

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

August 26, 2022

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 22OD-040

OAHU

Issuance of Right-of-Entry and Revocable Permit to Cozy at Punaluu LLC for Removal and Rebuilding of Shoreline Structure, Punaluu, Koolauloa, Oahu, Tax Map Key: (1) 5-3-002: seaward of 035.

APPLICANT:

Cozy at Punaluu LLC, a Hawaii limited liability company.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Portion of Government lands situated at Punaluu, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-3-002: seaward of 035, as shown on **Exhibit A**.

AREA:

750 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered with encroachments

CHARACTER OF USE:

Removal and rebuilding shoreline structure purposes.

COMMENCEMENT DATE:

August 13, 2021. See Remarks section.

MONTHLY RENTAL:

Monthly rental amount of \$76.00 has been calculated by staff and has been reviewed and approved by the Chairperson. **Exhibit B.**<sup>1</sup>

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 1, that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features , involving negligible or no expansion or change of use beyond that previously existing," Item 44, that states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing". The subject request is a de minimis action that will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR, as a de minimis action.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>  </u>
Registered business name confirmed:	YES <u>X</u>	NO <u>  </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>  </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Post a removal bond in the amount of (\$46,609) to cover the cost of removing the

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<sup>1</sup> Exhibit B uses 4% as rate of return, which is typical for residential property. For commercial uses, the rate could be up to 8%.

shoreline structure in the event that applicant fails to remove the structure prior to expiration of OCCL Emergency CDUP OA 22-5 on August 13, 2024. See Remarks section below; and

2. Obtain required County shoreline and building permits prior to commencing work.

REMARKS:

On August 13, 2021, under agenda item K-1,<sup>2</sup> the Board found Douglas W. Johnson and Marie Kramer, managers of Cozy at Punaluu LLC (owner of the private property identified as tax map key (1) 5-3-002:035) in violation of HAR §13-5-24 and HRS §171-6(12) due to noncompliance with Emergency CDUA OA 20-38. The enforcement action was pertaining to the unauthorized construction of an erosion control which was beyond what was authorized by the Department dated back in November 2019. In August 2021, the Board imposed fines on the owner for performing major alterations/modifications to the erosion structure prior to obtaining the appropriate approvals. Under the 2021 Board action, the owner was required to remove the unauthorized structure and reconstruct the structure by June 1, 2022.

At its meeting of May 31, 2022, under agenda item K-2,<sup>3</sup> the Board amended condition 7 in the 2021 Board action by extending the deadline to October 1, 2022 for the owner to remove and rebuild the shoreline structure according to the terms and conditions described in the letter dated May 31, 2022 from the Office of Conservation and Coastal Lands (“OCCL”). A copy of OCCL’s letter is attached as **Exhibit C**.

Pursuant to OCCL’s letter, the subject structure is authorized as a temporary erosion control measures for three (3) years starting from the date of the Board’s action regarding ENF 20-38 covering the period from August 13, 2021 to August 13, 2024. Upon expiration in August 2024, the subject structure shall be removed and the area restored to a more natural state. Staff places the request on today’s agenda according to condition 4 on Exhibit C which asks for a land disposition from the Board.

The applicant is required to post a removal bond in the event that the applicant fails to remove the structure prior to the expiration date of OCCL’s Emergency CDUP OA 22-5 on August 13, 2024. Applicant, through his contractor, recommended \$25,000 as the bond amount to remove the structure and dispose all excess debris and clear the site of all construction materials. The Department’s Engineering Division was consulted and advised a bond amount of \$46,609, which incorporates planning and permitting fees in addition to inflation, as shown in the table below.

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<sup>2</sup> Submittal can be downloaded from <https://dlnr.hawaii.gov/wp-content/uploads/2021/08/K-1.pdf>.

<sup>3</sup> Submittal can be downloaded from <https://dlnr.hawaii.gov/wp-content/uploads/2022/05/K-2.pdf>.



<b>Doug Johnson Soft Shoreline System Removal Estimate, June 2022</b>		
<b>Item Description</b>	<b>Inflation Rate (%)</b>	<b>Cost</b>
Plans, Specifications, & Engineering Services		\$10,000
Permitting Services		\$2,000
Demolition and Removal of Soft Shoreline Sys.		\$25,000
2022 Total Cost		\$37,000
2023 Total Cost	8	\$39,960
2024 Total Cost	8	\$43,157
2025 Total Cost	8	\$46,609

Staff recommends the Board authorize the issuance of a revocable permit for the proposed use. Before the consummation of the revocable permit, an immediate construction and management right-of-entry for the same purpose is recommended due to the longer processing time for issuance of a revocable permit. The monthly rent recommended in the request became payable on August 13, 2021.

