



PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

DONNA APISA, CHAIR
HELEN COX, VICE CHAIR
MELVIN CHIBA, MEMBER
FRANCIS DEGRACIA, MEMBER
GLENDA NOGAMI-STREUFERT, MEMBER
LORI OTSUKA, MEMBER

MEMORANDUM

DATE: August 9, 2021

TO: Planning Commission

FROM: Clerk of the Commission

SUBJECT: 1st Addition to the 8/10/2021 Planning Commission Agenda

G. HEARINGS AND PUBLIC COMMENT

4. New Public Hearing

a. Lihue Mill Site

1. Supplement #1 to Planning Director's Report.

J. GENERAL BUSINESS MATTERS

a. Coastal Zone Management Program

1. Hawai'i Coastal Zone Management and Special Management Area Permitting Power Point Presentation.



**COUNTY OF KAUAI
PLANNING DEPARTMENT**

**SUPPLEMENT #1 TO
PLANNING DIRECTOR'S REPORT**

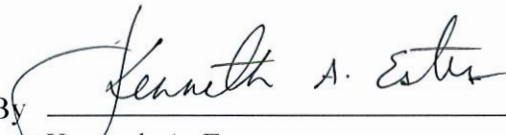
RE: Zoning Amendment ZA-2021-4
Līhu'e Mill Site

APPLICANT: County of Kaua'i, Planning Department

ADDITIONAL FINDINGS

Attached for the Planning Commission's reference is supplemental information as follows:

- Agency Comments from the Department of Public Works – Engineering dated July 30, 2021.
- Agency Comments from the State Department of Health dated July 16, 2021.

By 
Kenneth A. Estes
Staff Planner

COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE A473, LIHU'E, HI 96766
Phone: (808) 241-4050

COUNTY OF KAUAI

TO: Ka'aina S. Hull, Director

(Ka'aina)

Date: 7/01/2021

'21 AUG -2 18:32

SUBJECT: Zoning Amendment, ZA-2021-4,

County of Kaua'i Planning Department, Applicant

PLANNING DEPT. TMK (4) 3-8-004:007 also referred to as the "Lihu'e Sugar Mill Site"

PW 07.21.001

FROM:

- | | |
|--|--|
| <input type="checkbox"/> Department of Transportation – STP | <input checked="" type="checkbox"/> DPW - Engineering |
| <input type="checkbox"/> DOT- Highways, Kaua'i (info only) | <input type="checkbox"/> DPW - Wastewater |
| <input type="checkbox"/> DOT-Airports, Kaua'i (info only) | <input type="checkbox"/> DPW - Building |
| <input type="checkbox"/> DOT-Harbors, Kaua'i (info only) | <input type="checkbox"/> DPW - Solid Waste |
| <input checked="" type="checkbox"/> State Department of Health | <input type="checkbox"/> Department of Parks & Recreation |
| <input type="checkbox"/> State Department of Agriculture | <input checked="" type="checkbox"/> Fire Department |
| <input type="checkbox"/> State Office of Planning | <input type="checkbox"/> County Housing Agency |
| <input type="checkbox"/> State Dept. of Bus. Econ, Dev. Tourism | <input type="checkbox"/> County Economic Development |
| <input type="checkbox"/> State Land Use Commission | <input type="checkbox"/> KHPRC |
| <input checked="" type="checkbox"/> State Historic Preservation Division | <input checked="" type="checkbox"/> Water Department |
| <input type="checkbox"/> DLNR – Land Management | <input type="checkbox"/> Kaua'i Civil Defense |
| <input type="checkbox"/> DLNR – Forestry & Wildlife | <input type="checkbox"/> U. S. Postal Department |
| <input type="checkbox"/> DLNR – Aquatic Resources | <input type="checkbox"/> UH sea grant |
| <input type="checkbox"/> DLNR – OCCL | <input checked="" type="checkbox"/> County Transportation Agency |
| | <input type="checkbox"/> Other: |

FOR YOUR COMMENTS (pertaining to your department):

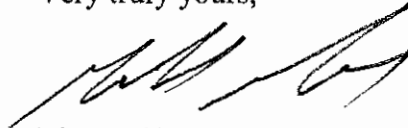
July 30, 2021

We have completed our review of the proposed Zoning Amendment ZA-2021-4 for the County of Kaua'i Planning Department as it relates to TMK (4) 3-8-004:007 and TMK (4) 3-8-005:009 (i.e. "The Lihu'e Sugar Mill Site"). The proposed amendment will modify the existing zoning designation to allow for a higher-density development at TMK (4) 3-8-004:007 and TMK (4) 3-8-005:009. We offer the following comments that would apply to any future development of the parcel

1. The developer shall provide a drainage study to evaluate and mitigate drainage impacts of any potential increase in storm water runoff generated by the increase in impervious area from the proposed development. In accordance with the County's Storm Water Runoff System Manual, the development is required to maintain both the 2-year and 100-year storm flows at or below the predevelopment flow rates and conditions.
2. The developer shall comply with all provisions of the "Grading, Sediment, and Control Ordinance No. 808" to safeguard the public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Grading, Sediment, and Control Ordinance No. 808 which is required if any of the following conditions apply:
 - a. The work area exceeds one (1) acre.
 - b. Grading involving excavation or embankment, or combination thereof exceeds more than 100 cubic yards.

