



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

No. RES24-231

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

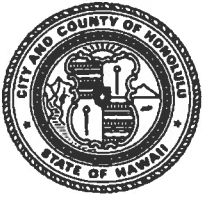
WHEREAS, on July 26, 2024, the DPP held a public hearing at the Frank F. Fasi Municipal Building 6th Floor Conference Room, which was attended by the Applicant, the Applicant's agent, and DPP staff; no members of the public were in attendance and no public testimony was offered; and

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 Statutes ("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 09/10/24, by Departmental Communication No. 659, 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



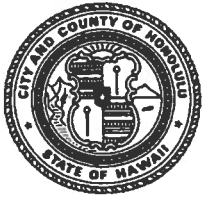
RESOLUTION

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;



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

No. 24 - 231

RESOLUTION

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.

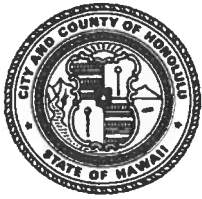
- D. To minimize the potential for adverse impacts related to coastal hazards, including but not limited to sea level rise (SLR), coastal erosion, flooding, wave action, and storm surge, prior to the issuance of any construction permit or BP for the Project, the landowner hereby acknowledges (and any 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 Acknowledgments" 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



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

No. 24-231

RESOLUTION

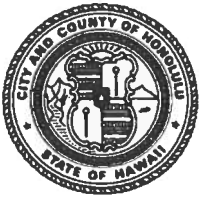
the proposed extension, which report must include the DPP Director's findings and recommendations thereon. The Council may approve the proposed extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution.

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.



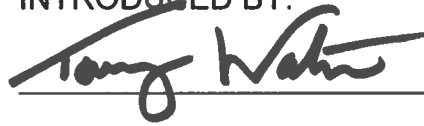
HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

No. 24-231

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:



(br)

DATE OF INTRODUCTION:

SEP 16 2024

Honolulu, Hawai'i

Councilmembers