Staff did not solicit comments from other governmental agencies as the request is a part of the enforcement process which the Board approved.

**RECOMMENDATION:** That the Board

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15 and -16, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Upon Applicant's compliance of the Applicant Requirements above, authorize the issuance of a right-of-entry permit to Cozy at Punaluu LLC covering the subject area for removal and reconstruction of the emergency temporary erosion structure purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
  - B. The right-of-entry shall commence on August 13, 2021 and be for a term of one year or until the issuance of the revocable permit described in recommendation 3 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one year periods



for good cause shown; and

- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Upon Applicant’s compliance of the Applicant Requirements above, authorize the issuance of a revocable permit to Cozy at Punaluu LLC, covering the subject area for removal and reconstruction of the emergency temporary erosion structure purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - B. Subject to the terms and conditions set forth in the letter dated May 31, 2022 from the Office of Conservation and Coastal Lands Emergency CDUP OA 22-5 as shown as Exhibit C herein;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Barry Cheung*

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Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

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Suzanne D. Case, Chairperson

*KDM*

*RT*



EXHIBIT A



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

TO: Suzanne D. Case, Chairperson

Through: Russell Y. Tsuji, Administrator <sup>RT</sup>

From: Land Division, Appraisal Section

Date: June 23, 2022

Subject: Cozy at Punaluu, LLC Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference: PSF No. 22OD-040  
 Applicant: Cozy at Punaluu, LLC  
 TMK: (1) 5-3-002:Seaward of 035  
 Area: 750 square feet  
 Effective Date: August 13, 2021  
 Recommended Value: \$76/month

The undersigned finds that the valuation was completed in accordance with the assignment.

Suzanne D. Case  
 Suzanne D. Case, Chairperson <sup>RT</sup>

Jun 27, 2022  
 Date



TMK (1) 5-3-002:seaward of 035			
Assessed Land Value (\$)	\$	806,400	
Land Area (sf)		13180	
Unit Rate Land Value (\$/sf)	\$	61	
50% Off For Submerged Lands	\$	31	
Encroachment Area (sf)		750	
Encroachment Land Value (\$)	\$	22,944	
Annual Rent @ 4 to 8%	\$	918	0.04
Recommended Annual Value			
Monthly rent	\$	76	



DAVID Y. IGE  
GOVERNOR OF HAWAII



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SUZANNE D. CASE  
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LAND  
STATE PARKS

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COZY AT PUNALUU LLC  
C/O: Douglas W Johnson or Marie E Kramer, Managers  
[REDACTED]  
Honolulu, HI 96816

May 31, 2022

SUBJECT: Revised Proposal for Removal and Rebuilding of Shoreline Structure  
(Emergency CDUA) for Douglas Johnson and Marie Kramer  
[REDACTED]  
Punaluu, Koolauloa, Oahu  
Tax Map Key (TMK): (1) 5-3-002:035 (seaward)

Dear Landowners,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your email and attachments dated April 18, 2022 regarding the subject matter. On August 13<sup>th</sup>, 2021, the Board of Land and Natural Resources (BLNR) found Douglas W Johnson and Marie E Kramer Managers of COZY AT PUNALUU LLC in violation of HAR §13-5-24 and HRS §171-6 (12) due to noncompliance with Emergency CDUA OA 20-8 by performing unauthorized alterations to their temporary emergency erosion control structure located seaward of the subject property subject to eleven (11) conditions. On May 31<sup>st</sup>, 2022, the BLNR amended Condition No. 7 regarding the resolution of ENF: OA 20-38 and granted the landowners their request for an extension to obtain the necessary approvals and complete the removal and reconstruction of the emergency temporary erosion control structure by October 1<sup>st</sup>, 2022. The attachment states that this revised letter outlines the proposed plans for compliance, including an integrated process for: A. Removal of the unauthorized shoreline structure; and B. Rebuilding the shoreline structure.

**A. Removal of the Unauthorized Shoreline Structure**

The existing unauthorized sandbag structure extending approximately 60 ft across the seaward edge of the property will be removed to comply with the directives issued in ENF: OA 20-38. The work is planned to be completed in phases to allow for the safe demolition and reconstruction to follow. The following outlines the elements of the demolition and removal plan.

1. Equipment to be used. A mechanical lift or excavator will access the yard area of

**EXHIBIT C**

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the property. The equipment will not operate in the shoreline area. The excavator bucket and thumb will be used to lift sandbags from the beach area for placement on TMK: (1) 5-3-002:035 and its makai side yard area. This area is identified in Figure 1 (attached) as "STAGING AREA".

