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DEPARTMENT OF PLANNING AND PERMITTING
KA 'OIHANA HO'OLĀLĀ A ME NĀ PALAPALA 'AE
CITY AND COUNTY OF HONOLULU

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September 9, 2024

2024/SMA-54 (DC)

The Honorable Tommy Waters
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Special Management Area (SMA) Major Permit
Horita Residance - New Single-Family Dwelling
312 Wailupe Circle – Wailupe Peninsula
Tax Map Key 3-6-001:019

Enclosed for your consideration are the Department of Planning and Permitting's (DPP) Report and Recommendation, Draft Resolution, and Exhibits for the SMA Major Permit application for a new single-family dwelling with an attached garage on a lot in Wailupe Peninsula (Project).

The DPP recommends that the Project be approved subject to compliance with recommended conditions, which primarily consist of standard conditions relating to archaeological resources, protected species, and public beach and shoreline preservation.

Pursuant to Revised Ordinances of Honolulu Chapter 25, the City Council must act within 60 calendar days after receipt of our Findings and Recommendation; however, the City Council may extend this period of time upon receipt of a request from the Applicant for an extension.

DEPT. COM. 659

Should you have any questions, please contact me at (808) 768-8000.

Very truly yours,

Dawn Takeuchi Apuna
Director

Enclosure: DPP Report and Recommendation
Exhibits A, B, C-1 through C-6, D, E, F, G, and H
Draft Resolution

APPROVED BY:

Michael D. Formby
Managing Director

DEPARTMENT OF PLANNING AND PERMITTING
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAI'I

IN THE MATTER OF THE APPLICATION

BY

TIMOTHY GUTIERREZ

FOR A

SPECIAL MANAGEMENT AREA
(SMA) MAJOR PERMIT

File No. 2024/SMA-54 (DC)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

I. APPLICATION

A. Basic Information:

LANDOWNER:	Keith Horita
APPLICANT:	Timothy Gutierrez
AGENT:	G70 (Jeff Overton)
LOCATION:	312 Wailupe Circle – Wailupe Peninsula (Exhibit A)
TAX MAP KEY (TMK):	3-6-001:019
ZONING:	R-10 Residential District (Exhibit B)
STATE LAND USE:	Urban
DEVELOPMENT PLAN:	East Honolulu Sustainable Communities Plan (EHSCP)

B. Proposal: The Applicant seeks an SMA Major Permit to allow the construction of a new two-story, 25-foot (ft.)-tall, single-family dwelling with an attached garage on a shoreline lot in Wailupe Peninsula (Project; see Exhibits C-1 through C-6). The proposal includes the demolishment of an existing single-family dwelling. The new dwelling will have a total building area of approximately 4,500 square feet (sq. ft.) and a total floor area of approximately 6,180 sq. ft. split between the

floors. The garage will be 700 sq. ft. The new dwelling will be approximately 60 ft. away from the shoreline. No work is proposed for the existing 980-sq.-ft. nonconforming pool house, swimming pool, and seawall. The Project will cost approximately $4,000,000 and construction will take approximately one year to complete upon issuance of a Building Permit (BP).

C. Background: On October 12, 1946, Wailupe Pennisula was approved for a residential subdivision. The BP No. 98233 for the original single-family dwelling with an attached garage was approved on March 13, 1952. Between 1952 and 1986, additions and alterations were permitted under BP Nos. 101277, 208643, and 394035. The existing cabana and seawall are visible in a 1967 historic shoreline photograph. On July 24, 1973, an existing patio was enclosed (BP No. 13030). On June 30, 1978, a Shoreline Setback Variance (SSV) No. 78/SV-4 was approved to allow a pool within the 40-ft. shoreline setback. An existing dock is located at the rear of the property facing Maunalua Bay.

II. FINDINGS OF FACT

On the basis of the evidence presented, the Director of the Department of Planning and Permitting (DPP) has found:

Lot Area	18,316 sq. ft.
Lot Shape	Rectangular
Topography	Level lot with minimal grade change. The site is approximately eight ft. above mean sea level (MSL).
Existing Development	Single-family dwelling.
Surrounding Uses	To the north - Single-family dwellings To the south - Single-family dwellings and Pacific Ocean To the east - Maunalua Bay To the west - Single-family dwellings
Nearest Body of Water	*Pacific Ocean/Maunalua Bay* - Estuarine and Marine Deepwater (United States Fish and Wildlife Service [USFWS] National Wetlands Inventory).
Shoreline Survey	April 29, 2024, certified shoreline survey indicated that the shoreline is located along the outer face of the existing seawall as certified on April 29, 2024. The Project is approximately 60 ft. mauka (landward) of the shoreline (see Exhibit D).
Shoreline Change Rate	Unmapped on the O'ahu Historical Shoreline Change Map. Therefore, the applicable shoreline setback is 60 ft.

Soil Classifications	*Fill* - Zero to three percent slopes, well-drained, and low runoff rate. (United States Department of Agriculture [USDA] - Natural Resources Conservation Service, [NRCS]).
Vegetation	Grass lawn, a small tree, and shrubbery.
Flood Zone (*mauka to makai*)	*Flood Zone X* – Areas outside of the 0.2 percent annual chance floodplain. *Flood Zone VE* – Areas within the one-percent annual chance of coastal floodplains that have additional hazards associated with storm waves; base flood elevation of 12 ft. above MSL. (Federal Emergency Management Agency, Flood Insurance Rate Map [FIRM] Panel No. 15003C0388G, revised January 19, 2011, see Exhibit E).
Sea Level Rise (SLR) - Exposure Area (XA)	The western portion of the site is impacted by 3.2 ft. of SLR; no coastal erosion related to SLR is projected for the site (University of Hawai'i Pacific Island Ocean Observing System SLR Viewer; see Exhibit F).
Tsunami	The entirety of the subject property and the surrounding neighborhood is located within the tsunami evacuation zone.
Storm Surge	The National Storm Surge Hazards Maps indicate that the Project area is anticipated to be inundated by storm surge of less than three ft. above the ground in a Category 4 hurricane event (see Exhibit G).
Environmental Compliance	The proposed Project is exempt from environmental review under Hawai'i Revised Statutes (HRS), Chapter 343. Therefore, no environmental review under HRS, Chapter 343 is required.
Agency Comments	During the SMA process, the DPP routed the proposal to various Federal, State, and City agencies. All letters and comments received have been included in the Project file and incorporated into the Analysis Section, as appropriate.

Neighborhood Board/ Community Association Presentation	The Agent presented the Project to the Kuli'ou'ou Kalani Iki Neighborhood Board (NB) No. 2 on March 7, 2024. The NB expressed no objection to the Project. Written notice was also provided to adjoining property owners, informing them of the presentation. Proof of mailing the notice was provided via a signed affidavit. These materials were submitted as part of the SMA Permit application.
Public Hearing	The DPP conducted a Public Hearing at 10:30 a.m. on July 26, 2024, at the Frank F. Fasi Municipal Building. Other than the Applicant, Agent, Landowner, and the DPP staff members, no members of the public gave testimony. A recording of the public hearing is available upon request.

III. ANALYSIS

The proposed Project was analyzed in accordance with the objectives, policies, and guidelines established in Revised Ordinances of Honolulu (ROH) Chapters 25, §§ 25-3.1 and 25-4.1, as well as HRS §§ 205A-2 and 205A-26.

A. Recreational Resources

Development within the SMA should provide coastal recreational opportunities to the public. Adequate access, by dedication or other means, to beaches, coastal dunes, recreation areas, and natural reserves must be provided to the extent consistent with sound conservation principles. Adequate and properly located public recreation areas and wildlife preserves must be preserved.

Implementation of the Project will not adversely impact coastal recreational opportunities for the public because the Project will not result in any change to existing beach access, open spaces, recreational resources, or opportunities for hiking, fishing, and cultural practices. Publically accessible coastal resources in the area include Wailupe Beach Park, the access point of which is located approximately 1,750 ft. to the northwest (see Exhibit A). The Project will not affect these recreational opportunities. There is no direct public access to the beach through the subject property, and there is no sandy beach makai of the Project site. The development is located outside of the 60 ft. shoreline setback. There is no public beach along the seawall. Given this, any impacts on recreational users are unlikely, and access to these areas will remain unchanged. Therefore, no conditions of approval are recommended to address coastal recreational resources.

B. Historic and Cultural Resources

Development within the SMA should protect, preserve, and restore natural or human-made historical and cultural resources.

The Project site is not identified as having historic resources. Wailupe Penisula was artificially formed in the early twentieth century. In addition, a majority of the site consists of mixed fill, a soil type that was brought into the site during the initial construction of the peninsula. However, should any cultural or archaeological resources be discovered, the Project should be subject to the standard "stop work" condition of approval. This will ensure that 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 must stop work and contact the State Historic Preservation Division (SHPD). This is recommended as a condition of approval. Provided the Applicant complies with the SHPD's requirements regarding onsite resources, no adverse impacts to historic or archaeological resources are anticipated.

The DPP assessed the extent to which Native Hawaiian rights are customarily and traditionally exercised within the Project site and the extent to which these rights may be affected or impaired by Project implementation. The Project does not propose any change to existing established public access for Hawaiian cultural activities, nor would Project implementation preclude the practice of Hawaiian cultural activities. No customarily and traditionally exercised Native Hawaiian practices were observed on or near the Project site. Further, no related critical resources are known to be present on the site. During a site visit by DPP staff, no customarily and traditionally exercised Native Hawaiian practices were observed on the Project site. Given all of this, no adverse impacts to Native Hawaiian rights are anticipated, and therefore, no conditions are recommended in regard to preserving access or opportunities for Hawaiian cultural activities.

C. Scenic and Open Space Resources

Development within the SMA should protect, preserve, and whenever desirable, restore or improve the quality of coastal scenic and open space resources. Alterations to existing landforms and vegetation, other than for the cultivation of coastal-dependent crops, must be limited so they result in minimum adverse impacts on water resources, beaches, coastal dunes, and scenic or recreational amenities. Development that is not dependent on the coast is encouraged to locate mauka of the SMA.

The Project will not impact scenic and open space resources because the Project area is located within an existing residential subdivision that is similarly developed along the shoreline and protected by a seawall (see Exhibits A and C-1). The City's Coastal View Study identifies intermittent coastal views along Kalaniana'ole Highway from Koko Head to Diamond Head. Coastal views are limited due to existing residences buffering and screening any view of the ocean along Kalaniana'ole Highway. The Project site is on a shoreline lot, and the proposed development is located outside any public view corridors or identified viewplanes. The Project will have to meet the development standards of ROH Chapter 21, the Land Use Ordinance (LUO), which will be confirmed during the BP review process. Given all this, any substantial impacts to scenic and open space resources are unlikely. Therefore, no conditions of approval are recommended to address scenic and open space resources.

