

William P. Kenoi  
Mayor



Duane Kanuha  
Director

Bobby Command  
Deputy Director

West Hawai'i Office  
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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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

December 10, 2013

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

**SUBJECT: Special Management Area Use Permit Assessment Application**  
**(SAA 13-001017)**  
**Special Management Area Minor Use Permit (SMM-13-000291)**  
**Applicant: J. Stephen Meadows**  
**Land Owner: J. Stephen Meadows**  
**Request: Construction of "As-built" Improvements to Existing**  
**Single-Family Dwelling, Second Single-Family**  
**Dwelling, Gazebo, Related Improvements, and**  
**Consolidation of Three Lots**  
**TMK (s): (3) 1-4-010:017, 018, and 019, Kapoho, Puna, Hawai'i**

This is in response to your Special Management Area Use Permit Assessment Application (SAA 13-001017), submitted on August 28, 2013, and the subsequent submittal of "as-built" plans received on November 8, 2013. The applicant proposes the approval of the "as-built" construction of improvements to the single-family dwelling on parcel 019, a second single-family dwelling on parcel 017, a gazebo, which straddles the property lines of parcel 017 and parcel 018, associated landscaping, rock walls, and walkways on the subject parcels. Finally, the applicant proposes to consolidate the three subject parcels in order to remedy Hawai'i County Code Chapter 25 (Zoning) violations for minimum yard requirements.

The subject parcels consist of 22,000 square feet, are zoned Single-Family Residential (RS-10) by the County of Hawai'i, and are designated Urban by the State Land Use Commission. The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcels as Low Density Urban and Open. The project area is located entirely within the Special Management Area (SMA) and has several ponds on the property. However, the parcels are not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41.

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**Special Management Area Determination:**

Our office issued a determination of exemption from the SMA definition of "development" on November 26, 2013 for the "as-built" improvements to the existing single-family dwelling, as presented, and the proposed 3-lot consolidation.

According to Chapter 205A-22, HRS, and Planning Commission (PC) Rule No. 9-4(e) (1) (E), "development" includes "Construction, reconstruction, demolition, or alteration of the size of any structure." Therefore, the approval of the "as-built" construction of a second single-family dwelling, the gazebo, associated landscaping, rock walls, and walkways are considered to be development and will be reviewed against the Special Management Area rules.

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No.13-000291 is hereby issued for the SMA approval of the "as-built" construction of a second single-family dwelling, gazebo, associated landscaping, rock walls, and walkways on the subject properties. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Bethany Morrison of this department at (808) 961 8138.

Sincerely,

  
for DUANE KANUHA  
Planning Director

BJM:cs

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Enclosures - SMM No. 13-000291  
DPW Memorandum dated December 3, 2013

cc w/encls: Long Range Planning  
Planning Division

Planning Inspector  
VAR-13-000164

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Mr. Stephen J. Meadows  
c/o Nancy A. Kearson, CPA, APC  
1801 Century Park East, Suite 2400  
Los Angeles, CA 90067

cc ltr only: Mr. Jesse K. Souki, Director  
Office of Planning, DBEDT  
State of Hawaii Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359

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**Special Management Area Minor Permit No. 13-000291**

**Project:** Construction of "As-Built" Second Single-Family Dwelling, Gazebo, Associated Landscaping, Rock Walls, and Walkways  
**Applicant:** J. Stephen Meadows  
**Land Owner:** J. Stephen Meadows  
**Location:** Kapoho, Puna, Hawai'i  
**TMK(s):** (3) 1-4-010:017, 018, and 019      **Land Area:** 22,000 square feet

**Applicant's Request**

**1. Project Description:**

The applicant proposes the approval of the "as-built" construction of a second single-family dwelling on parcel 017, a gazebo, which straddles the property lines of parcel 017 and parcel 018, associated landscaping, rock walls, and walkways on the subject parcels.