2. Staging area. The side yard area or "STAGING AREA" depicted in Figure 1 will be used for the equipment and materials staging, demolition work area, and construction yard for the new approved protection.
3. Inventory of materials in the unauthorized structure. The deconstruction of the existing structure will remove the Elcorock sandbags, the overlapping Elcorock blanket material, polypropylene bags, and other residual seabags and blanket fabric material inside and under the structure. The contractor will prepare an inventory of the removed materials, photo document the removal steps, and completed removal.
4. Temporary Wave Energy Protection. To provide protection from wave energy during the demolition and removal and reconstruction, the landowners/applicants request to temporarily retain the first two (2) rows of Elcorock bags. The bags will be stacked two (2) bags high along the existing alignment of the lower bag row. The Elcorock bags need to remain in place until the completion of the new shoreline structure, otherwise the bottom row foundation of the structure could not be properly installed in active wave wash shorebreak conditions even at low tide, and the resulting construction would have a high likelihood of short-term failure. Refer to the Figure 2 (attached), which identifies the phased removal of the existing structure. This approach will protect ocean water quality and the adjoining shoreline environments, as well as providing a safer work environment and more effective installation.
5. Materials to be recycled. The sand in the existing structure will be harvested in the phases of construction, with any excess sand stockpiled on the upland area of the property or removed for potential reuse at another location. Sand material in the existing Elcorock bags and sand slope inside the structure was sourced from Makai Ranch. This sand material will be harvested from the structure and removed from the bags, stockpiled in the staging area, and recycled for use in geotube structures to be installed with the new structure.
6. Materials to be disposed of and disposal location. All the Elcorock bag material and other elements in the existing structure will be emptied of sand in the upland staging area on property and, as practical, recycled in the new geotube structure. This material will also be used to backfill to stabilize the beach slope behind the geotubes and geotextile apron. Following removal of the remainder of the existing shoreline structure, approximately thirty (30) CY of screened imported sand (recycled from the existing structure) will be placed to fill uneven voids along the shoreline slope. The sand fill will be used to form an approximate 1:1.5 slope from the top of the beach crest to approximately 8 ft. seaward of the



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subject property. The removed materials will be collected by the contractor without losses into the nearshore ocean and transported to a City solid waste management facility authorized to receive these materials, such as the Laie Transfer Station.

The new structure will follow the new approved alignment and will not protrude seaward, avoiding any neighboring property flanking potential. Sand material in the existing Elcorock bags and sand slope inside the structure was sourced from Makai Ranch. The Makai Ranch sand was rinsed prior to use in the system to ensure the removal of other material of terrigenous origin. This sand material will be harvested from the structure and removed from the bags, stockpiled in the staging area, and recycled for use in the geotubes to be installed along the beach slope within the new structure.

7. Authorizations that may be required. The appropriate OCCL reviews of the application for emergency temporary erosion control measures and a land disposition - Revocable Permit (RP) will be completed with DLNR. The applicants and their contractor will notify the DLNR OCCL one (1) week prior to the start of demolition. The work will be completed in two (2) phases to allow for the safe demolition and reconstruction to follow.

As the owners are actively pursuing the OCCL approval of the request for their new structure, the landowners are ready to apply for the RP at the soonest possible moment. The landowners have held several recent telephone conversations with Cal Miyahara at DLNR Land Division who indicated that the subject RP cannot be applied for until the OCCL authorizes the temporary erosion control structure.

8. Documentation of demolition and removal activities. The directives issued in ENF: OA 20-38 require the landowners to remove all unauthorized materials and verify progress in photo documentation through the demolition process. The demolition and removal activities will be documented by photographs taken each day during steps of the removal process. A daily log of activities will also be documented. As directed, the photos and progress updates will be provided to DLNR OCCL during removal and reconstruction.

