

# Proposed SMA Rules & Proposed Shoreline Rules for Maui Planning Commission

Presented by Maui County Planning Department

October 23, 2018

# SMA and Shoreline Rules

- ▶ Planning commissions have exclusive authority over coastal-zone regulation (Maui County Charter Section 8-8.4: Each planning commission shall ...“Act as the authority in all matters relating to the Coastal Zone Management law.”)
- ▶ SMA Rules changes in the works dating back to prior mayoral administration
- ▶ Staff team from multiple divisions
- ▶ Shoreline Rules changes need to accompany SMA Rules changes
- ▶ Modifications (and solutions) are based on Hawai‘i Sea Level Rise Vulnerability and Adaptation Report (2017)
- ▶ Public meeting conducted on both on October 2, overview provided to Maui County Council’s Planning Committee on October 18; other public outreach and consultation ongoing

# Special Management Area Rules

- ▶ HRS Chapter 205A says any “development” within the SMA needs a permit
- ▶ HRS Chapter 205A defines what is, and what is not, a development
- ▶ An action that is not a development is exempt from getting a permit, “provided that...” which means that we have to assess the action to make sure that it is not a development. Yes, it’s exempt, but we still have to assess
  
- ▶ Proposed changes would create a few new definitions for various actions and for “exceptions” (or “no needs”) for actions that are exempt and that undeniably do not need to be assessed (sec. 12-202-4, pages 4-6, and sec. 12-202-11.5, page 8)
  - ▶ Mailbox post, interior renovations, minor exterior changes (doors, windows), adding rooftop PV, ground signs, civil defense sirens, driveway replacement
  - ▶ RECENT COMMENTS: these exceptions may go too far

# SMA Rules, continued

- ▶ Another proposed definition change would modify the definition of “single family dwelling” to include all accessory structures, including ohanas, all of which would have meet the HRS Chapter 205A threshold for an exemption; this reflects long-standing practice (sec. 12-202-4, page 6)
- ▶ Other changes would clarify procedural steps (sec. 12-202-12, pages 10-18)
  - ▶ 1. Is it an exception (no need)?
  - ▶ 2. If it is not an exception, is it exempt?
  - ▶ 3. If it is exempt, could it have a cumulative impact or significant effect?
  - ▶ 4. If it could, does it need a minor or major permit, based on valuation?

# SMA Rules, continued

- ▶ Other changes would improve and clarify the emergency permit procedures (sec. 12-202-16, pages 23-28):
  - ▶ Broaden the use of verbal approvals
  - ▶ Allow more time to submit a written application
  - ▶ Require timeline for removal of temporary measures and/or require plans for a long-term remedy
  - ▶ Expanded beyond “habitable” structures only (*e.g.* infrastructure)
  - ▶ Continue practice of notifying MPC at next meeting after permit approval
- ▶ Other changes (sec. 12-202-17, pages 28-32) would allow the director to approve:
  - ▶ Time extensions up to five years (currently two years with MPC waiver of review)
  - ▶ Permit transfers (currently allowed by the rules, with notification)
  - ▶ Non-substantive revisions to project scope and conditions; this reflects long-standing practice (rules are silent)

# SMA Rules, continued

## ENFORCEMENT (sec. 12-202-23, pages 35-37)

- ▶ Proposed changes would clarify how violations are resolved:
  - ▶ payment of fines
  - ▶ illegal use has stopped or construction has been removed or proper permits have been obtained
- ▶ Proposed changes would allow Notices of Warning or Notices of Violation to be posted on the property or published in the newspaper and be considered served
- ▶ Proposed changes would allow the director to negotiate a settlement for violations when the fines do not exceed \$50,000 without requiring commission approval
  - ▶ Currently all settlements have to be approved by the MPC

