construction, reconstruction, or alteration of the size of any structure, including but not limited to the construction or reconstruction of a dwelling unit:

(i) Situated on a shoreline lot or a lot that is impacted by waves, storm surges, high tide, or shoreline erosion, including

additions that exceed 300 square feet;

(ii) When the dwelling unit and related garages, carports, covered lanais, and accessory structures have an aggregate floor area of 7,500 square feet or more; or

(iii) That is part of a larger development of three or more dwelling units.

(2) Development does not include the following:

(A) [~~Construction~~] The construction or reconstruction of a dwelling unit that is less than 7,500 square feet of floor area, is not situated on a shoreline lot or a lot that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development of three or more dwelling units;

(B) Structural and nonstructural improvements:

(i) To existing dwelling units, including the addition of minor accessory structures and floor area additions; provided that such additions are limited to 300 square feet if the dwelling unit is considered development under subdivision (1)(E)(i), (ii), or (iii); or

(ii) Directly related to relocating a dwelling unit farther mauka or to an area less susceptible to coastal hazards, on the same zoning lot, and activities related to the relocation of the dwelling unit;

(C) [~~Repair~~] The repair or maintenance of roads and highways within existing rights-of-way;

(D) [~~Routine~~] The routine maintenance dredging of existing streams, channels, or drainageways;

(E) The repair and maintenance of underground utility lines, including but not limited to water, sewer, power, or telephone lines, or minor appurtenant structures, such as [~~pad-mounted~~] pad-mounted transformers and sewer pump stations;

(F) Zoning variances, except with respect to height, density, or parking, or shoreline setback variances;

(G) [~~Repair,~~] The repair, maintenance, or interior alterations to existing structures;

(H) [~~Demolition~~] The demolition or removal of structures, except for structures located on any historic site as designated in national or State registers;

(I) The use of any land for the purpose of cultivating, planting, growing, and harvesting [~~of~~] plants, crops, trees, and other agricultural, horticultural, or forestry products; animal husbandry; aquaculture or mariculture of plants or animals; or other agricultural purposes, including all traditional fishpond and traditional agricultural practices, subject to review by the agency in accordance with subdivision (3); provided that this exclusion does not apply to uses associated with agricultural activity dedicated to manufacturing, processing, or packaging;

(J) The transfer of title to land;

(K) The creation or termination of easements, covenants, or other rights in structures or land;

(L) The subdivision of a parcel of land into four or fewer parcels if no associated construction activities are proposed; provided that after the initial subdivision, any subsequent subdivision of the resulting parcels will be considered development for purposes of this chapter;

(M) [~~Installation~~] The installation of underground utility lines and appurtenant aboveground fixtures less than 4 feet in height along existing corridors;

(N) Nonstructural improvements to existing commercial structures; [~~or~~]

(O) [~~Construction,~~] The construction, installation, maintenance, repair, or replacement of emergency management warning or signal devices and sirens[~~.~~];

(P) The installation, maintenance, repair, or replacement of public pedestrian or bicycle facilities, including sidewalks, paths, bikeways, crosswalks, stairs, ramps, traffic control barriers, signs, signals, and associated improvements;

(Q) Trash removal or invasive vegetation removal or control, including incidental ground disturbance, excluding the use of herbicides;

(R) The installation of fencing, including associated improvements or incidental structures, for invasive species control or preservation of native habitats on conservation land;

(S) The installation, maintenance, repair, or replacement of lighting, fixtures, or equipment to establish compliance with current standards at existing public facilities;

(T) The installation, maintenance, repair, and replacement of security measures, including fencing, to existing public facilities; or

(U) Hawaiian traditional and customary practices, including work conducted by traditional means near, in, or related to loko i'a, traditional Hawaiian fishponds.

(3) *Cumulative impact.* Whenever the agency finds that any use, activity, or operation that is not otherwise considered development is or may become part of a larger project, the cumulative impact of which may have a significant adverse environmental or ecological effect on the special management area, that use, activity, or operation will be defined as development for the purposes of this chapter.

(4) *Significant effect.* Whenever the agency finds that a use, activity, or operation that is not otherwise considered development may have a significant adverse environmental or ecological effect on the special management area, that use, activity, or operation will be defined as development for the purposes of this chapter."

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SECTION 3. Section 25-2.3, Revised Ordinances of Honolulu 2021 ("Permits required for development "), is amended by amending subsection (d) to read as follows:

"(d) A special management area major permit[~~, approved by resolution of the council,~~] is required for any development proposal that:

(1) Has a valuation or fair market value that exceeds $500,000; or

(2) May have significant adverse environmental or ecological effects, taking into account potential cumulative impacts and significant effects."