D. Coastal Ecosystems

Development within the SMA should protect valuable coastal ecosystems, including reefs, beaches, and coastal dunes from disruption, and minimize adverse impacts on all coastal ecosystems. Solid and liquid waste treatment and disposition must be managed to minimize adverse impacts on SMA resources.

No significant impacts to coastal ecosystems are expected as a result of the Project because the site is within an existing residential subdivision that is similarly developed along the shoreline. However, flora and fauna within the vicinity of the Project site may be impacted, particularly during construction activities. Therefore, conditions of approval related to flora and fauna should be imposed in order to protect valuable coastal ecosystems, as explained below.

1. Sensitive Coastal Habitats and Species:

   a. Flora: During the site visit on July 16, 2024, grass lawn, a tree less than 15 ft., and assorted shrubbery were observed onsite. The Applicant proposes to remove the tree located in the front of the property. No rare, threatened, or endangered floral species are known to be present on the site, and no impacts to these species are anticipated. Therefore, no conditions related to the protection of threatened or endangered species are recommended.

   b. Fauna: A review of the USFWS Information for Planning and Consultation (IPaC) database revealed there are several threatened and endangered fauna species that may visit the site for foraging or breeding purposes. Sensitive terrestrial mammal species may be present, including the Hawaiian Hoary Bat. Therefore, barbless fencing should be used for all fence

construction to avoid entanglement of Hawaiian Hoary Bats. This measure should be a condition of approval.

Sensitive avian species which may be present include Hawaiian seabirds and water birds (Band-rumped Storm-petrel, Hawaiian Common Gallinule, Hawaiian Coot, Hawaiian Duck, Hawaiian Petrel, Hawaiian Stilt, and Newell's Shearwater), and migratory birds. These species may be impacted by Project implementation, particularly during construction activities. Therefore, standard conditions relating to the protection of these avian species are recommended.

The IPaC database also identifies the Green Sea Turtle and the Hawksbill Sea Turtle as protected reptile species that may be present in the Project area. Further, according to National Oceanic and Atmospheric Administration Fisheries, marine and terrestrial critical habitat for Hawaiian monk seals includes the beaches and marine waters near the Project site. The area makai of the Project site does not consist of sandy beach that could serve as an area for seals to haul out and breed, and for turtles to nest. Therefore, no conditions relating to the protection of marine fauna species are recommended.

Artificial lighting can be disruptive to avifauna and marine life in their navigation, nesting, and reproductive cycles. Therefore, all outdoor lighting should be fully shielded, and nighttime work (from sunset to sunrise) must be avoided during the seabird fledgling season from September 15 through December 15. To further mitigate potential lighting impacts, the Applicant should use full cutoff light fixtures for exterior lighting. The International Dark Sky Association has established lighting standards to mitigate ecological impacts. Their Fixture Seal of Approval program requires that lighting have a correlated color temperature of 3,000 degrees kelvin or lower. These standard measures are recommended conditions of approval.

These recommended conditions of approval should be clearly stated under "Environmental Notes" on any Project construction plans and BP plans.

2. Reefs, Beaches, and Coastal Dunes: The Project's potential impacts on reefs, beaches, and coastal dunes are discussed in Section H, below.

3. Solid and Liquid Waste: Impacts relating to solid and liquid waste are not anticipated. The City and County's Department of Environmental Services will provide solid waste collection. The municipal sewer system does service the area. The new dwelling will connect to the existing sewer line.

Therefore, no further conditions of approval related to solid and liquid waste are recommended.

Upon implementation of the recommended conditions, along with standard water quality and erosion best management practice (BMP), potential impacts to coastal ecosystems will be mitigated.

E. Economic Uses

Development within the SMA should consist of facilities and improvements important to the State's economy, and ensure that coastal-dependent development and coastal-related development are located, designed, and constructed to minimize exposure to coastal hazards and adverse social, visual, and environmental impacts within the SMA.

Implementation of the Project will result in a temporary increase in jobs and economic activity during construction through the rental and purchase of equipment, materials, and supplies. Otherwise, the proposed dwelling is anticipated to result in minimal changes to the State's economy. Therefore, the Project is not anticipated to result in any adverse impact to the State's economy, and no related conditions of approval are recommended.

F. Coastal Hazards

Development within the SMA should reduce the impacts of coastal hazards on life and property and must be designed to minimize impacts from landslides, erosion, SLR, siltation, or failure in the event of an earthquake.

1. Flooding: The Project area is located within Flood Zone X, an area outside the 0.2 percent annual chance floodplain. A small makai portion of the site is located within Flood Zone VE (the Coastal High Hazard Area, an area subject to inundation by a one percent annual chance of flood due to coastal processes, with additional hazards associated with storm waves) (see Exhibit E). Only Flood Zone VE is included in the City's Special Flood Hazards Area. Since development is located in Flood Zone X, which is not considered a Special Flood Hazard Area, no conditions of approval specific to flood hazards are recommended.

2. SLR: Based on a review of the University of Hawai'i Pacific Island Ocean Observing System SLR Viewer, almost the entire site is located outside the SLR-XA under a scenario envisioning 3.2 ft. of SLR (see Exhibit F). According to the modeling, the Project area is not anticipated to be impacted by annual high wave or passive flooding under scenarios

envisioning 1.1 ft. or two ft. of SLR. Additionally, all the development is located outside of the small portion of the lot in the 3.2-ft. XA.

Nevertheless, as a shoreline lot, the Applicant and successor owners must be aware of the potential for coastal hazards at the subject property, and aware that future shoreline variances for shoreline hardening structures cannot not be allowed, as discussed under Section H, below. Further, the Applicant and successor owners must be aware that as sea level rises or as land area is lost to coastal erosion or other occurrences, land makai of the shoreline becomes part of the State's Land Use Conservation District. This acknowledgement should be required as a condition of approval.

3. Storm Surge: The National Storm Surge Hazards Maps indicate that the Project area is anticipated to be inundated by storm surge of less than three ft. above the ground in a Category 4 hurricane event (see Exhibit G). However, as indicated above, a portion of the site is in the Coastal High Hazard Area, which is susceptible to high-velocity wave action at present and the lot may be subject to additional coastal erosion and high wave flooding in the future. While the proposed development will be approximately 60 ft. away from the shoreline, the owners and occupants of the dwelling should be aware of the inherent risk of shoreline development. Implementation of the recommended conditions, as discussed above, will help mitigate potentially significant impacts regarding storm surges, this is included as a condition of approval.

4. Tsunami: The site is located within the tsunami evacuation zone. In such an event, early warning systems are in place to encourage evacuation to the safe zone. As such, no related condition of approval is recommended.

G. Managed Development and Public Participation

The development review process should stimulate public awareness, education, and participation in coastal management.

The public was made aware of the Project and was given the opportunity to review the proposed Project during the processing of the SMA Major Permit Application. The application materials were also posted on the DPP website.

Prior to submitting the SMA Major Permit application, the Applicant presented the Project to Kuli'ou'ou Kalani Iki NB No. 2 on March 7, 2024. There were no objections to the proposed development, and it is generally consistent with the development in the surrounding area. The minutes from this meeting were included as part of the SMA Permit application.

A public hearing was held for the SMA Major Permit application at 10:30 a.m. on Friday, July 26, 2024, at the Frank F. Fasi Municipal Building. Notices of the application and public hearing were published in the Honolulu Star-Advertiser and sent to neighbors within 300 ft. of the subject property, various public agencies, elected officials for the area, and other interested parties. One letter of written testimony in regard to the potential for asbestos was received prior to the public hearing. This concern was considered in the DPP's review of the application, and is analyzed in Section K, below. No members of the public attended the public hearing.

A recording of the public hearing is available upon request. Additional opportunities for public input will be available during the City Council meetings. No related conditions of approval are recommended.

H. Beach and Coastal Dune Protection

Development within the SMA should facilitate beach management and protection by safeguarding beaches and coastal dunes for public use and recreation, the benefit of ecosystems, and use as natural buffers against coastal hazards. New structures should be located mauka of the shoreline setback line to conserve open space, minimize interference with natural shoreline processes, and minimize the loss of improvements due to erosion.

The Project site is located on areas identified as mixed fill, according to the USDA - NRCS Web Soil Survey. No impacts to beaches and coastal dunes are anticipated as a result of the Project because the new dwelling will be located within an existing residential subdivision, will not involve the importation of fill materials, and will be located approximately 60 ft. away from the certified shoreline.

Further, no impacts to drainage patterns or stormwater infiltration as a result of new impervious surfaces are anticipated because the proposed dwelling is comparable to or slightly less in lot coverage than the surrounding dwellings. According to the Applicant, the amount of impervious surfaces onsite will not exceed 34 percent of the zoning lot, which is well below the maximum 75 percent coverage allowed by the LUO. Given all this and the fact that BMPs will mitigate impacts during construction-related activities, no impacts on beaches and coastal dunes are anticipated as a result of the Project.

Nevertheless, the Applicant and successor owners should be aware that pursuant to ROH § 26-1.8(b)(3)(E), a determination of hardship as a result of any discretionary land use permit granted after June 16, 1989, is not a basis for requesting an SSV. This means that where a discretionary land use permit is used to authorize development, the Applicant cannot later claim hardship as the basis for an SSV in order to protect that development. This SMA Major Permit is a discretionary land use permit. This is recommended as a condition of approval

to ensure that the Applicant and successor owners or interests are fully aware of this regulatory standard.

I. Marine and Coastal Resources

Development within the SMA should promote the protection, use, and development of marine and coastal resources to ensure that these resources are ecologically and environmentally sound and economically beneficial. Impacts on water resources, beaches, coastal dunes, and scenic or recreational amenities resulting from the construction of structures must be minimized. Development within wetland areas should be limited to activities that are dependent on or enhance wetlands, or are otherwise approved by appropriate State and federal agencies.

The Project does not involve the use or management of marine resources. According to the National Wetlands Inventory of the USFWS, this section of the Pacific Ocean is identified as Estuarine and Marine Deepwater. However, no impacts are anticipated and there are no known wetlands located on the Project site as the new dwelling will be approximately 60 ft. away from the presumed shoreline and protected by a seawall (see Exhibits A and C-1). Stormwater will be managed onsite and the proposed total amount of impervious surfaces will not exceed 34 percent of the lot area. Construction-related activities will also be required to follow standard BMPs relating to stormwater management. No impacts to bays, estuaries, or nearby water features are anticipated. Therefore, marine and coastal resources are unlikely to be negatively impacted as a result of the proposal, and no condition of approval is recommended.

J. Cumulative Impact or Significant Effect and Compelling Public Interest

Development within the SMA should not have any cumulative impact or significant effect, unless minimized to the extent practicable and clearly outweighed by public health, safety, or other compelling public interest.