# Questions? Ready for Shoreline Rules?

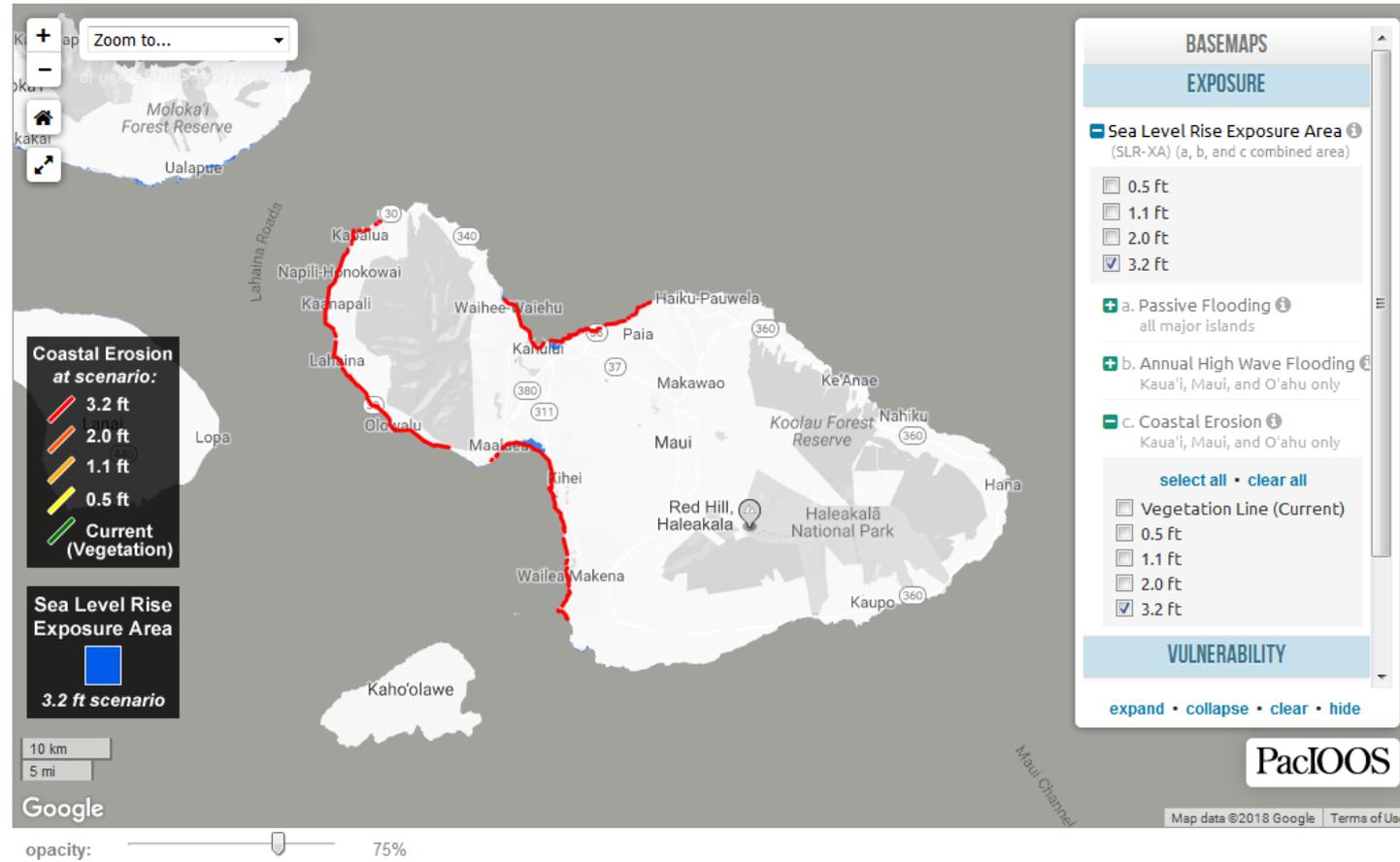
# Shoreline Rules

- ▶ Purposes are to preserve and protect the shoreline area and open space resources, to ensure the public can access, use, and enjoy the shoreline area, and for constructed features to be compatible with the shoreline area (sec. 12-203-2, page 3)
- ▶ This is primarily accomplished by shoreline setbacks. New definitions needed (sec. 12-203-4, pages 4 - 9) to implement a new methodology to use the new erosion hazard line
- ▶ How are setbacks determined?
  - ▶ Current rules create the setback by a formula using the annual erosion hazard rate
  - ▶ Proposed rules use the erosion hazard line adopted by the state climate commission

go to: [hawaiisealevelriseviewer.org](http://hawaiisealevelriseviewer.org)

# Sea Level Rise : Hawai'i Sea Level Rise Viewer

[view full-screen map](#)



 Funding provided by the National Oceanic and Atmospheric Administration (NOAA) through their 2016 Regional Coastal Resilience Grants Program.

# Shoreline Rules, continued

## ESTABLISHMENT OF THE SHORELINE SETBACK LINE (sec. 12-203-6, page 10)

- ▶ The current setback process has three options, each of which requires a certified shoreline survey
  - ▶ 25 feet plus 50 x the annual erosion hazard rate
  - ▶ Based on lot depth (25 - 150 feet)
  - ▶ 25% of lot depth for irregularly shaped lots (up to 150 feet)
- ▶ The proposed revised process also has three options, most of which do not require a certified shoreline survey
  - ▶ The erosion hazard line plus 40 feet
  - ▶ 200 feet from the shoreline as mapped by the Department if there no erosion hazard line or follow the above formula using a certified shoreline survey
  - ▶ 25% of lot depth for irregularly shaped lot (up to 150 feet) (no change)
- ▶ There is still a minimum buildable area 35 feet deep from the property's front yard setback (35 feet x width allowed by side yard setbacks)
- ▶ RECENT COMMENTS: these are very restrictive - need to see the impact

# Shoreline Rules, continued

- ▶ Adds some of the SMA “no needs” to the structures and uses allowed that are not subject to the shoreline rules (sec. 12-203-10, pages 12-13)
- ▶ Clarifies and expands structures and activities that are allowed in the shoreline setback (sec. 12-203-12, pages 14-16):
  - ▶ Repair to permitted seawalls
  - ▶ Actions that received a SMA emergency permit
  - ▶ Enclosing an existing residential lanai
  - ▶ Temporary events
  - ▶ RECENT COMMENTS: need to clarify that these activities are allowed with a shoreline approval (they are not allowed outright)

# Questions? Mahalo!

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