SECTION 4. Section 25-5.3, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"**§ 25-5.3 Special management area major permit.**

When a proposed development requires a special management area major permit, the following procedures apply.

(a) *Environmental disclosures.* Except for one-family and two-family detached dwellings on a single zoning lot, the applicant shall prepare the applicable environmental disclosure document, which will be processed in accordance with the procedures set forth in HRS Chapter 343 and the rules adopted thereunder. The department of planning and permitting will act as the accepting agency for purposes of HRS Chapter 343; provided that if another agency proposes the action and is preparing the environmental disclosure document, that agency shall act as the accepting agency. The director may allow the application for an SMA major permit application to be processed concurrently with the preparation of the applicable environmental disclosure document.

(b) *Neighborhood board presentation.* Prior to submitting an SMA major permit application to the agency, the applicant shall present the project to the neighborhood board of the district where the project is located or, if no such neighborhood board exists, an appropriate community association. The applicant shall provide written notice of the presentation to owners of all properties adjoining the proposed development. The requirements of this subsection will be deemed satisfied if the applicant makes a written request to present the proposed development to the neighborhood board or community association and:

(1) The neighborhood board or community association fails to provide the applicant with an opportunity to present the proposed development at a meeting held within 60 days after the date of the written request; or

(2) The neighborhood board or community association provides the applicant with written notice that it has no objection to the proposed development or that no presentation of the project is necessary.

(c) *Eligibility for application submission.* Upon issuance of a finding of no significant impact or acceptance of the environmental disclosure document, and after the applicant has met the requirements of subsection (b), the applicant may submit a special management area major permit application to the agency.

(d) *Application requirements.* The applicant shall submit to the agency:

(1) All application materials that would be required for the special management area minor permit as specified in § 25-5.2;

(2) A copy of the final environmental disclosure document; and

(3) The applicable application fee specified in § 25-5.4.

(e) *Application acceptance.* Upon receipt of an application, the director shall review the application for completeness. Within 10 working days after receipt of an application, the director shall provide the applicant with written notice that:

(1) The application is deemed complete and has been accepted for processing; or

(2) The application is incomplete and has been rejected, with a statement of the specific requirements necessary to complete the application.

(f) *Public hearing.* The agency shall hold a public hearing on the application [~~at~~] on a date set not less than 21 nor more than 60 calendar days after the date the application was accepted as complete; provided that the period may be extended if agreed to by the applicant. The public hearing may be held in the area in which the development is proposed.

(g) *Published notice of public hearing.* Notice of the public hearing must be published in a newspaper of general circulation in the State at least 20 calendar days prior to the date of the public hearing.

(h) *Community notice of public hearing.* The agency shall provide adequate written notice of the public hearing to:

(1) Pertinent neighborhood boards or community associations;

(2) Owners of all property within 300 feet of the affected property; and

(3) Owners of all property described in the application.

(i) *Agency as approving authority.* For development of one-family and two-family detached dwellings on a single zoning lot that are not part of a larger development of three or more dwelling units, the director shall grant, grant with conditions, or deny any application for a special management area major permit within 60 calendar days after the close of the public hearing. If the director does not act on the application as provided in this section within the 60-day period, the application will be deemed denied. The applicant may request, and the director may approve, an extension of time if the request is made in writing and approved by the director prior to the expiration of the previous deadline for agency action. The director shall transmit to the council a copy of each special management area major permit granted and each notice denying a special management area major permit application pursuant to this subsection within 15 days of the issuance of the permit or the notice of application denial.

(j) *Council as approving authority.* [~~The~~] For any development that is not a one-family or two-family detached dwelling on a single zoning lot, or for development that is part of a larger development of three or more dwelling units, the agency shall transmit its findings and recommendations on the application for a special management area major permit to the council for its consideration and decision within 45 calendar days after the close of the public hearing; provided that this transmittal deadline may be extended if agreed to by the applicant.

[~~(j)~~] The council shall grant, grant with conditions, or deny any application for a special management area major permit within 60 calendar days after receipt of the agency's findings and recommendations thereon. If the council does not act on the application as provided in this section within the 60-day period, the application will be deemed denied. The applicant may request, and the council

may approve, an extension of time if the request is made in writing and approved by the council prior to the expiration of the previous deadline for council action."

SECTION 5. Section 25-9.6, Revised Ordinances of Honolulu 2021 ("Involuntary revocation or modification of permits"), is amended by amending subsections (c) and (d) to read as follows:

"(c) The agency may initiate the revocation or modification of a special management area major permit without the consent of the permittee as follows[~~.~~]:

(1) Upon determining that adequate reasons may exist under subsection (a) for the revocation or modification of a special management area major permit, the agency shall hold a public hearing on the proposed revocation or modification on a date set not less than 21 nor more than 60 days after the date on which the notice of revocation or modification is mailed to the permittee pursuant to subdivision (2).