- c. Grading exceeds five (5) feet in vertical height or depth at its deepest point.
 - d. The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.
3. During any construction on these parcels, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible to ensure that BMPs are satisfactorily implemented at all times.
4. A traffic impact analysis report would likely be required prior to receiving our recommendation for approval of any development of these parcels. In addition, significant improvements to Haleko Road will likely be required, in order to improve accessibility to the site for pedestrians, bicyclists, motorists, and transit.

Very truly yours,



MICHAEL MOULE, P.E.
Chief, Engineering Division

MM/PT

Copy: Design and Permitting

This matter is scheduled for a public hearing before the County of Kaua'i Planning Commission on 8/10/2021, at the Lihu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihu'e, Kaua'i, at 9:00 am or soon thereafter. If we do not receive your agency comments within 1 month from the date of this request, we will assume there are no objections to this permit request. Mahalo!

COUNTY OF KAUAI

'21 JUL 22 P1:34

PLANNING DEPT.



COUNTY OF KAUAI
PLANNING DEPARTMENT

4444 RICE STREET, SUITE A473 LIHU'E, HAWAII 96766
(808) 241-4050

FROM: Kaaina S. Hull, Director (Kaaina)

7/1/2021

SUBJECT: Zoning Amendment ZA-2021-4,
County Of Kauai, Planning Department, Applicant, Tax Map Key: (4) 3-8-
004:007

TO:

<input type="checkbox"/>	Department of Transportation - STP	<input checked="" type="checkbox"/>	DPW-Engineering
<input type="checkbox"/>	DOT-Highway, Kauai(info only)	<input type="checkbox"/>	DPW-Wastewater
<input type="checkbox"/>	DOT-Airports, Kauai (info only)	<input type="checkbox"/>	DPW-Building
<input type="checkbox"/>	DOT-Harbors, Kauai (info only)	<input type="checkbox"/>	DPW-SolidWaste
<input checked="" type="checkbox"/>	State Department of Health	<input type="checkbox"/>	Department of Parks & Recreation
<input type="checkbox"/>	State Department of Agriculture	<input checked="" type="checkbox"/>	Fire-Department
<input type="checkbox"/>	State Office of Planning	<input type="checkbox"/>	County Housing-Agency
<input type="checkbox"/>	State Dept. of Bus. & Econ. Dev. Tourism	<input type="checkbox"/>	County Economic Development
<input type="checkbox"/>	State Land Use Commission	<input type="checkbox"/>	KHPRC
<input checked="" type="checkbox"/>	State Historic Preservation Division	<input checked="" type="checkbox"/>	Water Department
<input type="checkbox"/>	DLNR- Land Management	<input type="checkbox"/>	Kaua'i Civil Defense
<input type="checkbox"/>	DLNR- Forestry & Wildlife	<input type="checkbox"/>	U.S. Postal Department
<input type="checkbox"/>	DLNR- Aquatic Resources	<input type="checkbox"/>	UH_Sea_Grant
<input type="checkbox"/>	DLNR- OCCL	<input checked="" type="checkbox"/>	County Transportation Agency
		<input type="checkbox"/>	Other:

FOR YOUR COMMENTS (pertaining to your department):

See comments on attached sheet.

July 16, 2021

Darren Tanekazu, Acting Chief
District Environmental Health Office Kauai

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 8/10/2021 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

Class IV Zoning Permit Application: **ZA-2021-4**
Applicant: **County of Kauai, Planning Department**

Based on our review of the application, we have the following environmental health concerns for your consideration.

1. Noise will be generated during the construction phase of this project. The applicable maximum permissible sound levels as stated in Title 11, (HAR), Chapter 11-46, "Community Noise Control", shall not be exceeded unless a noise permit is obtained from the State Department of Health (DOH).
2. Temporary fugitive dust emissions could be emitted when the project site is prepared for construction and when construction activities occur. In accordance with Title 11, HAR, Chapter 11-60.1 "Air Pollution Control", effective air pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.
3. The property may harbor rodents which will disperse to the surrounding areas when the site is cleared. In accordance with Title 11, HAR, Chapter 11-26, "Vector Control", the applicant shall ascertain the presence or absence of rodents on the property. Should the presence of rodents be determined, the applicant shall eradicate the rodents prior to clearing the site.
4. The construction waste that is generated by the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11 HAR, Chapter 11-58.1 "Solid Waste Management Control", the open burning of any of these wastes on or off site prohibited.

Due to the general nature of the application submitted, we reserve the right to implement future environmental health restrictions when more detailed information is submitted.