#### **B. Reconstruction of the Shoreline Protection Structure**

The emergency temporary shoreline protection structure is planned to extend along approximately 63 linear feet along the shoreline located seaward of the subject property. Figure 1 (attached) presents a Plan View of the proposed rebuilt shoreline structure, showing its extent as the shaded area of approximately 10 to 12 ft seaward from the beach crest. Due to its curved shape, the total length is proposed to be greater than the 60 ft property width. The rebuilt structure will have a footprint of approximately 750 square feet (SF) and 6 to 7 ft height. Reconstruction of the proposed temporary erosion control structure will include the following steps:

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1. The plan is to remove the majority of the existing structure as described in the Removal Plan, and temporarily retain a row of Elcorock bags stacked two (2) high along the current position. These bags will remain throughout the integrated removal and construction period of approximately two (2) weeks
2. Following removal of the remainder of the existing shoreline structure, approximately 30 CY of screened imported sand (recycled from the existing structure) will be placed to fill uneven voids along the shoreline slope. The sand fill will be used to form an approximate 1:1.5 slope from the top of the beach crest to approximately 8 ft. seaward of the subject property.
3. A 4 ft wide trench will be excavated along the base of the slope to mean sea level. The trench will extend along the length of the structure at approximately 8 to 12 ft seaward of the beach crest. With the removal of the existing structure and reconstruction of the approved design, the toe of the structure will be 10 ft inland of the current location. This will help improve lateral access at this location.
4. A heavy-weight geotextile filter fabric (S1600) will be placed over the slope and across the trench. A sand-filled lighter-weight geotextile fabric tube will be placed over the filter fabric in the trench. Attached to this letter is the specification sheet for the Mirafi S1600 heavy-weight geotextile filter fabric.
5. Two (2) rows of sand-filled geotubes will be installed along the base of the slope, as shown as Geotube A and B in Figure 3 Section View (attached). (Note: The sand-filled geotubes have also been described as sand-filled burritos.) Each geotube will be approximately 4 to 5 ft wide and 2 to 3 ft high. A smaller sandbag filled geotube will be installed along the beach slope, shown as Ballast Tube in Figure 3. Total height of the structure will be approximately 6 to 7 ft.
6. The underlying geotextile filter fabric will be folded up over the front face of the stacked geotubes and slope. The loose ends of the fabric will be secured at the top of the structure and at the edges of the adjoining bundles using polypropylene rope. The structure will be secured against the sloped bank with a batter board and soil anchors driven into the property along the top of the bank.
7. The contractor estimates the following approximate quantities and material specifications.
  - 2400 SF of heavy-weight geotextile filter fabric for the liner and sand-filled geotubes
  - Approximately 60 CY of on-site recycled sand used as fill for the geotubes
  - 1,500 SF of heavy-weight geotextile fabric for the apron
  - 125 yards of polypropylene rope



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- 30 CY of on-site recycled sand to form the overall structure.

The contractor will use heavy-weight geotextile filter fabric. Specifications state a grab tensile strength of 380 LBS, a grab tensile elongation of 50%, a trapezoid tear strength of 140 LBS, and a CBR puncture strength of 1,025 LBS. Light-weight geotextile filter fabric has a grab tensile strength of 250 LBS, a grab tensile elongation of 50%, a trapezoid tear strength of 100 LBS and CBR puncture strength of 700 LBS.

The contractor will use heavy-weight geotextile filter fabric for the liner and sand-filled tubes, light-weight geotextile fabric for the bundles, polypropylene rope, and recycled sand to form the temporary structure.

#### **Contingency and Long-Term Plan**

The applicant intends to observe the conditions of the new emergency permit and remove the temporary structure at the expiration of the three-year temporary protection period. Long term plans are as follows:

Plan A. Revetment Structure. The City/County DPP will be conducting a contested case hearing on the denied shoreline variance for the construction of a low sloping rock revetment, similar those protecting the neighboring 38 properties fronting Makalii Point for many decades. Should the applicant prevail, they will proceed with permitted construction of the revetment as a long-term solution.

Plan B. Natural Shoreline/Beach Nourishment. Should the contested case not prevail, the applicant would initiate planning for a natural shoreline condition for the subject property. The sandbag structure would be removed and restored with allowed sand material and vegetation planting of the beach scarp. Additionally, a program for periodic beach nourishment would be instituted to help sustain this frontage under OCCL permit allowances.

Plan C. In conjunction with Plan B, the applicant may also participate in a future neighborhood sandbag groin pilot project. The placement of temporary sandbag groins may help to stabilize this shoreline area in conjunction with soft shoreline/beach nourishment actions.