Substantial or cumulative negative environmental impacts associated with the implementation of the Project along with other past, present, and reasonably foreseeable projects in the Project vicinity are not anticipated. The Project site and other lots within 500 ft. of the Project site perimeter are zoned for residential use, and are therefore limited in their development potential due to required compliance with applicable development standards (see Exhibit B). The subject property, along with those in the surrounding vicinity, are located within the SMA, which requires any activity meeting the definition of development to undergo review for impacts to the sensitive coastal resources previously described in this report. Known past/present (within five years) development includes the following, (see Exhibit H):

- On June 24, 2022, under File No. 2022/SMA-24, the DPP approved an SMA Minor Permit to allow the construction of a new garage and second floor addition to an existing single-family dwelling at 328 Wailupe Circle (TMK 3-6-001:017); and

- On Janurary 4, 2024, under File No. 2023/SMA-29, the DPP approved an SMA Minor Permit to allow the construction of a new garage, gazebo, outdoor shower, clerestory, and front entryway to an existing single-family dwelling at 344 Wailupe Circle (TMK 3-6-001:015).

No other reasonably foreseeable development was identified within the cumulative project radius.

In regard to this Project combined with other known and reasonably foreseeable projects in the vicinity, potential cumulative impacts to SMA resources could occur if the projects collectively resulted in damage to the water quality of the nearby Pacific Ocean or the loss of critical habitat for a known protected species. However, because projects in close proximity of the Project site were all required to undergo individual SMA review, and because they were required to comply with regulatory standards, site-specific conditions of approval were imposed to minimize their potential to contribute to cumulatively significant impacts. Further, the Project will be located outside of the shoreline setback area. Any cumulative impacts or significant effects identified in this report will be mitigated to the extent practicable by the proposed conditions of approval. Given this, no conditions of approval specific to cumulative impacts are recommended.

K. Consistency with Plans and Regulations

Development within the SMA must be consistent with the general plan, development plans, sustainable communities plans, and zoning ordinances; provided that a finding of inconsistency does not preclude concurrent processing of amendments to applicable plans or a zone change.

The proposal is generally consistent with the applicable plans and regulations, as detailed below.

1. O'ahu General Plan (GP): The Project is generally consistent with the O'ahu GP. Public Safety Objective B, Policy No. 2, requires all development in areas subject to floods and tsunamis to be located and constructed in a manner that will not create any health or safety hazard. Early warning systems are in place to encourage evacuation to the safe zone should a tsunami occur. Therefore, the health and safety impacts related to development within the tsunami evacuation zone will be mitigated. The Project also meets Objective F, Policy No. 3, which

requires new developments in stable established communities and rural areas to be compatible with the existing communities and areas. The Project has been designed to be compatible with the surrounding area and to be in compliance with all applicable development standards.

2. EHSCP: The EHSCP land use map identifies the Project area as urban residential, located within the community growth boundary. The Project involves the construction of a new two-story, single-family dwelling on a 18,316-sq.-ft. lot. Given this, the proposed development is generally consistent with the EHSCP.

   Additionally, the EHSCP calls to "*minimize adverse lighting impacts on aquatic life and avifauna, as well as adverse aesthetic impacts, particularly from stationary point lookouts and along significant view planes.*" As stated earlier, the Project should be required to limit construction activities to daylight hours, and outdoor lighting should be fully shielded and lighting directed down to minimize light spillage. With these conditions of approval, the DPP finds that the Project is consistent with the above policy.

3. ROH Chapter 21, LUO: The Project has been designed to comply with the development standards of the LUO. The 18,316-sq. ft. site is located within the R-10 Residential District, which allows the single-family dwelling use. In addition to the existing dwelling onsite, as proposed, the new dwelling is of an appropriate size, height, and bulk to meet the development standards for the R-10 Residential District. Compliance with ROH Chapter 21 will be confirmed during the BP process.

IV. CONCLUSIONS OF LAW

The proposed development was reviewed under the provisions of the ROH §§ 25-3.1 and 25-4.1 and HRS §§ 205A-2 and 205A-26, and found to be consistent with established SMA objectives, policies, and guidelines, subject to the conditions below. Based on the analysis, the proposed Project will not adversely impact SMA resources, provided that appropriate mitigative conditions are implemented as recommended.

V. RECOMMENDATION

Based on the preceding Analysis and Conclusions of Law, it is recommended that this application for a SMA Major Permit be **APPROVED**, subject to the following conditions:

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-6, D, E, F, G, and H attached hereto and incorporated herein by this reference. Any change in the size or nature of the

Project that may have a significant effect on coastal resources, as addressed in ROH Chapter 25 or HRS Chapter 205A, or both, will require a new application and SMA Major Permit. Any new application for an SMA Major Permit for the Project will be processed in accordance with the ordinance in effect at the time the application is accepted by the DPP. Any change that does not have a significant effect on coastal resources may be considered a minor modification and may be permitted under this resolution, upon review and approval by the Director of the DPP.

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 Department of Land and Natural Resources, SHPD immediately. Work in the immediate area must be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.

This requirement must be clearly stated under "Environmental Notes" on any construction plans and BP plans for the Project.

C. To minimize impacts to avian, marine, and terrestrial fauna that may frequent or traverse the vicinity of the Project site, the Applicant shall be responsible for the following:

1. All new and replacement outdoor light fixtures must not exceed a color temperature of 3,000 degrees kelvin;

2. Artificial light from exterior light fixtures, 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 across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to HRS Section 205A-71(b). Exterior lighting that is not necessary for security purposes must be turned off when human activity is not occurring in the illuminated area;

3. Exterior lighting fixtures 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;

4. Barbless fencing must be used for all fence construction to avoid the entanglement of Hawaiian Hoary Bats; and

5. All Project site work and construction activities are limited to daylight hours.

These requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction plans and BP plans.

D. To minimize the potential for adverse impacts related to coastal hazards, including but not limited to SLR, coastal erosion, flooding, wave action, and storm surge, prior to the issuance of any construction permit or BP for the Project, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

1. In choosing to undertake the development at TMK 3-6-001:019, the landowner hereby acknowledges that no claim of hardship due to erosion, SLR, or any other coastal hazard may be asserted in order to obtain approval for a SSV for a shoreline protection structure.

2. The landowner hereby acknowledges that TMK 3-6-001:019 is susceptible to coastal hazards, which may result in harm to or loss of life and property.

This statement must be clearly stated under "Landowner Acknowledments" on all Project BP plans.

E. The Applicant must obtain a construction permit or BP for the Project within 36 months after the effective date of this SMA Major Permit. Failure to obtain a construction permit or BP within this period will render this SMA Major Permit null and void, provided that this period may be extended as follows:

1. The DPP Director may extend this period if the Applicant demonstrates good cause, but the period cannot be extended by the DPP Director beyond one year from the initial deadline set by Council.

2. If the Applicant demonstrates good cause for an extension exceeding one year, the DPP Director must prepare and submit to the Council a report on the proposed extension, which report must include the DPP Director's findings and recommendations thereon. The Council may approve the proposed extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution.

3. If the Council fails to take final action on the proposed extension within the first to occur of:

    a. Sixty days after receipt of the DPP Director's report; or

    b. The Applicant's then-existing deadline for obtaining a development permit,

    the extension will be deemed to be denied.

F. Approval of this SMA Major Permit does not constitute compliance with other City ordinances, including but not limited to the LUO and building and construction codes, or other governmental requirements, including but not limited to LUO,

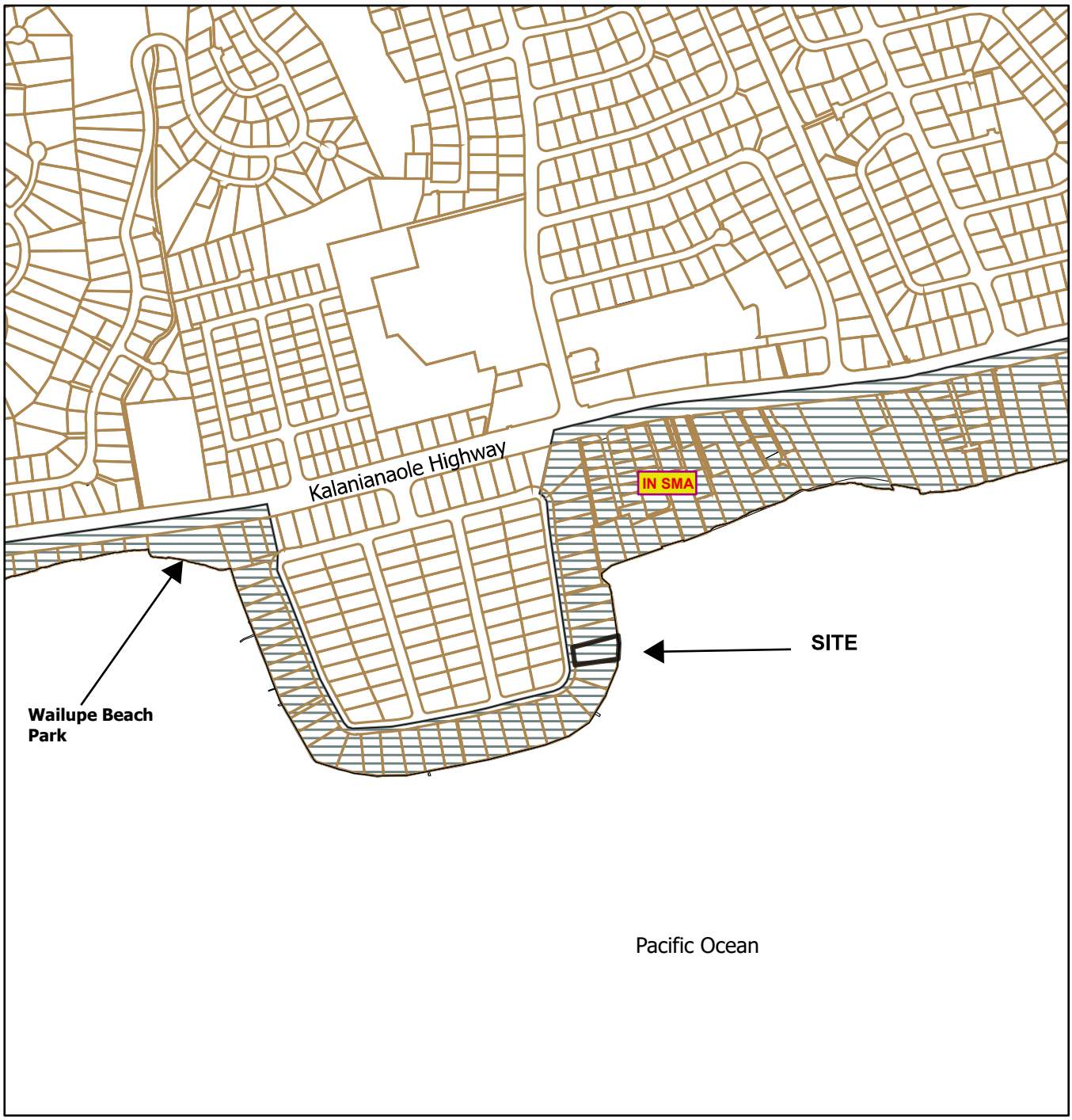
codes, or other governmental requirements, including but not limited to LUO, building, grading, and grubbing permit approvals. They are subject to separate review and approval. The Applicant shall be responsible for ensuring that the final plans for the Project approved under this SMA Major Permit comply with all applicable City ordinances and other governmental provisions and requirements.

