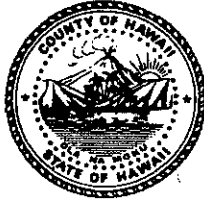


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

October 25, 2010

Ms. Rose Chu  
Tesoro Hawaii Corporation  
431 Kuwili Street, 2<sup>nd</sup> Floor  
Honolulu, HI 96817

Dear Ms.Chu:

**Subject: Special Management Area Use Permit Assessment Application  
(SAA 10-000598)  
Special Management Area Minor Permit No. 10-000165  
Applicant: Tesoro Hawai'i Corporation  
Request: Remove Up to One Foot of Non-Hazardous Topsoil  
Tax Map Key: 2-1-7:46 and 47, Waiākea, Hilo, Hawaii**

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This is to follow up on our September 21 2010 letter relating to the above-referenced Special Management Area assessment to remove up to one foot of non-hazardous topsoil from the subject parcels.

Parcel 46 consists of 1.028 acre and Parcel 47 consists of 1.5715 acre. They are both designated Urban by the State Land Use Commission and zoned General Industrial (MG-1a) by the County. Although both are in the Special Management Area, they are not located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(e)(1)(B) relating to Special Management Area, the removal of up to one foot of non-hazardous topsoil is considered "*Grading, removing, dredging, mining, or extraction of any materials*" and defined as "development". Therefore, a Special Management Area Minor Permit is required.

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 10-000165 is hereby issued to allow for the removal of up to one foot of non-hazardous topsoil, subject to the applicant's compliance with the conditions of approval as required by the permit.

Ms. Rose Chu  
Tesoro Hawaii Corporation  
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October 25, 2010

Finally, all other applicable Zoning and Building Code requirements must also be satisfied.

Should you have questions, please feel free to contact Esther Imamura at 961-8139.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

ETI:cs  
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Enclosures - SMM No. 10-000165  
Department of Public Works October 6, 2010 Memo

cc w/Encls.: Long Range Planning  
Planning  
Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T

Margaret K. Masunaga  
*Deputy*

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**Land Area: 1.5715 acre**

2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcels as Industrial.
3. **County Zoning:** The subject properties are zoned General Industrial (MG-1a).
4. **Special Management Area (SMA):** Although the subject properties are in the SMA, they are not located within the "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
5. **Flood Zone:** Flood Zone X.

<p style="text-align: center;"><b>Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area</b></p>
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The subject properties do not have frontage along the coastline. Therefore, the proposed activity will not affect public access to the shoreline or negatively affect shoreline recreational resources available to the public.

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai'i County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
  - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
  - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
  - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
- ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.

- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
- ☒ Beach Protection
- ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, Environmental Impact Statements.

<b>Findings</b>
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As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed development is consistent with the Hawai'i County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$90,000 - \$100,000 is not in excess of \$125,000.

By enclosed memorandum dated October 6, 2010, the Department of Public Works, Engineering Division had the following comments:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated September 21, 2010 and have no objections to the request."*

*The subject parcels are located within an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain.*

*The Department of Public Works has reviewed and approved the grading plan to remove approximately 900 cubic yards of topsoil."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000165** is hereby approved to remove up to one foot of non-hazardous topsoil, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. 10-000165** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. All excavation debris shall be collected and disposed of off-site at appropriate locations outside of the Special Management Area.
4. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance form the State Historic Preservation Division of the Department of Land and Natural Resources.
5. Should any of the conditions not be met, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:

  
BJ LEITHEAD TODD  
Planning Director

OCT 25 2010

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Date