#### **AUTHORIZATION EXPIRATION**

It is understood that the temporary erosion control structure is a temporary response to prevent further erosion. Pursuant to #7 and #8 in the BLNR's decision in ENF: OA 20-38, as amended by the BLNR on May 31<sup>st</sup>, 2022, "...the landowners shall remove the unauthorized erosion control structure as well as its associated materials and complete the reconstruction of the emergency temporary erosion control structure by October 1<sup>st</sup>, 2022. If the landowners comply with above actions and complete the reconstruction of the emergency temporary erosion control structure by October 1<sup>st</sup>, 2022, the landowners shall be credited with \$10,000.00 of all designated fines and administrative costs levied against them in condition #4 [\$18,000.00]", and "The reconstructed



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emergency temporary erosion control structure shall be authorized for a period of three (3) years starting from the date of the Board's action (August 13<sup>th</sup>, 2021 to August 13<sup>th</sup>, 2024)". The duration of this temporary erosion control structure shall not exceed **August 13<sup>th</sup>, 2024**, as mandated by the BLNR. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require further review and authorization by the Department. **No new material shall be added to the subject structure without additional review and/or authorization from the Department.** Upon reaching the expiration date **August 13<sup>th</sup>, 2024**, the temporary erosion control structure shall be removed, and the area returned to a more natural state.

#### **ANALYSIS**

In this particular area, submerged land located makai of the certified shoreline lie within the State Land Use Conservation District, Resource subzone. In conformance with Hawaii Revised Statutes, Chapter 343, as amended, and HAR Chapter 11-200.1-16(a)(1), the proposed use falls under **General Exemption Type 1**, which applies to 'Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing,'; and pursuant to the Exemption List for the Department of Land and Natural Resources dated November 10, 2020, specifically: **Part 2, Item #2**, 'Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources' the proposed use is exempt from the preparation of an environmental assessment. The Land Division concurred with the proposed exemption.

#### **EMERGENCY AUTHORIZATION**

Pursuant to the Hawaii Administrative Rules (HAR), §13-5-35 Emergency permits. (a) *Notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department.*

We would like to remind you that such structures are authorized to remain in place for a predetermined amount of time (**August 13<sup>th</sup>, 2021 to August 13<sup>th</sup>, 2024**). The structure is considered a temporary means of mitigating the shoreline erosion with the understanding that long-term planning for management/accommodation of erosion be undertaken within this authorization period.

Further, any materials that become liberated or slackened from the structure

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must be immediately removed from the beach or ocean. The landowners/permittees shall notify the Department in writing of these activities. Prior to structure installation, the landowners/permittees shall remove any and all debris from previous iterations of the structure or that has been deposited on the beach and nearshore, and any other derelict structures or materials emanating from the beach area.

Please review the following Terms and Conditions carefully and return a signed copy to the DLNR.

#### **TERMS AND CONDITONS**

Based on the information you have provided; the Department authorizes Emergency Conservation District Use Permit OA 22-5 for the temporary emergency erosion control structure as described above in the shoreline area fronting the subject property, seaward of Tax Map Key (TMK): (1) 5-3-002:035, provided that you adhere to the following terms and conditions:

1. It is understood that the emergency temporary emergency erosion control structure as described above and indicated in Figures 1, 2, and 3 is a temporary response to address a safety hazard to the existing single-family residence on the subject property, which is threatened by chronic beach erosion. The material is authorized as a temporary erosion control measure for three (3) years starting from the date of the Board's action regarding **ENF: OA 20-38 (August 13<sup>th</sup>, 2021 to August 13<sup>th</sup>, 2024)**. Subsequent erosion control efforts that call for modification, other than the maintenance of the proposed structure, will require a new application. At the end of the authorization period (**August 13<sup>th</sup>, 2024**), all materials shall be removed, and the area restored to a more natural state;
2. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
3. The permittee, their successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
4. The permittee shall obtain a land disposition from the Board of Land and Natural Resources, further subject to any terms and conditions prescribed by the Board for the use of State lands. Please contact Oahu District Land Division Office at (808) 587-0433 for further details;
5. The permittee shall comply with all applicable Department of Health



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Administrative Rules;

6. Unless otherwise authorized, any work or construction to be done on the land shall be completed by October 1<sup>st</sup>, 2022. Failure by the permittee to complete any work or construction to be done on the land by October 1<sup>st</sup>, 2022, may lead to further fines and enforcement actions in accordance with the Board's decisions in ENF: OA 20-38 on August 13<sup>th</sup>, 2021, and May 31<sup>st</sup>, 2022. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
7. The permittee shall submit a completion report for the project to the OCCL within sixty (60) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans as well as provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;
8. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
9. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site, and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and alongshore walkway;
10. The applicant shall implement standard Best Management Practices (BMPs) including the ability to contain and minimize silt in nearshore waters and clean up fuel, fluid, or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
11. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce any undesirable condition to the beach or water quality;
12. Any materials that become liberated from the structure must be immediately removed from the beach or ocean;
13. No contamination of the marine or coastal environment (trash or debris) shall result from project related activities authorized under this letter;