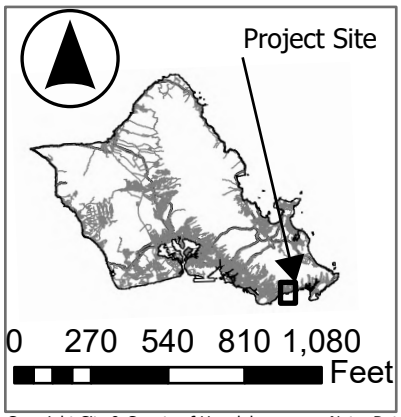
Dated at Honolulu, Hawai'i, this 9th day of September, 2024.

Department of Planning and Permitting
City and County of Honolulu
State of Hawai'i

By _____
Dawn Takeuchi Apuna
Director

Enclosure: Exhibits A, B, C-1 through C-6, D, E, F, G, and H





Location Map Exhibit A
File No.: 2024/SMA-54

Project: Horita Residence
Location: 312 Wailupe Circle - Honolulu
TMK: 3-6-001:019

Legend

Within SMA Outside SMA

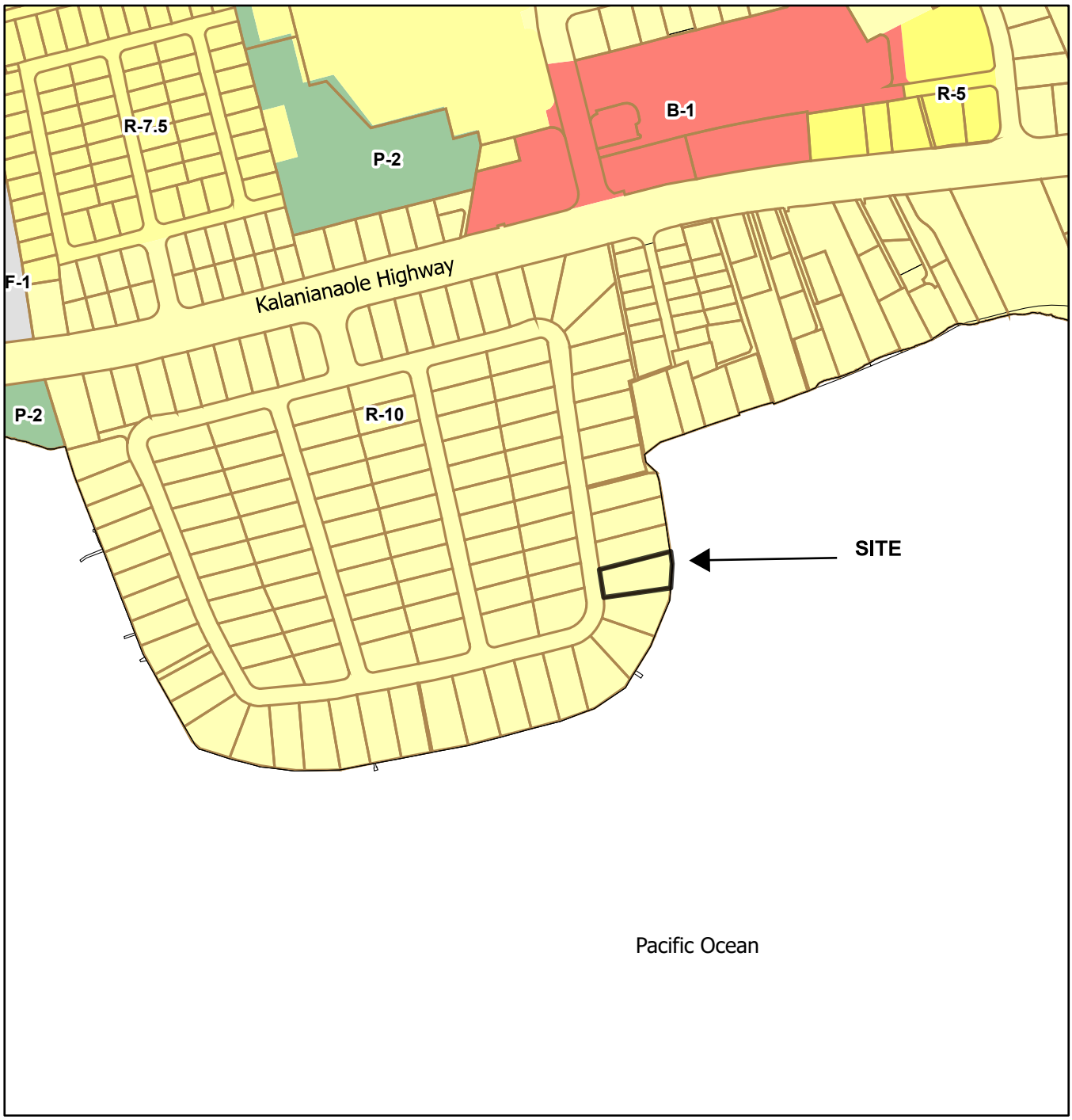
Office of Council Services
City and County of Honolulu

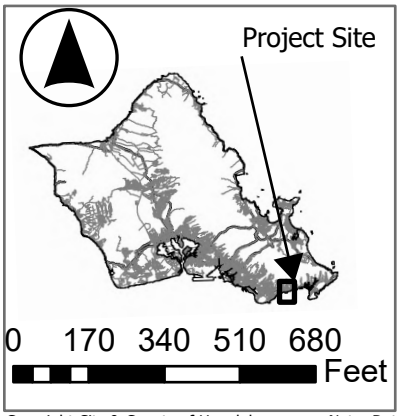
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Note: Data Represented on this map is not intended to replace site survey.

Prepared by: Department of Planning and Permitting

August 2024





Zoning Map Exhibit B
File No.: 2024/SMA-54

Project: Horita Residence
Location: 312 Wailupe Circle - Honolulu
TMK: 3-6-001:019

Legend

- B-1
- F-1
- P-2
- R-10
- R-5
- R-7.5

Office of Council Services
City and County of Honolulu

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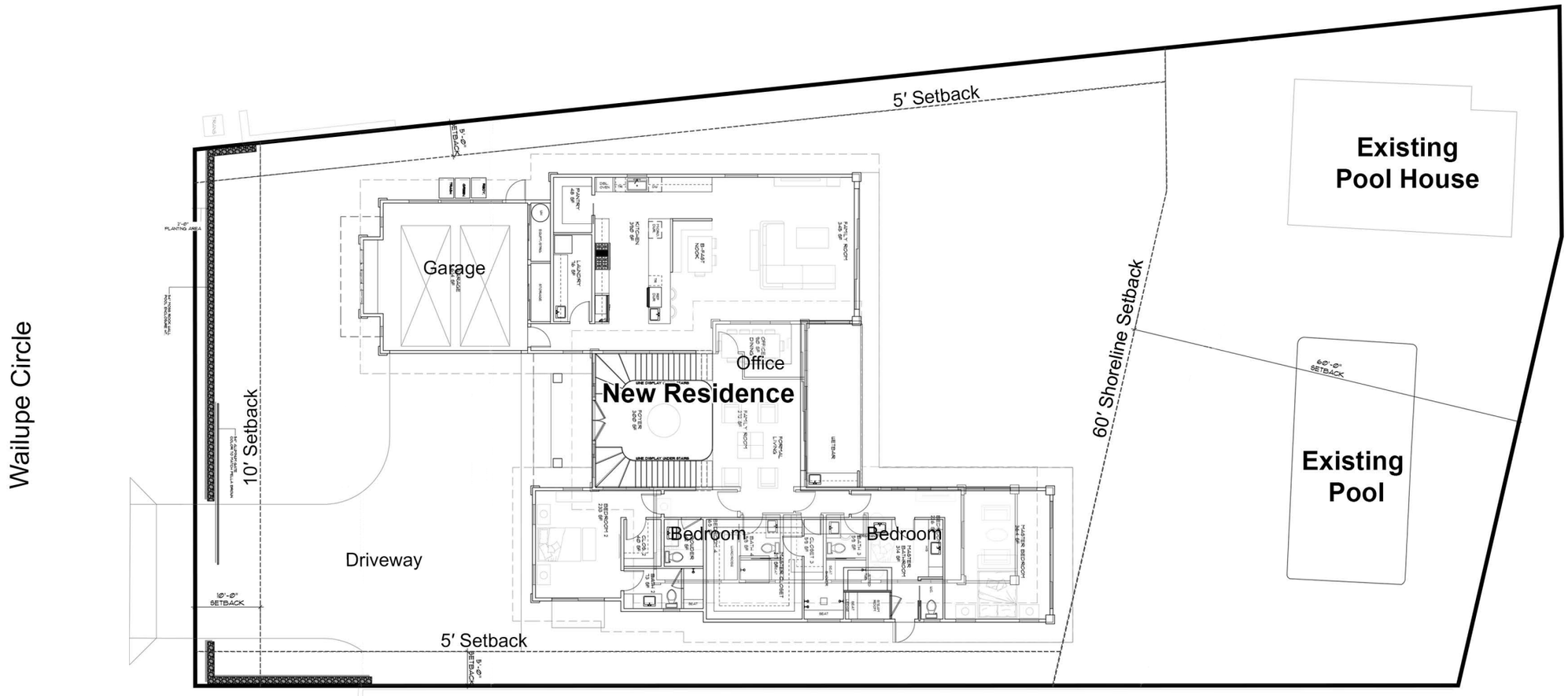
Note: Data Represented on this map is not intended to replace site survey.