HAWAII COASTAL ZONE MANAGEMENT AND SPECIAL MANAGEMENT AREA PERMITTING



STATE OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT HAWAII COASTAL ZONE MANAGEMENT PROGRAM

**JUSTINE NIHIPALI
PROGRAM MANAGER**

**SHICHAO LI
PLANNER**

**BEFORE THE
COUNTY OF KAUAI PLANNING COMMISSION**

AUGUST 10, 2021



National Coastal Zone Management (CZM) Act



**National Oceanic and
Atmospheric Administration**
U.S. Department of Commerce

- **National CZM Act of 1972**
- **Enacted by the United States Congress**
- **Preserve, protect, develop, and where possible, to restore or enhance the resources of coastal zone for this and succeeding generations**
- **The state in the best position to manage the coastal zone**

CZM Program Participation – voluntary federal-state partnership program



Two basic incentives:

- **Federal funds for state planning and administration**
- **Privilege of administering the federal consistency review program**

Program Enhancement and Other Opportunities

- **Competitive Grant Funding Opportunities**
- **Projects of Special Merits (PSM) - Allows approved CZM Programs to further enhance area strategies focusing on Wetlands, Coastal Hazards, Cumulative and Secondary Impacts, and Ocean and Great Lakes Resources**

Hawaii CZM Program



- **1973 (Act 164)**
Mandated development of a statewide CZM program
- **1977 (Act 188)**
Enacted a statewide CZM program
- **1978 - U.S. Department of Commerce approved Hawaii CZM Program**



Direct Federal Funds to the Hawaii CZM Program

- **Receives approximately \$2 million in federal funds annually**
- **Supports the Hawaii CZM Program**
- **Funds county administration of the Special Management Area (SMA) permit system**
 - **CZM funds support 14 positions in neighbor island planning departments**

Hawaii CZM Program Components

Regulatory Responsibilities	Federal Consistency
	Special Management Area (SMA) Permitting
	Shoreline Setbacks
Program Initiatives	Ocean Resources Management Plan
	Coastal Hazards
	Coastal Non-Point Pollution Control Program
	Marine and Coastal Zone Advocacy Council

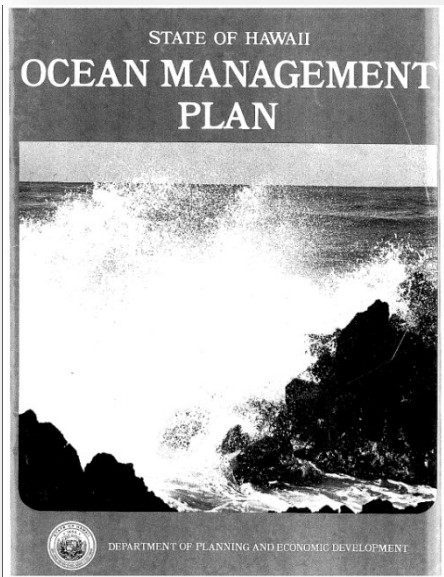
Federal Consistency

Federal actions that have reasonably foreseeable effects on coastal use or resource must be consistent with the enforceable policies of the Hawaii CZM Program.

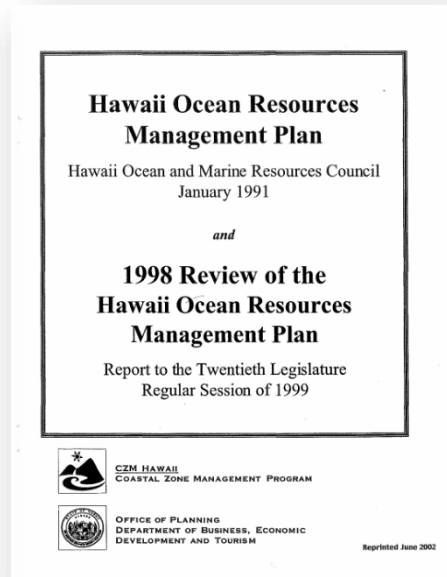
Federal Consistency Review Required for

- **Federal agency activities**
- **Federal permits, i.e. U.S. Army Corps of Engineers Permit**
- **Federal financial assistance**

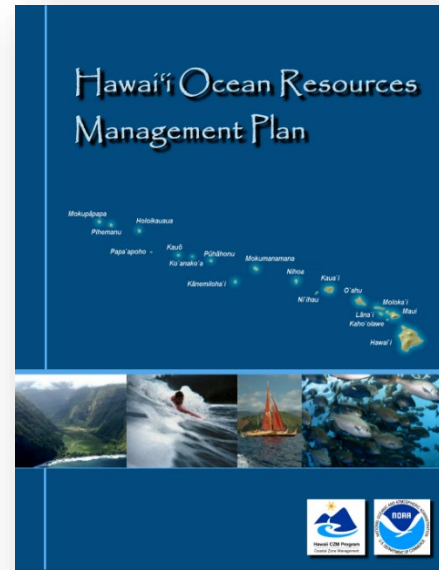
Ocean Resources Management Plan (ORMP)