REF: OCCL: TF  
COZY AT PUNALUU LLC  
DOUGLAS W JOHNSON & MARIE E KRAMER, MANAGERS

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14. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
15. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
16. In issuing this permit, the Department and the Chairperson have relied on the information and data that the permittees have provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the Department may, in addition, institute appropriate legal proceedings;
17. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
18. Obstruction of lateral shoreline access shall be avoided or minimized;
19. The activity shall not adversely affect a federally listed, threatened, or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
20. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species which normally migrate through the area;
21. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries. All exterior lighting shall be shielded to protect the night sky;
22. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
23. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD ((808) 692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;

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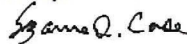
Emergency CDUP OA 22-5

- 21. DLNR requests that you remove and properly dispose of any debris encountered on the beach during the removal and installation of the erosion control measures. Any materials that come loose from the temporary erosion control measures shall be repaired or discarded as soon as possible so they do not end up in the beach or marine environment;
- 22. At the conclusion of the temporary use, the permittee shall clean and restore the Conservation District to a condition acceptable to the Chairperson;
- 23. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary; and
- 24. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

**Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two (2) copies. Retain one (1) and return the other within thirty (30) days. Please notify the Office of Conservation and Coastal Lands if/when improvements are initiated and completed; and if any changes to the scope of work are anticipated.**

Should you have any questions on any of these conditions, please contact the DLNR Office of Conservation and Coastal Lands (OCCL) at (808) 587-0377.

Sincerely,



SUZANNE D. CASE, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES

MC

I concur with the conditions of this emergency authorization:

\_\_\_\_\_  
Permittee's Name (Print)

\_\_\_\_\_  
Permittee's Signature

Date \_\_\_\_\_

CC: ODLO  
DOCARE (Oahu)  
City and County of Honolulu, Department of Planning and Permitting