Prepared by: Department of Planning and Permitting

August 2024

312 Wailupe Cir Honolulu, HI 96821

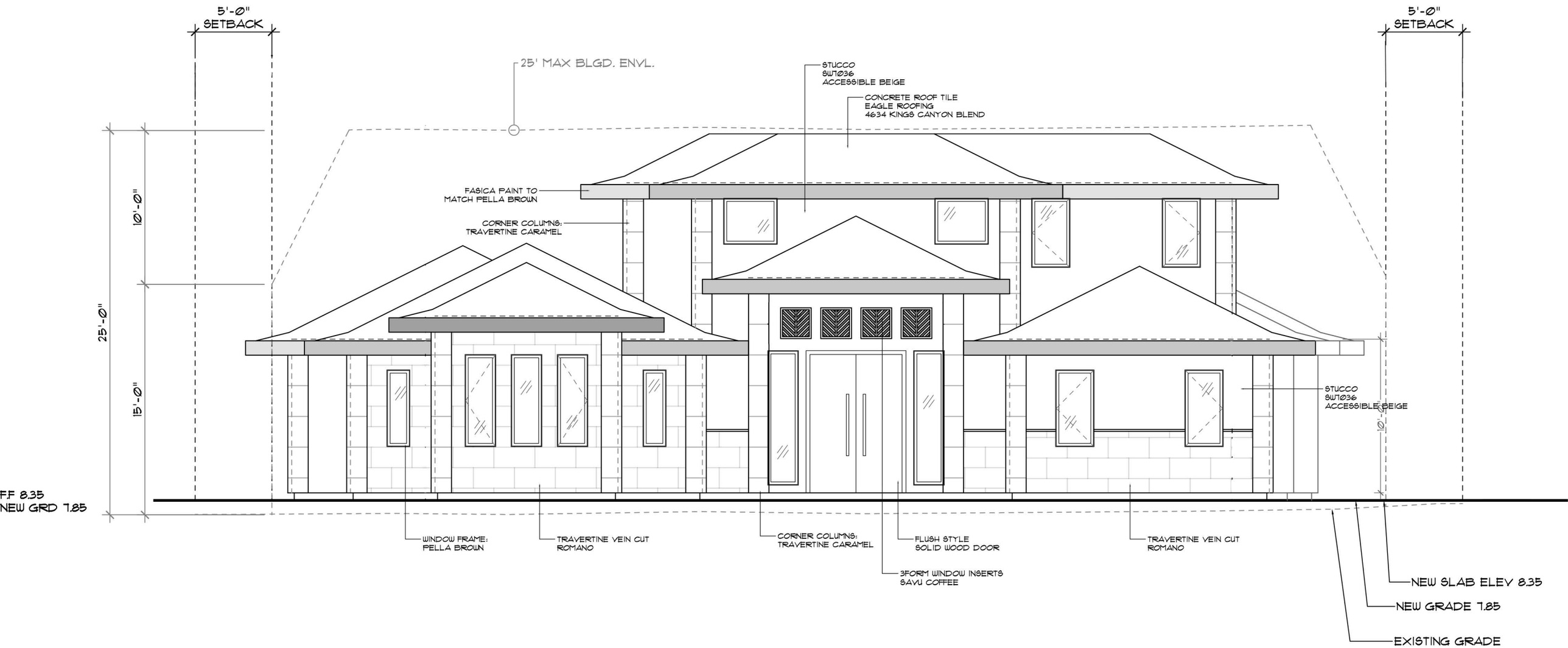
Exhibit C-1



0 10 20 Feet

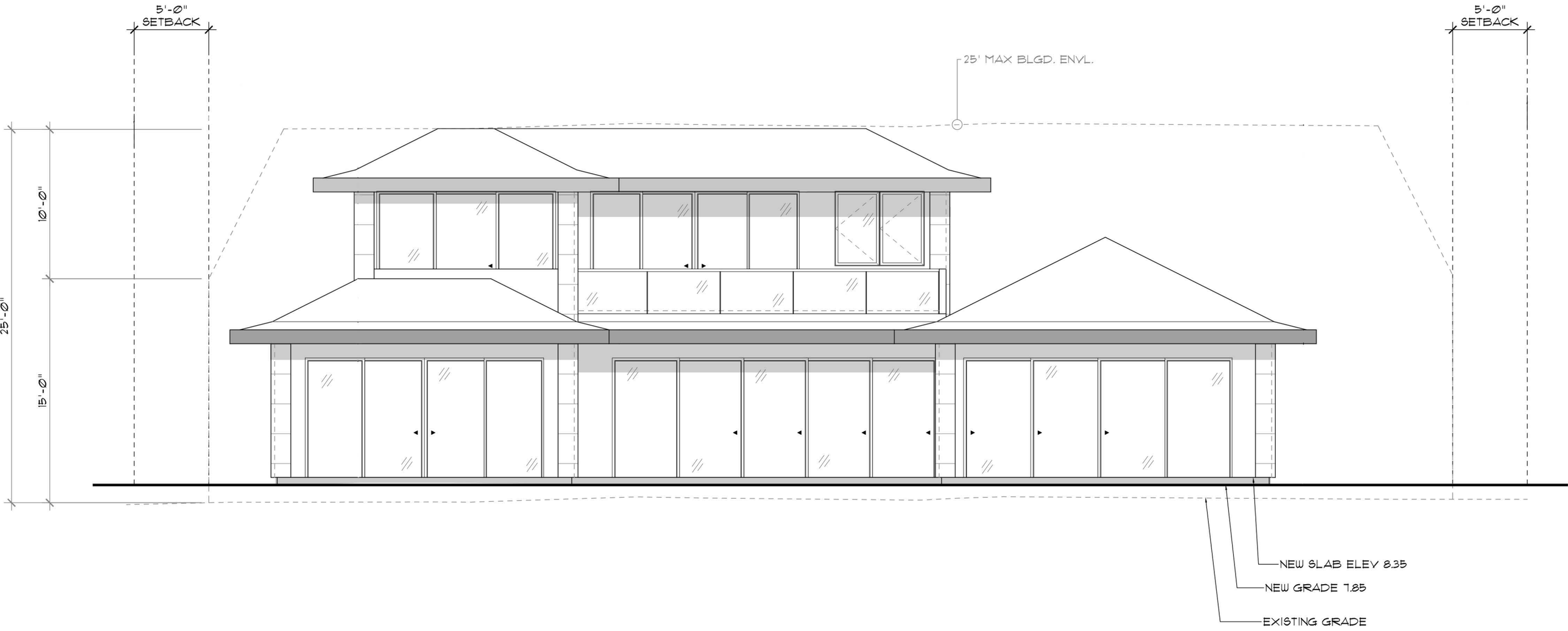
Site Plan

Exhibit C-2



FRONT ELEVATION

Exhibit C-3



REAR ELEVATION

Exhibit C-4

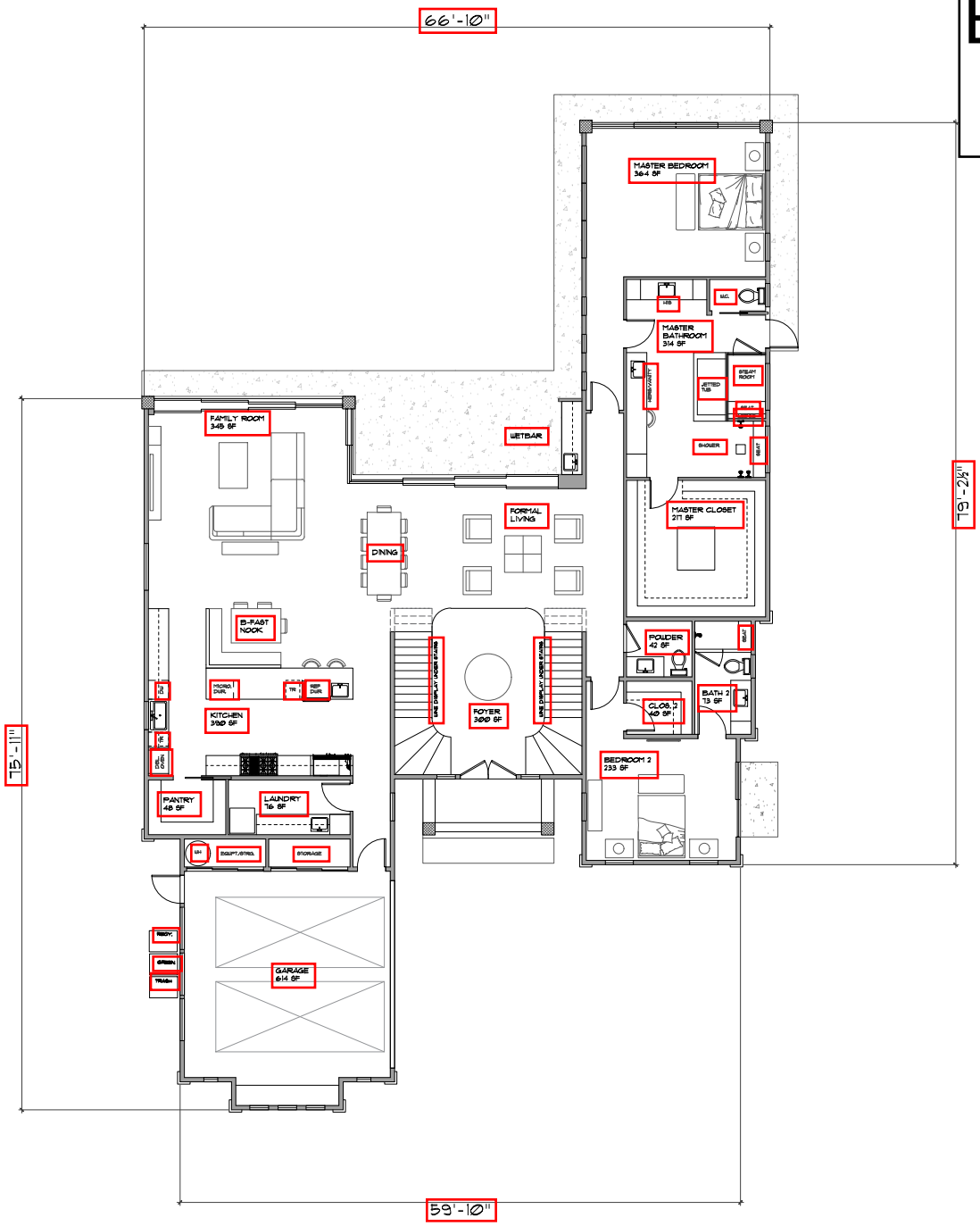

66'-10"
MASTER BEDROOM
364 SF
M.C.
MASTER BATHROOM
314 SF
JETTED TUB
STEAM ROOM
SHOWER
MASTER CLOSET
217 SF
79'-2½"
FAMILY ROOM
349 SF
WETBAR
FORMAL LIVING
DINING
B-FAST NOOK
KITCHEN
398 SF
POWDER
42 SF
FOYER
309 SF
BATH 2
73 SF
CLOS.2
40 SF
BEDROOM 2
233 SF
75'-11"
PANTRY
48 SF
LAUNDRY
76 SF
STORAGE
GARAGE
614 SF
59'-10"