**2. Purpose of Project:**

The applicant acquired the property in 2007. Although consisting of three (3) properties, the site has been used essentially as a residential compound by the applicant and intermittently as a vacation rental. The applicant intends to continue with both the residential and vacation rental use of the site. The purpose of the application is to seek approvals for the "as-built" improvements and to comply with the Order and corrective actions in a Notice of Violation issued on April 26, 2013.

**3. Project Valuation: \$250,000.**

**4. Determination:**

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e) (1) (E), "development" includes "Construction, reconstruction, demolition, or alteration of the size of any structure." Therefore, the approval of the "as-built" construction of a second single-family dwelling, the gazebo, associated landscaping, rock walls, and walkways are considered to be development and will be reviewed against the Special Management Area rules.

### State and County Plans

1. **State Land Use District:** The subject parcels are designated Urban by the State Land Use (SLU) Commission.
2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Low Density Urban and Open.
3. **County Zoning:** The subject parcels are zoned RS-10 (Single Family Residential) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcels are located entirely within the Special Management Area. However, the project area is not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41.
5. **Flood Zone:** X and AE.

### Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area

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, regarding 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$250,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated December 3, 2013, states the following:

*"We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated November 26, 2013 and offer the following comments for your consideration.*

*Parcels 017 and 018 are in an area designated as Zone X and Flood Zone AE 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. Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined.*

*The entire parcel 019 is in an area designated as Flood Zone AE.*

*All improvements shall be in compliance with the requirements of Chapter 27, Floodplain Management, of the Hawai'i County Code."*

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 13-000291 is hereby approved for the "as-built" construction of a second single-family dwelling, gazebo, associated landscaping, rock walls, and walkways on the subject properties.

### **Conditions of Approval**

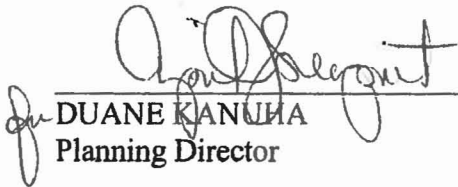
**The Planning Director has approved SMA Minor Permit No. 13-000291 subject to the following conditions:**

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. The applicant shall remove all existing encroachments into the property's minimum side yards, or secure a Variance from Chapter 25, Zoning, Minimum yards, from the Planning Department within ninety (90) days of the date of this permit. Failure to remove the encroachments may result in Penalties as provided for in PC Rule 9-17, Penalties.
4. The Building Permits for the "as-built" improvements shall be issued within one (1) year from the date of this permit.
5. In order to mitigate any impacts to the water quality of the existing ponds on the property, an approved septic tank/leach field system shall be installed for the second single-family dwelling on parcel 017 before residential occupancy.
6. All construction activities shall be completed within two (2) years from the date of this permit.
7. Any further grading, grubbing, filling or other construction activity, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
8. 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 from the State Historic Preservation Division of the Department of Land and Natural Resources.

9. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
  - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
  - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:

  
DUANE KANUHA  
Planning Director

DEC 10 2013

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Date



2013 DEC -4 AM 11:05

**DEPARTMENT OF PUBLIC WORKS**  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: December 3, 2013

**Memorandum**

TO: Duane Kanuha, Planning Director

FROM: *for* *DK* Department of Public Works, Engineering Division

**SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION (SAA 13-001017)**

Applicant: J. Stephen Meadows

Land Owner: J. Stephen Meadows

Request: Construction of As-Built Improvements

Location: Kapoho Beach Lots, Puna, Hawaii

Tax Map Keys: (3) 1-4-010: 017, 018, & 019

We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated November 26, 2013 and offer the following comments for your consideration.

Parcels 017 and 018 are in an area designated as Zone X and Flood Zone AE 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. Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined.

The entire parcel 019 is in an area designated as Flood Zone AE.

All improvements shall be in compliance with the requirements of Chapter 27, Floodplain Management, of the Hawaii County Code.

Questions may be referred to Kelly Gomes at ext. 8327.