(2) The agency shall give written notice of revocation or modification of a special management area major permit to the permittee and any disclosed owner of record of the property that is subject to the permit. The notice must include the following information:

(A) The permit proposed to be revoked or modified, identified by the agency's file number or, where applicable, the council resolution number and title;

(B) The date, time, place, and nature of the hearing;

(C) The reasons for the proposed revocation or modification; and

(D) In the case of a proposed modification, the nature of the modification proposed.

(3) The agency shall give written notice of the proposed revocation or modification of a special management area major permit, by publication once in a newspaper of general circulation in the city and once in a newspaper of general circulation in the State, not less than 21 nor more than 60 days prior to the date of the public hearing. The notice must state the following:

(A) The location of the affected property by tax map parcel number or street address, or if neither exists, by a general statement of its location;

(B) The permit proposed to be revoked or modified, identified by the agency's file number or, where applicable, the council resolution number and title;

(C) The date, time, place, and nature of the hearing;

(D) The reasons for the proposed revocation or modification; and

(E) In the case of a proposed modification, the nature of the modification proposed.

(4) The agency shall give written notice of the proposed revocation or modification of a special management area major permit containing the information set forth in subdivision (3) to any pertinent neighborhood boards or community associations, and make a good faith effort to give notice to the owners of all [~~property~~] properties within 300 feet of the affected property; provided that if the property is subject to a condominium property regime, notice may be given to the association of apartment owners of the condominium project.

(5) In conducting the public hearing, the agency shall provide an opportunity for all parties to provide testimony on all issues involved. The agency may adopt rules pursuant to HRS Chapter 91 with respect to the conduct of hearings under this subsection.

(6) Following the public hearing, the agency shall prepare a written report with its findings and recommendation and, if the report recommends revocation or modification, submit the report and a draft resolution implementing the agency's recommendation to the council within 30 calendar days after the close of the public hearing. For each of the reasons for the revocation or modification included in the notice provided under subdivision (2), the report must state whether the evidence presented at the public hearing supported or did not support revocation or modification for that reason. The report must include a recommendation that the permit be revoked, that the permit not be revoked, or that the permit be modified and, in the case of a proposed modification, the nature of the proposed modification.

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(d) The council may initiate the revocation or modification of a special management area major permit without the consent of the permittee by resolution as follows:

(1) The resolution must set forth the following:

(A) The permit proposed to be revoked or modified, identified by the agency's file number or, where applicable, the council resolution number and title;

(B) The reasons for the proposed revocation or modification, identifying which of the permissible reasons set forth in subsection (a) are applicable;

(C) In the case of a proposed modification, the nature of the proposed modification; and

(D) A direction to the agency to process the proposed revocation or modification in accordance with this section.

(2) After adoption of the resolution, the city clerk shall transmit the resolution to the agency for processing.

(3) Upon receiving the resolution, the agency shall conduct an initial investigation into the reasons set forth in the resolution for revocation or modification of the special management area major permit and, within 60 days of receipt of the resolution, the agency shall give the permittee and any disclosed owner of record of the property that is subject to the permit, written notice of a hearing on the proposed revocation or modification. The written notice must meet the notice requirements of subsection (c)(2), and must include the reasons for the proposed revocation or modification set forth in the resolution, and any other reasons for revocation or modification the agency may have identified during its initial investigation or otherwise.

(4) The agency shall hold a public hearing on the proposed revocation or modification on a date set not less than 21 nor more than 60 days following the date of sending the notice to the permittee and others pursuant to subdivision (3).

(5) The agency shall give written notice of the hearing and conduct the hearing in accordance with subsections (c)(3), (c)(4), and (c)(5).

(6) Following the public hearing, the agency shall prepare and submit to the council a written report and transcript of the public hearing within 30 calendar days after the close of the public hearing. If the agency recommends revocation or modification, the report must include a draft resolution implementing the agency's recommendation."

SECTION 6. Ordinance material to be repealed is bracketed and stricken. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

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SECTION 7. This ordinance takes effect upon its approval.

INTRODUCED BY:

Calvin K.Y. Say

DATE OF INTRODUCTION:

AUG 29 2024
Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

FILED
AUG 29 2026
PURSUANT TO ROH Sec. 1-2.4

Deputy Corporation Counsel

APPROVED this _____day of _____, 20 ___.

RICK BLANGIARDI, Mayor
City and County of Honolulu