Exhibit C-5

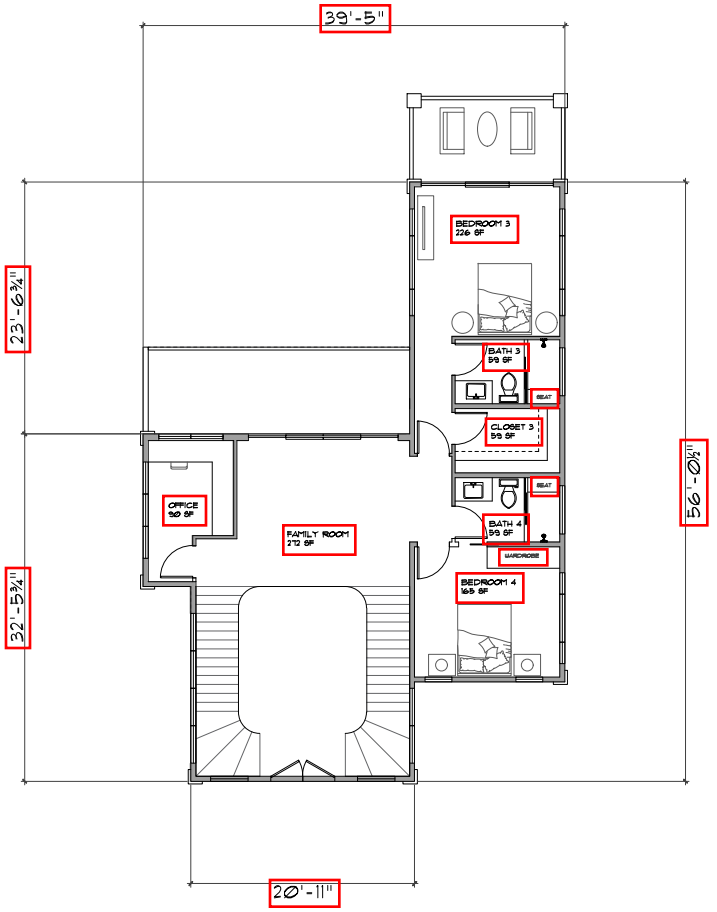

39'-5"
23'-6¾"
32'-5¾"
56'-0½"
20'-11"
BEDROOM 3
226 SF
BATH 3
59 SF
SEAT
CLOSET 3
55 SF
SEAT
OFFICE
90 SF
FAMILY ROOM
272 SF
BATH 4
59 SF
WARDROBE
BEDROOM 4
165 SF

Exhibit C-6

Wailupe Circle

5′ Setback

10′ Setback

5′ Setback

60′ Shoreline Setback

New Residence

Existing Pool House

Existing Pool

8

8

-4

-2

-6

-6

-4

-8

-8

-6

-6

-8

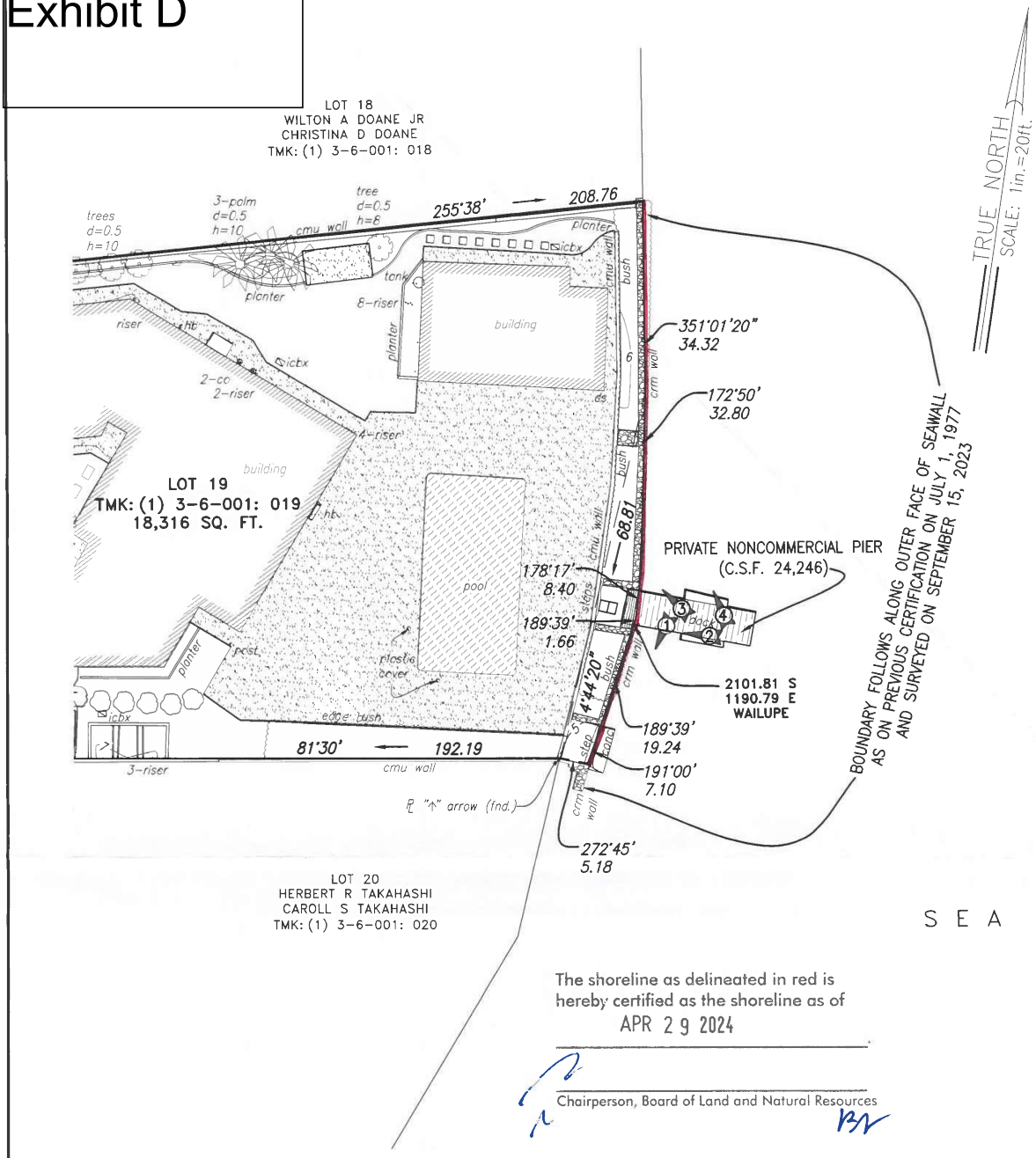
-8

-6

Contour (2 ft.)

0 10 20 Feet

Exhibit D



The shoreline as delineated in red is hereby certified as the shoreline as of

APR 29 2024

Chairperson, Board of Land and Natural Resources

SHORELINE CERTIFICATION MAP
OF LOT 19
OF LAND COURT APPLICATION 1596 (MAP 1)
SITUATED AT WAILUPE, WAIKIKI, HONOLULU, OAHU,
HAWAII TAX MAP KEY: (1) 3-6-001: 019

SITE ADDRESS: 312 WAILUPE CIRCLE
HONOLULU, HAWAII 96821
OWNER: KEITH K HORITA TRUST

ERIK S. KANESHIRO
LICENSED PROFESSIONAL LAND SURVEYOR
No. 9826
HAWAII, U.S.A.

NOTES

1. Azimuths shown on this map are referred to Government Survey Triangulation Station "WAILUPE".
2. Names of adjoining property owners were taken from Real Property Tax Records.
3. Shoreline certification is for building setback purposes.
   ◄1 Denotes photo number and direction.
4. Map is based on a field survey on September 15, 2023.

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

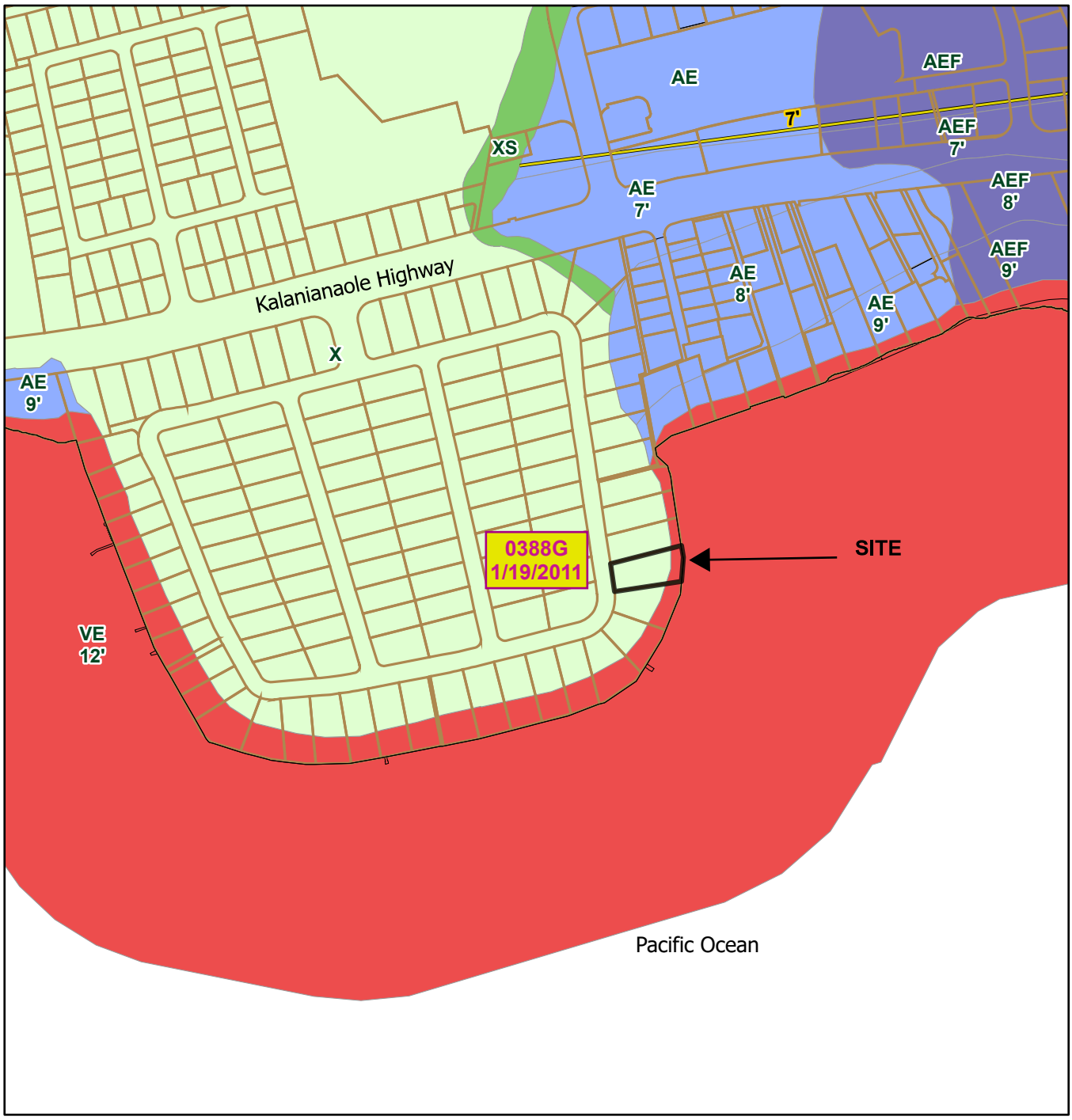
LICENSED PROFESSIONAL LAND SURVEYOR
CERTIFICATE No. 9826
EXP. 04/24

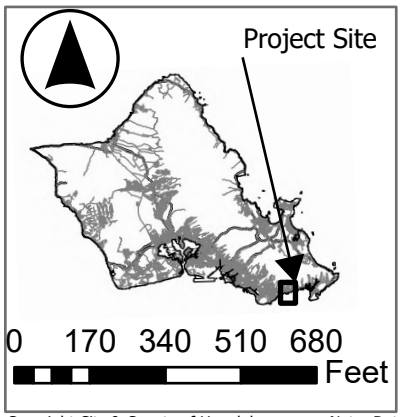
TMK: (1) 3-6-001: 019

AUSTIN, TSUTSUMI & ASSOCIATES, INC.
ENGINEERS, SURVEYORS • HONOLULU, WAILUKU, HAWAII

OCTOBER 26, 2023
11" X 17" = 1.30 SQ. FT.