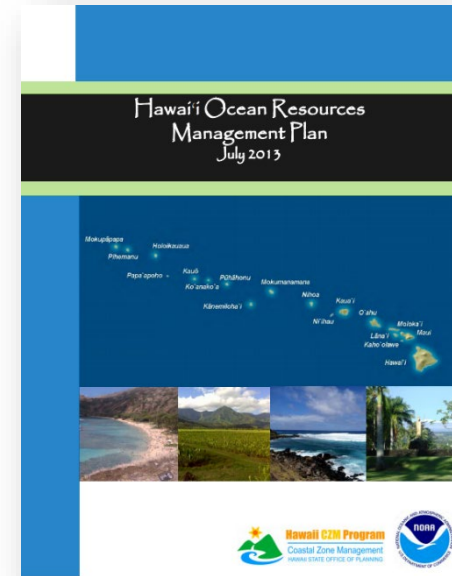
1985



1991/1998



2006



2013

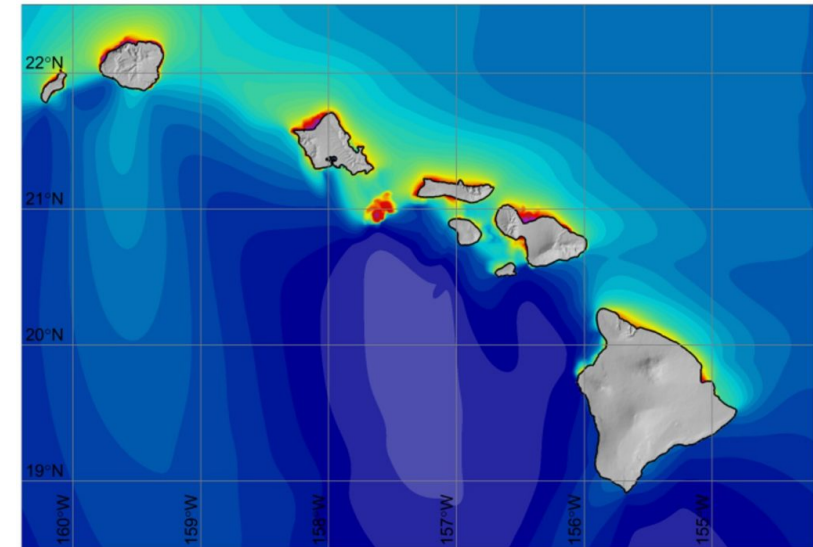


2020

Pursuant to HRS §205A-62, the lead agency shall coordinate overall implementation of the ORMP, and review and periodically update the plan.

Probabilistic Tsunami Design Zone (TDZ) Maps For the State of Hawaii

- To assist in the use of the American Society of Civil Engineers (ASCE) 7-16 tsunami design standards in Hawaii, maps of 2,500-year probabilistic tsunami inundation for Hawaii have been recently developed through OPSP-CZM's high resolution (10-meter) probabilistic TDZ mapping project for the Island of Oahu. This one-year project ended by September 30, 2019.
- OPSP-CZM seeks to develop high resolution probabilistic TDZ maps for all the major Hawaiian Islands.



Maximum Wave Amplitude in Hawaii using NEOWAVE, a model used for probabilistic tsunami modeling

Coastal Nonpoint Pollution Control Program (CNPCP)

- **In 1990, U.S. Congress enacted CZM Act Authorization amendments by adding a new section 6127 “Protecting Coastal Waters”**
- **Each State with an approved CZM Program must develop and submit to EPA and NOAA for approval of a CNPCP**
- **Administered jointly by the Department of Health (DOH) and the Hawaii CZM Program**
- **Four out of 49 of the required management measures still require approval.**

Hawai‘i Nonpoint Source Management Plan 2021 – 2025



Hawai‘i State Department of Health
Clean Water Branch
Polluted Runoff Control Program



Hawaii CZM Program
Coastal Zone Management
HAWAII STATE OFFICE OF PLANNING

MACZAC Working Groups

Education and Outreach

The Education and Outreach Working Group advocates for the CZM Program to the public.



Legislative

The Legislative Working Group advocates to the executive and legislative branches of government to offer support for the CZM Program and other related legislation.



Ocean Resources

The Ocean Resources Working Group advocates for cooperative use of shared ocean and coastal resources in a sustainable manner.



Shoreline Access

The Shoreline Access Working Group advocates for increased public shoreline access.



MACZAC Activities

Meetings

MACZAC holds quarterly meetings, open to the public. See website for details.

Advocacy

MACZAC welcomes public input and provides support to tackle various coastal zone issues.

Site Visits

In order to learn more about current issues in Hawaii, MACZAC holds one meeting each year on a neighbor island and includes in the meeting agenda a site visit to an area of interest.



MACZAC members visiting Mo'omomi CBSFA on Molokai (September, 2014)

Community Awards

The **Douglas Tom Thumbs-Up Award** recognizes Hawaii organizations that further the goals of MACZAC, advance the CZM Program, and actively engage the community.

MACZAC members presented the 2015 Thumbs-Up Award to the University of Hawaii Marine Option Program, a certificate program providing educational opportunities for students from any field of study who are interested in the ocean.