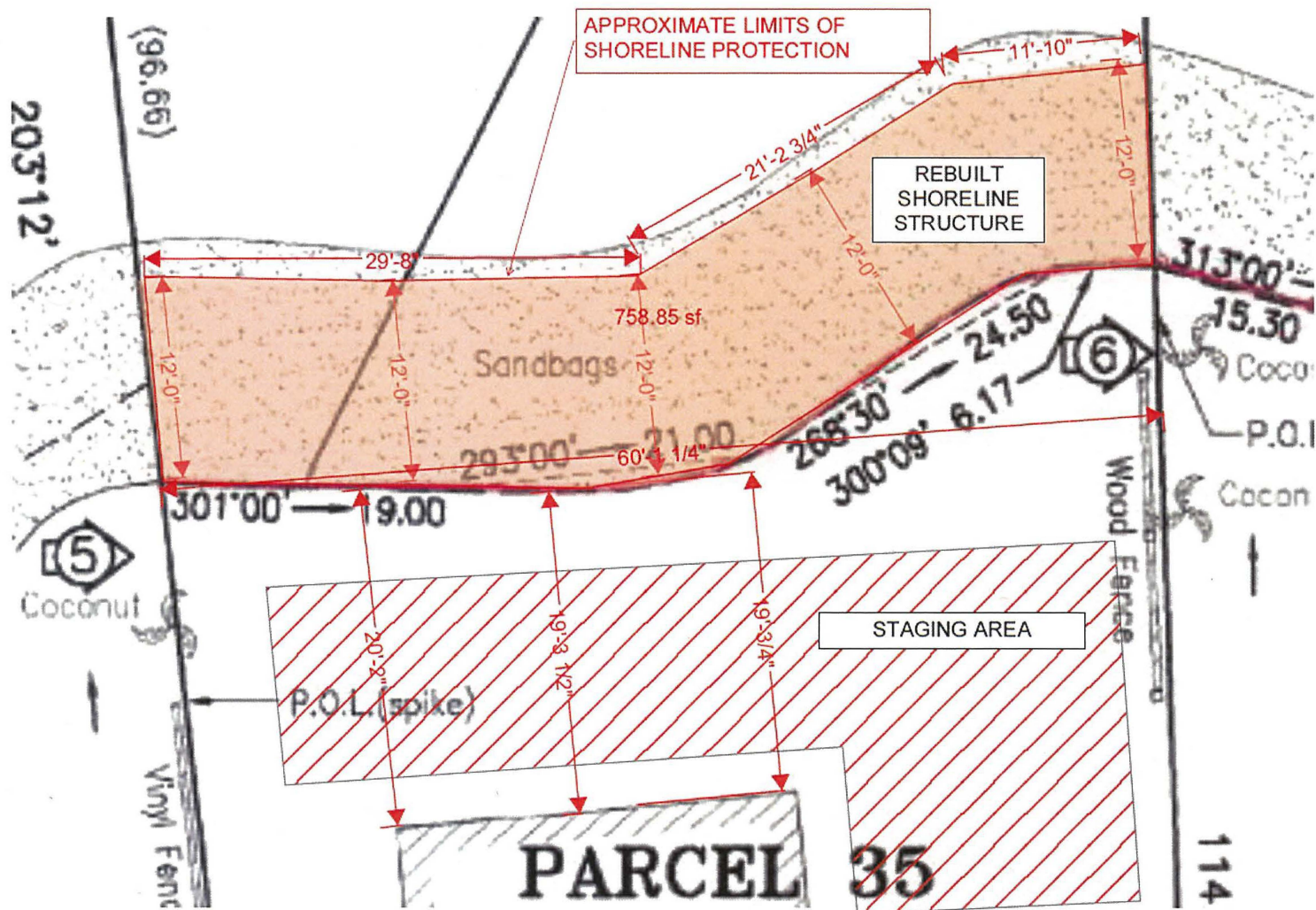
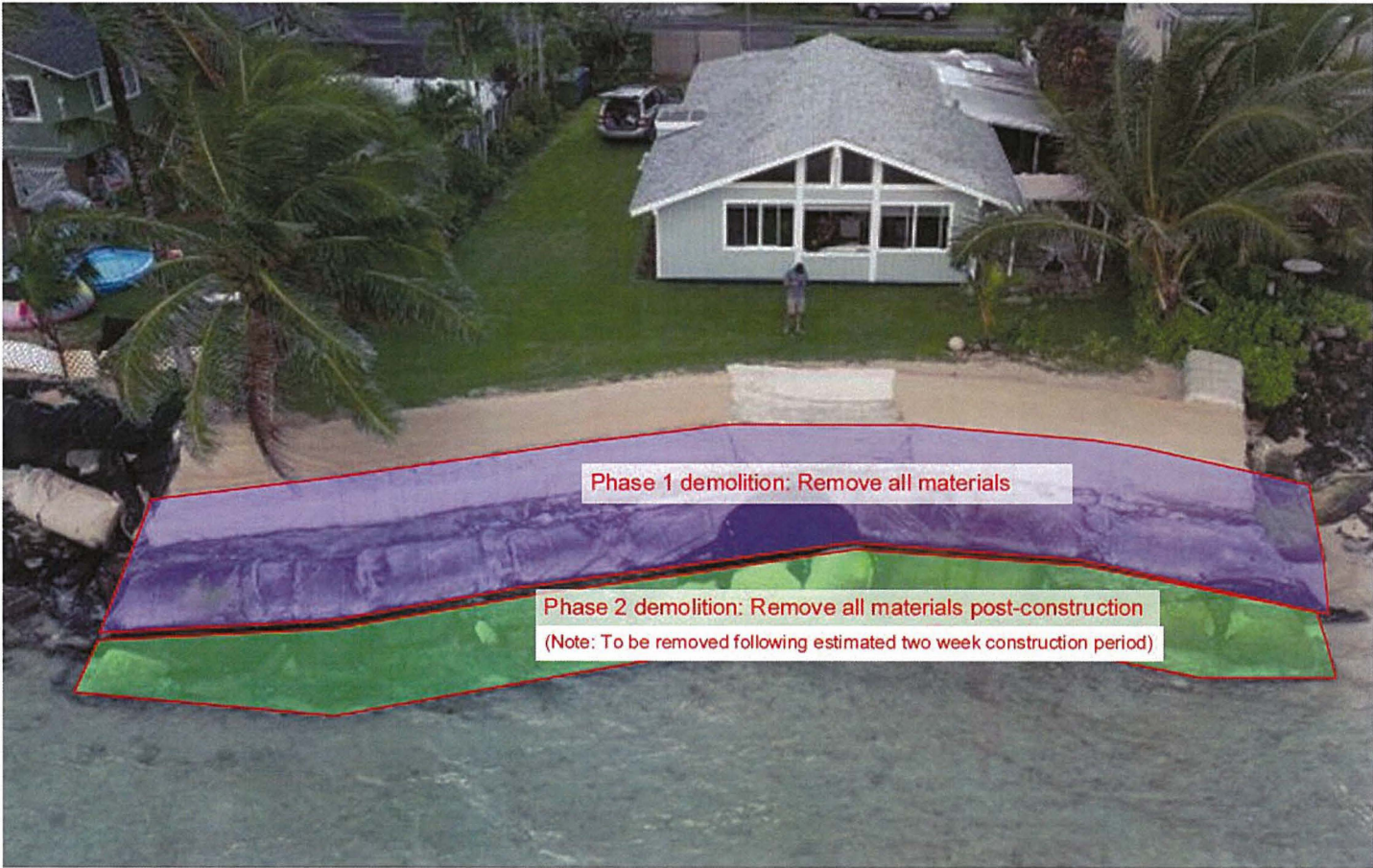


Figure 1

Punaluu Johnson – Plan View of New Temporary Shoreline Protection

NOTE: Plan prepared by owner/applicant for contractor use.