FN: Y:\2023\23-326 312 WAILUPE CIRCLE TOPO AND SHORELINE\DWG\23-326 312 WAILUPE CIRCLE SHORELINE.DWG
JOB NO.: 23-326





Flood Zone Map Exhibit E
File No.: 2024/SMA-54

Project: Horita Residence
Location: 312 Wailupe Circle - Honolulu
TMK: 3-6-001:019

Legend

- AE
- AEF
- VE
- X
- XS

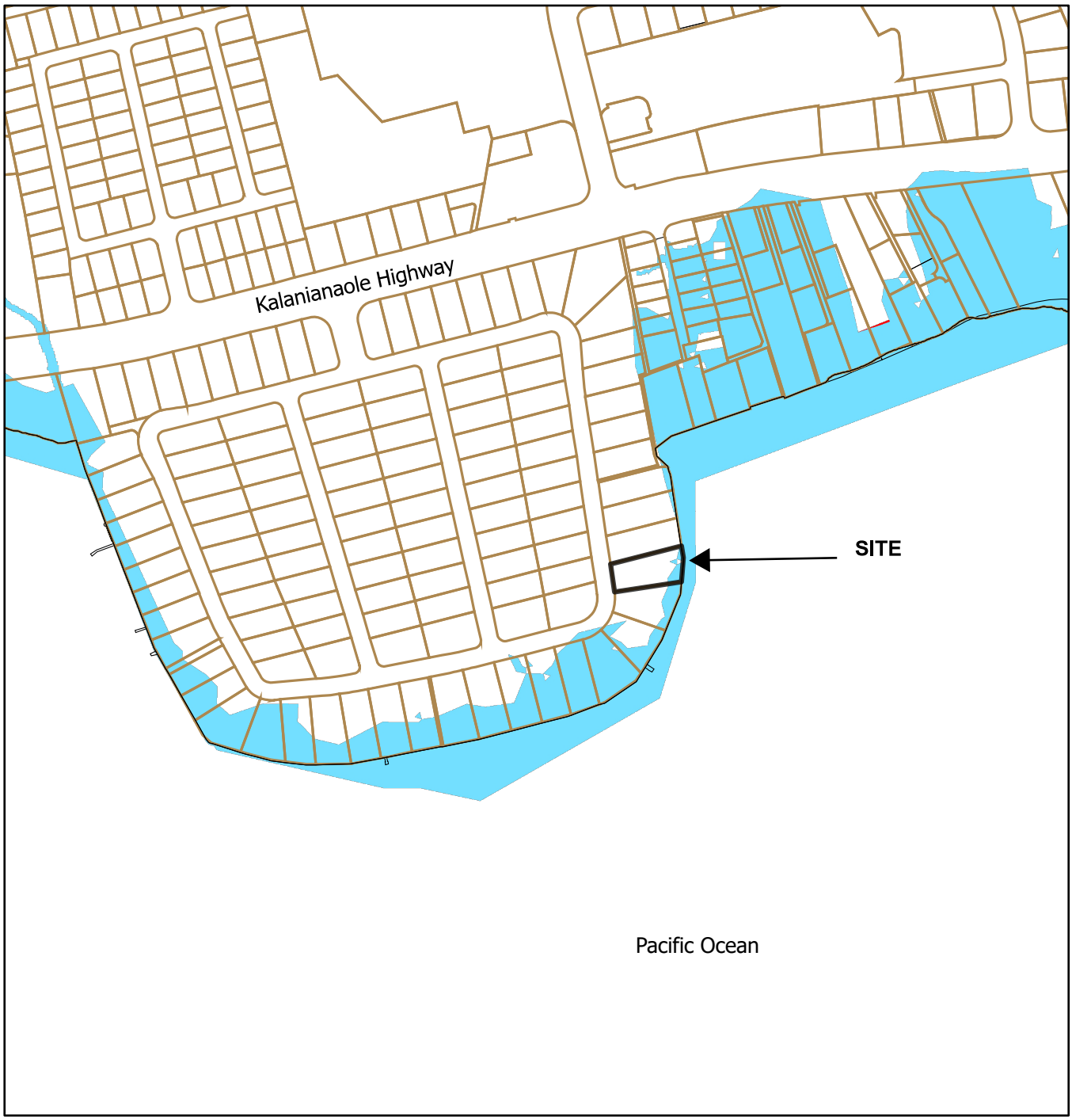
Office of Council Services
City and County of Honolulu

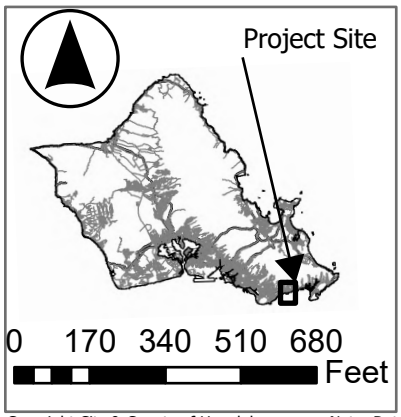
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Note: Data Represented on this map is not intended to replace site survey.

Prepared by: Department of Planning and Permitting

August 2024





Flood Zone Map Exhibit F
File No.: 2024/SMA-54

Project: Horita Residence
Location: 312 Wailupe Circle - Honolulu
TMK: 3-6-001:019

Legend

SLR Exposure Area - 3.2 Ft. Scenario

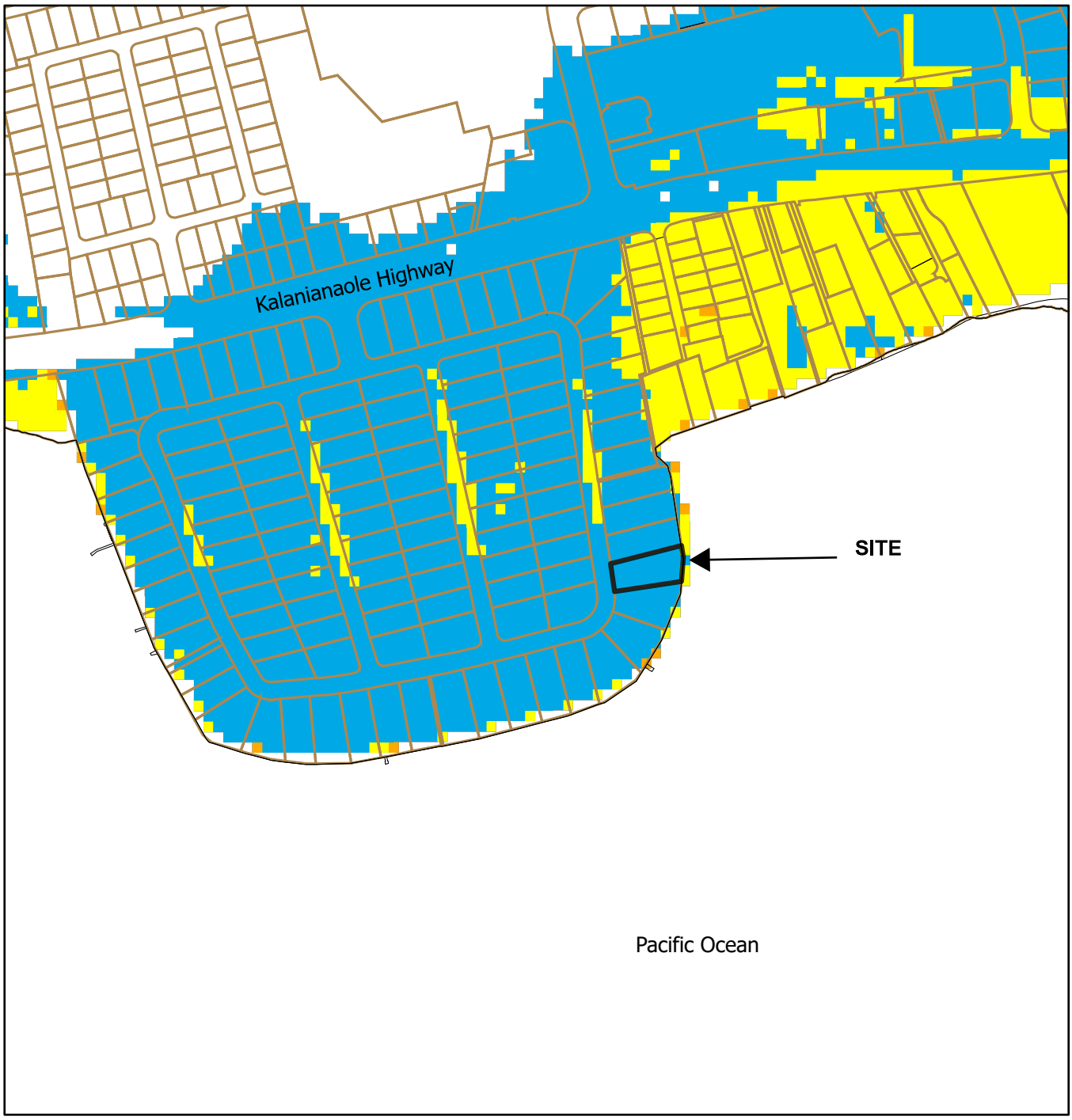
Office of Council Services
City and County of Honolulu

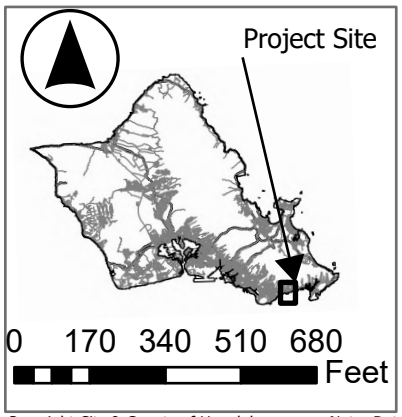
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Note: Data Represented on this map is not intended to replace site survey.