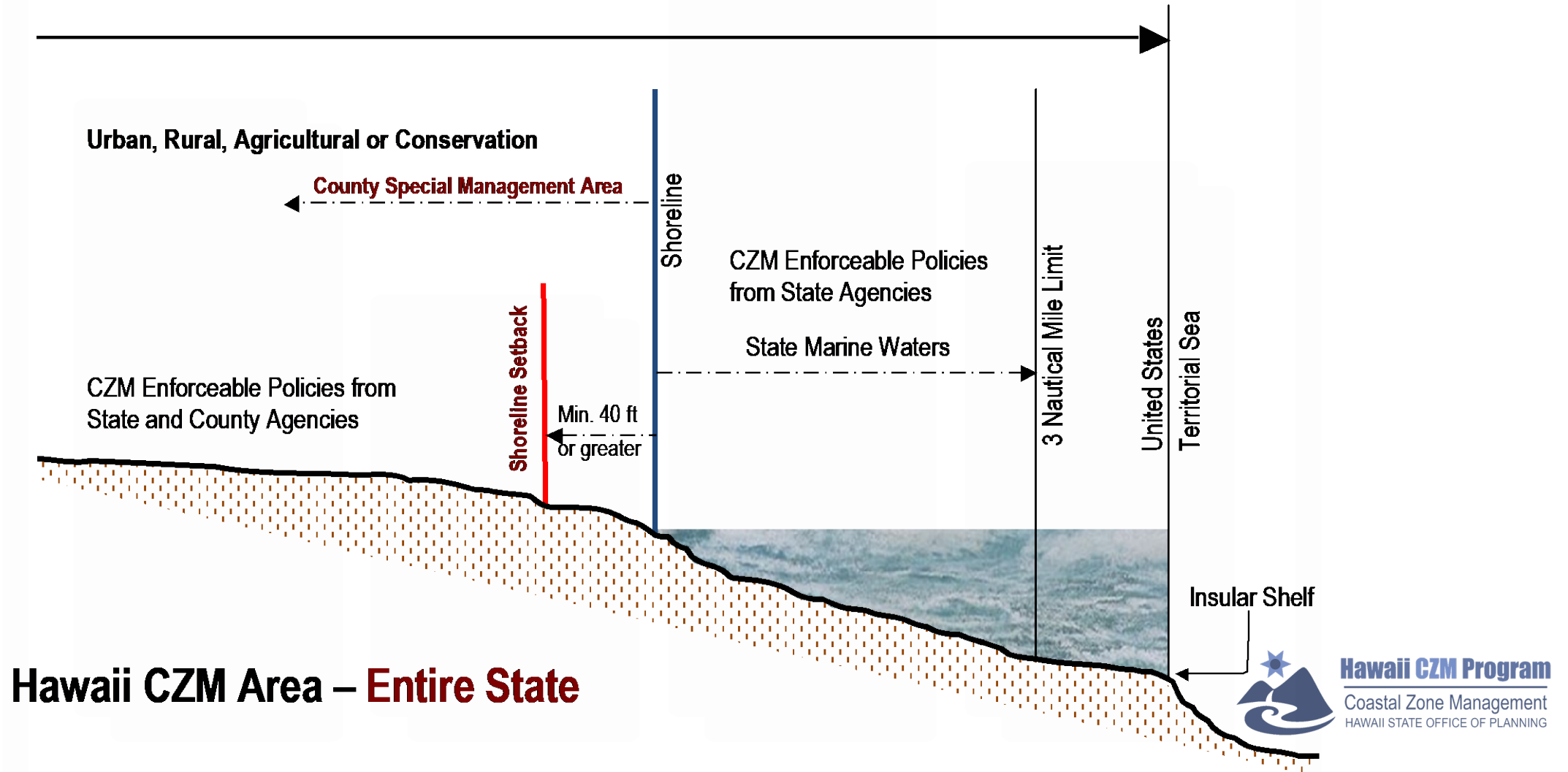
Dr. Cynthia Hunter (pictured, fourth from left), Marine Option Program Coordinator, accepted the award for each of the UH campuses where MOP is available (June, 2015).

Marine and Coastal Zone Advocacy Council (MACZAC) founded in 2001



Hawaii CZM Program
Coastal Zone Management
HAWAII STATE OFFICE OF PLANNING

Hawaii CZM Network – A Spatial Perspective



Shoreline Setbacks



New Structures

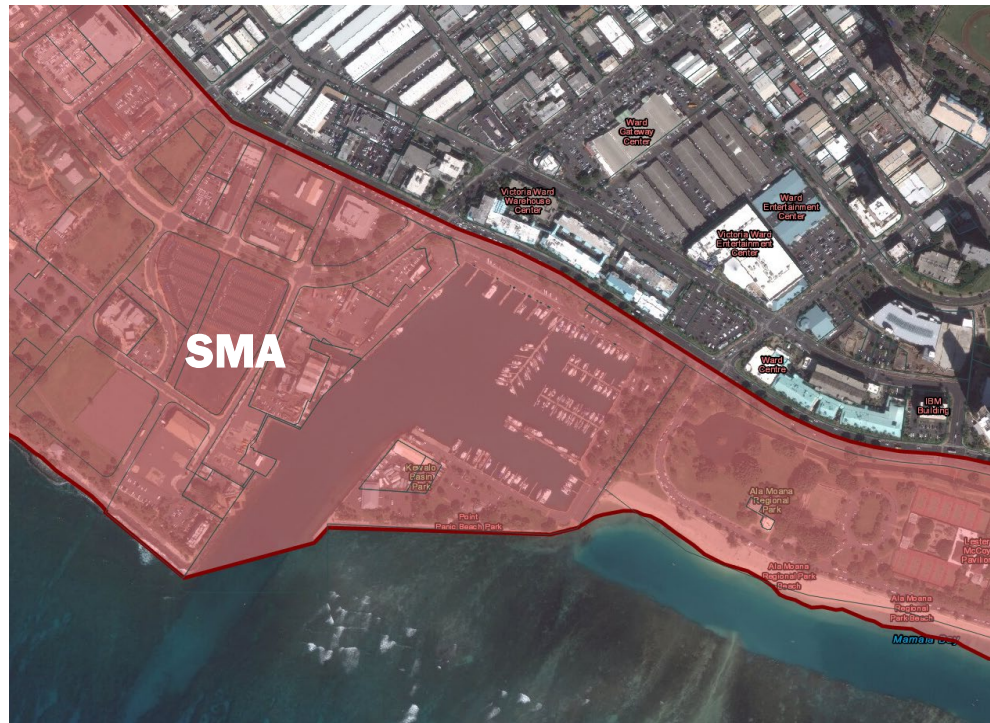
- Shoreline Setback

Existing Structures

- Accommodation
- Protection
- Retreat

The Special Management Area (SMA)