Phase 1 demolition: Remove all materials

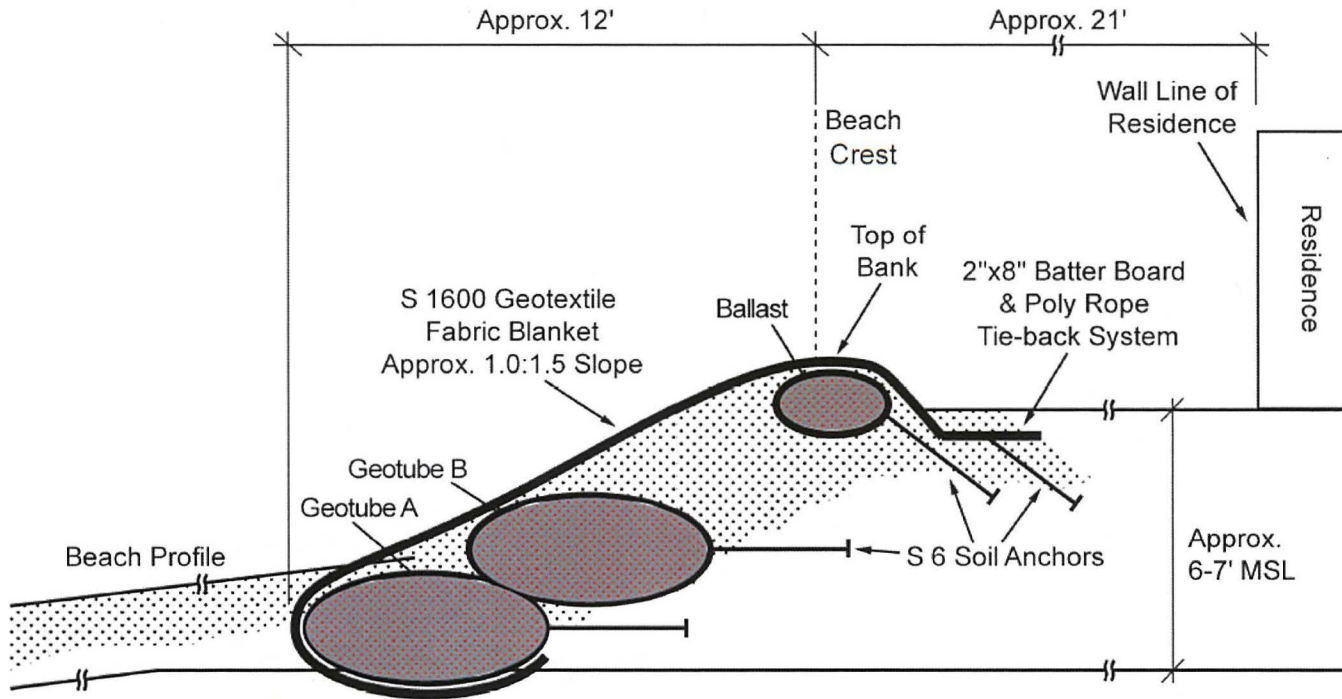
Phase 2 demolition: Remove all materials post-construction  
(Note: To be removed following estimated two week construction period)

Phased Demolition Plan

Figure 2

- 1. Removal all Elcorock bags, blanket and polypropylene bags from structure except for front row of bags (temporary).
- 2. Complete construction of new OCCL approved protection structure.
- 3. Remove front row of approximately 15 Elcorock bags and restore site conditions makai of new structure.  
(Note: To be removed following estimated two week construction period)

NOTE: Plan prepared by owner/applicant for contractor use.



**Figure 3** Temporary Shoreline Erosion Control Structure  
Section View

Proposal for Removal and Rebuilding of Shoreline Structure  
Seaward of 53-223 Kamehameha Highway  
Punaluu, Ko'olaupua, O'ahu.  
Tax Map Key (TMK): (1) 5-3-002:035

NOTE: Plan prepared by owner/applicant for contractor use.