Prepared by: Department of Planning and Permitting

September 2024





Storm Surge Map Exhibit G
File No.: 2024/SMA-54

Project: Horita Residence
Location: 312 Wailupe Circle - Honolulu
TMK: 3-6-001:019

Legend

- 3 ft. Inudation
- 6 ft. Inudation
- 9 ft. Inudation
- 21 ft. Inudation

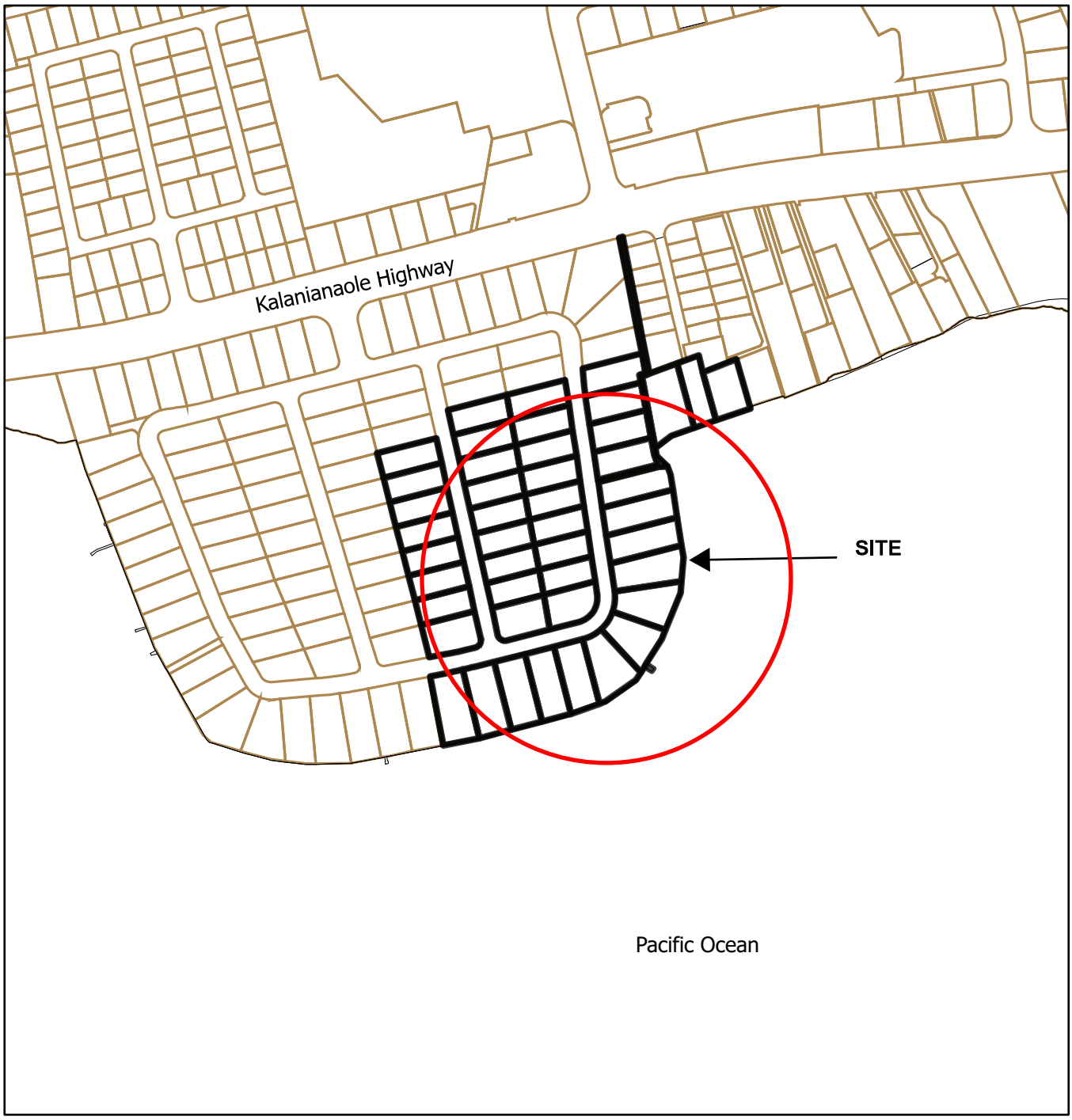
Office of Council Services
City and County of Honolulu

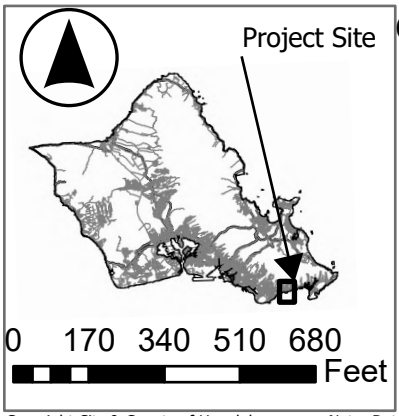
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Note: Data Represented on this map is not intended to replace site survey.

Prepared by: Department of Planning and Permitting

September 2024





Cumulative Impact Map Exhibit H

File No.: 2024/SMA-54

Project: Horita Residence
Location: 312 Wailupe Circle - Honolulu
TMK: 3-6-001:019

Office of Council Services
City and County of Honolulu

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Note: Data Represented on this map is not intended to replace site survey.

Prepared by: Department of Planning and Permitting

September 2024

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No._____

RESOLUTION

GRANTING A SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY DWELLING UNIT AND ATTACHED GARAGE IN WAILUPE PENINSULA, O'AHU.

WHEREAS, on May 28, 2024, the Department of Planning and Permitting ("DPP") accepted the application (DPP File No. 2024/SMA-54) from Timothy Gutierrez ("Applicant") for a Special Management Area ("SMA") Major Permit to allow the construction of a new single-family dwelling, on approximately 18,316-square-foot shoreline lot zoned R-10 Residential District, located at 312 Wailupe Circle, and identified as Tax Map Key (TMK) 3-6-001:019 (the "Project"); and

WHEREAS, on July 26, 2024, the DPP held a public hearing at the Frank F. Fasi Municipal Building 6th Floor Conference Room, which was attended by the Applicant, the Applicant's agent, and DPP staff; no members of the public were in attendance and no public testimony was offered; and

WHEREAS, on September 9, 2024, within 45 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 the Revised Ordinances of Honolulu (ROH) 2021 §§ 25-3.1 and 25-4.1 and Hawai'i Revised Statues ("HRS") §§ 205A-2 and 205A-26, 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 _____, by Departmental Communication No. _____, and having duly considered all of the findings and reports on the matter, desires to approve the subject application for an SMA Major Permit 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 be issued to the Applicant for the Project, subject to the following conditions:

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-6, D, E, F, G, and H attached hereto and incorporated herein by this reference. Any change in the size or nature of the Project that may have a significant effect on coastal resources, as addressed in

ROH Chapter 25 or HRS Chapter 205A, or both, will require a new application and SMA Use Permit. Any new application for an SMA Use Permit for the Project will be processed in accordance with the ordinance in effect at the time the application is accepted by the DPP. Any change that does not have a significant effect on coastal resources may be considered a minor modification and may be permitted under this resolution, upon review and approval by the Director of the DPP.

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 Department of Land and Natural Resources, State Historical Preservation Division (SHPD) immediately. Work in the immediate area must be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.

This requirement must be clearly stated under "Environmental Notes" on any construction plans and Building Permit (BP) plans for the Project.

C. To minimize impacts to avian, marine, and terrestrial fauna that may frequent or traverse the vicinity of the Project site, the Applicant shall be responsible for the following:

1. All new and replacement outdoor light fixtures must not exceed a color temperature of 3,000 degrees kelvin;

2. Artificial light from exterior light fixtures, 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 across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to HRS Section 205A-71(b). Exterior lighting that is not necessary for security purposes must be turned off when human activity is not occurring in the illuminated area;

3. Exterior lighting fixtures 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;

4. Barbless fencing must be used for all fence construction to avoid the entanglement of Hawaiian Hoary Bats; and

5. All Project site work and construction activities are limited to daylight hours.

These requirements enumerated in this condition must be clearly stated under "Environmental Notes" on any Project construction plans and BP plans.

D. To minimize the potential for adverse impacts related to coastal hazards, including but not limited to sea level rise (SLR), coastal erosion, flooding, wave action, and storm surge, prior to the issuance of any construction permit or BP for the Project, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

1. In choosing to undertake the development at TMK 3-6-001:019, the landowner hereby acknowledges that no claim of hardship due to erosion, SLR, or any other coastal hazard may be asserted in order to obtain approval for a Shoreline Setback Variance for a shoreline protection structure.

2. The landowner hereby acknowledges that TMK 3-6-001:019 is susceptible to coastal hazards, which may result in harm to or loss of life and property.

This statement must be clearly stated under "Landowner Acknowledments" on all Project BP plans.

E. The Applicant must obtain a construction permit or BP for the Project within 36 months after the effective date of this SMA Major Permit. Failure to obtain a construction permit or BP within this period will render this SMA Major Permit null and void, provided that this period may be extended as follows:

1. The DPP Director may extend this period if the Applicant demonstrates good cause, but the period cannot be extended by the DPP Director beyond one year from the initial deadline set by Council.

2. If the Applicant demonstrates good cause for an extension exceeding one year, the DPP Director must prepare and submit to the Council a report on

the proposed extension, which report must include the DPP Director's findings and recommendations thereon. The Council may approve the proposed extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution.

If the Council fails to take final action on the proposed extension within the first to occur of:

a. Sixty days after receipt of the DPP Director's report; or

b. The Applicant's then-existing deadline for obtaining a development permit,

the extension will be deemed to be denied.

F. Approval of this SMA Major Permit does not constitute compliance with other City ordinances, including but not limited to the Land Use Ordinance (LUO) and building and construction codes, or other governmental requirements, including but not limited to LUO, building, grading, and grubbing permit approvals. They are subject to separate review and approval. The Applicant shall be responsible for ensuring that the final plans for the Project approved under this SMA Use Permit comply with all applicable City ordinances and other governmental provisions and requirements.

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No._____

RESOLUTION

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that copies of this Resolution be transmitted to Keith Horita, 312 Wailupe Circle, Honolulu, Hawai'i 96821; Dawn Takeuchi Apuna, Director of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawai'i 96813; and Mary Alice Evans, Director of the Office of Planning and Sustainable Development, Attention: Coastal Zone Management Branch, P.O. Box 2359, Honolulu, Hawai'i 96804-2359.

INTRODUCED BY:

_____

_____

_____

_____

_____

_____

DATE OF INTRODUCTION: _____

_____

_____ _____

Honolulu, Hawai'i Councilmembers