The area extends inland from and along the shoreline



Purpose of SMA Permitting (HRS § 205A-21)

- It is necessary to have special controls on developments within an area **along the shoreline** to
 - avoid permanent losses of valuable resources and the **foreclosure of management options**; and
 - ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves, is provided.
- The SMA permit was established with the enactment of Act 176, SLH 1975, which was called the **Shoreline Protection Act**

SMA Permit – First Permit for a Development

- Does not establish land use policies for developments
- Regulates **permissible land uses** that are already allowed by state and county land use policies
- No development shall be allowed within the SMA without obtaining a SMA permit (§ 205A-28)
- No agency is authorized to issue other permits pertaining to any development within the SMA unless a SMA permit is first issued (§ 205A-29)



County Authorities of SMA Permitting

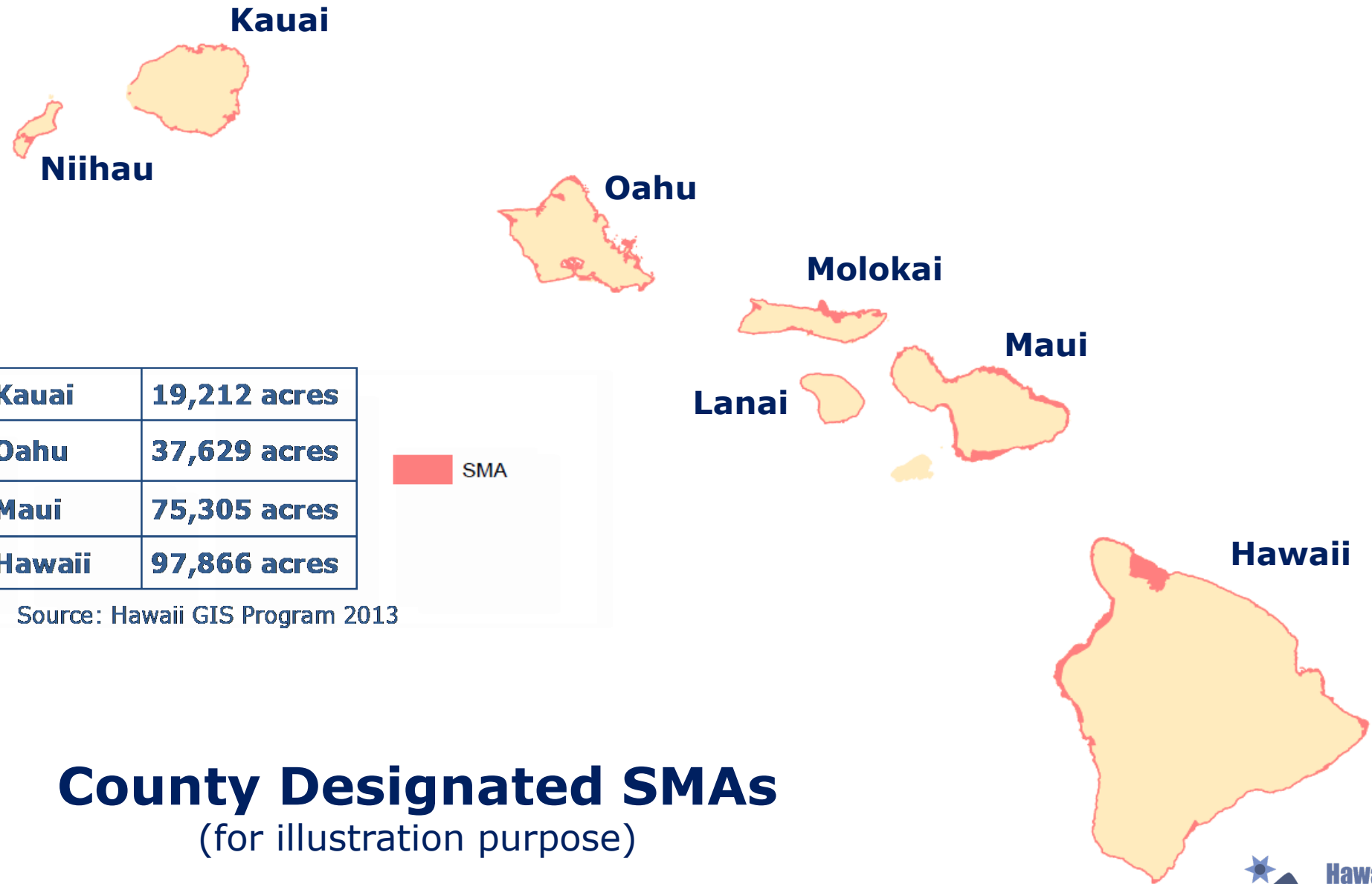
The authorities for SMA permitting are the County Planning Commissions, except on Oahu where it is the City Council

County of Hawaii: Windward, Leeward Planning Commissions

County of Kauai: Kauai Planning Commission

County of Maui: Maui, Molokai, Lanai Planning Commissions

City & County of Honolulu: Honolulu City Council

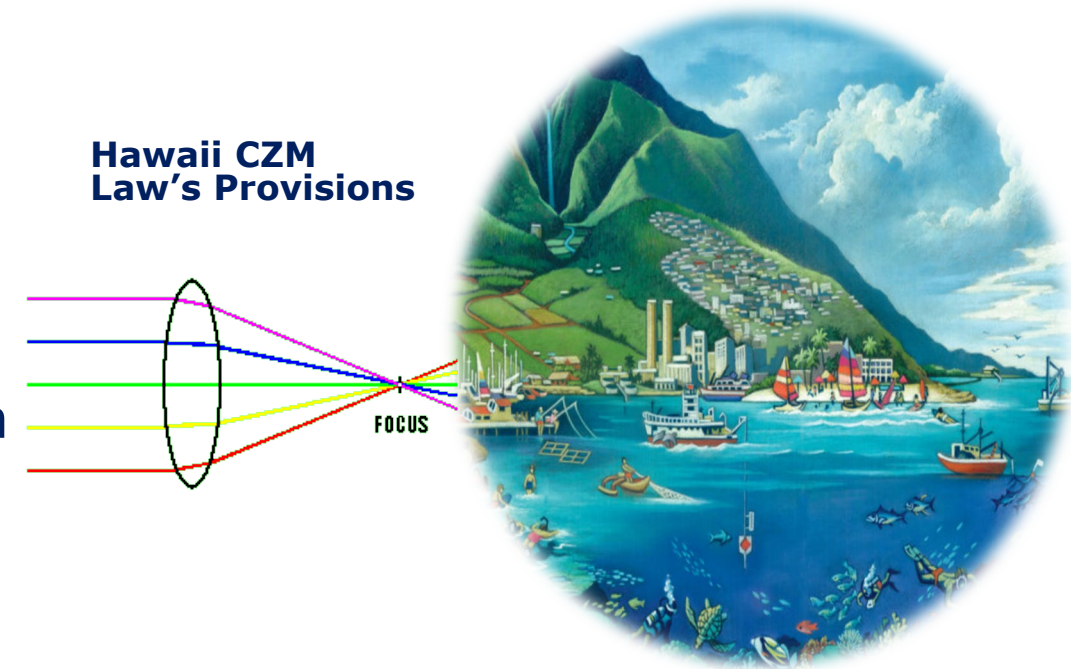


County Designated SMAs

(for illustration purpose)

Guidance under CZM Objectives/Policies and SMA Guidelines

- **Recreational Resources**
- **Historic Resources**
- **Scenic and Open Space Resources**
- **Coastal Ecosystems**
- **Economic Uses**
- **Coastal Hazards**
- **Managing Development**
- **Public Participation**
- **Beach Protection**
- **Marine Resources**



Development vs. Not Development (HRS § 205A-22)



Single-Family Residence
(upon its size and location)



Roof Repairs

SMA Major Permit vs. SMA Minor Permit



- **Key Factor -- adverse environmental or ecological effect, taking into account cumulative impacts**
- **Cost threshold -- \$500,000**

Cumulative Impacts in SMA Assessment

Cumulative Impact –
Incremental impact of
the proposed action
when added to other
past, present, and
reasonably
foreseeable future
actions regardless of
what agency or
person undertakes
other actions (HAR
Ch.11-200.1)

CZM Criteria		Spatial Scope - up to SMA inland boundary	Temporal Scope			Incremental Impacts - added by the proposed action
			Past Actions - minimum 5 years past	Present Actions	Future Actions – minimum 5 years forward or up to operational life of the proposed project	
1	Coastal recreational resources					
2	Historic resources					
3	Scenic and open space					
4	Coastal ecosystems					
5	Economic uses					
6	Coastal hazards					
7	Beach and dune protection					
8	Marine resources					
9	Bay/estuary/salt marsh/river mouth, slough or lagoon					
10	Fishing grounds, wildlife habitats, or agricultural uses of land					

Act 16, SLH 2020 relating to HRS Ch.205A

Purpose: mitigates the impacts of coastal hazards on coastal development, and enhances beach protection

- **Amends the list of “development” and “not development”**
- **Increases the minimum shoreline setback from 20 feet to 40 feet**
- **Adds sea level rise to the definition of coastal hazards, and a definition of beach to enhance beach protection**
- **Restricts or prohibits shoreline hardening structures at sites with beaches**

Amendments to “Development” (§ 205A-22)

Except with a cumulative impact or significant environmental effect on a SMA, “Development” does not include the following:

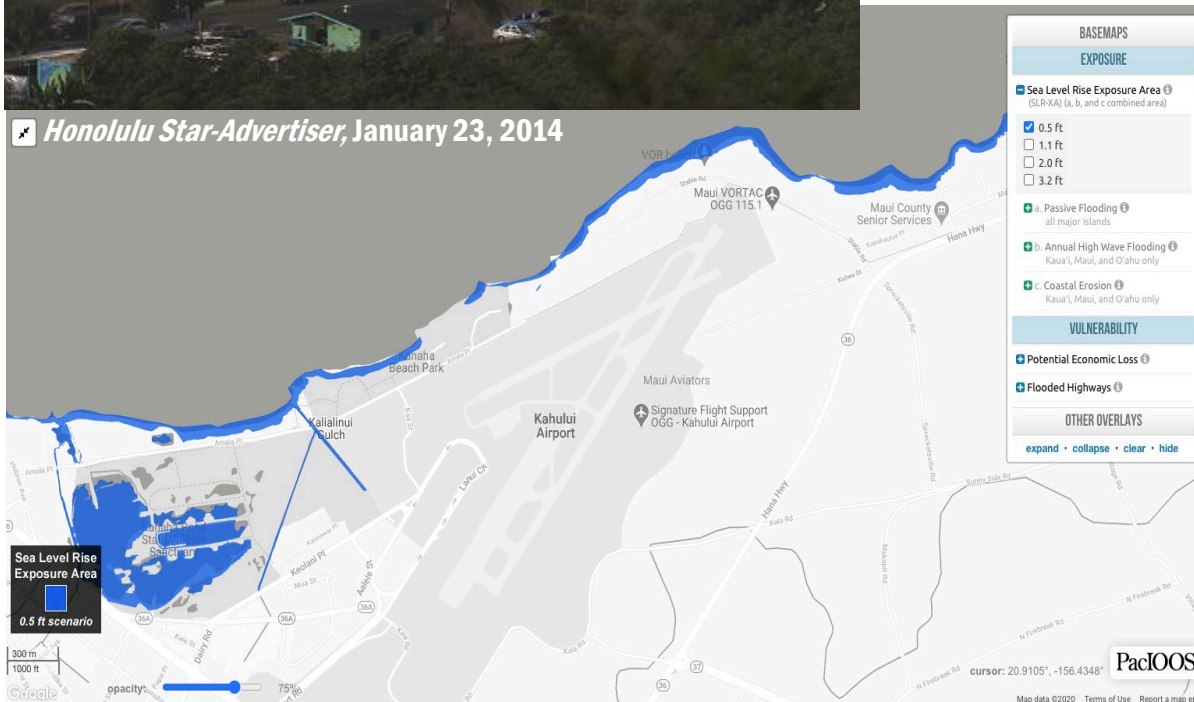
- **Demolition** of structures, except those located on any historic site as designated in national or state registers.
- **Nonstructural improvements** to existing structures, including single-family residences, commercial and noncommercial structures
- Construction or reconstruction of a single-family residence that is **not situated on a shoreline parcel** or a parcel that is impacted by waves, storm surges, high tides or shoreline erosion.

Development of Single-Family Residences

(Act 16, SLH 2020)



Honolulu Star-Advertiser, January 23, 2014



- a) On a shoreline parcel
- b) On a **non-shoreline parcel**

OP recommends the sea level rise exposure areas (SLR-XA), 0.5-foot SLR scenario, identified from the State of Hawaii Sea Level Rise Viewer as a reference map to help identify whether a non-shoreline parcel is impacted by **waves, storm surges, high tide or shoreline erosion.**

Minimum 40-foot Shoreline Setback

- No longer allows the reduction of the shoreline setback to less than 40 feet for any shoreline parcels.
- Requires a shoreline setback variance, **an exception to prohibition**, for a non-minor structure that is located within the shoreline area.
- A shoreline setback variance may be granted for use of an existing shallow shoreline lot.



Definition of Beach

- Defined for the first time in Hawaii Statute Law

“Beach” means a coastal landform composed of sand, that is established and shaped by wave action and tidal processes.

Beach includes sand deposits in nearshore submerged areas, or sand dunes or upland beach deposits landward of the shoreline, that provide benefits

- **for public use and recreation;**
- **for coastal ecosystems; and**
- **as a natural buffer against coastal hazards.**



§ 205A-2(c)(9) Beach Protection Policies

- (B) Prohibits construction of private shoreline hardening structures, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;**
- (C) Minimize construction of public shoreline hardening structures, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;**

No More Seawalls/Revetments in Areas with Beaches

Pursuant to § 205A-46(a)(9), **shoreline hardening structures** in areas with beaches are **prohibited** from the private property owners, unless it is clearly in the interest of the general public.

The interest of the general public

- public safety and/or public health;
- protection of public infrastructure in response to risk of coastal hazards; or
- beach protection/sand retention for public use and recreation or coastal ecosystems.



OPSD's SMA Permit Webpage

<https://planning.hawaii.gov/czm/special-management-area-permits>

- 1) An Informational Video on SMA Permitting**
- 2) Participant's Guide to the SMA Permit Process**
- 3) FAQs for Amendments to Chapter 205A, Enacted by Act 16, SLH 2020**
- 4) SMA Locator Online Map**
- 5) County Profiles for Shoreline Management**

Questions?

Office of Planning and Sustainable Development

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Honolulu, Hawaii 96804

(808) 587-2841

shichao.li@hawaii.gov