

Petition for Intervention and Appeal

Board of Appeals

Planning Director Action:

Revised Tentative Approval Subdivider: Kohala Preserve Conservation Trust, LLC

"Kohala Preserve Makai - North Subdivision"

Proposed Consolidation of Parcels 9-C, 9-D, '1 1 and R-1, And its Subdivision into Lots 1 to 48, Inclusive, And Roadway Lots R-1 to R-5, Inclusive Kapa'aunui, Kou, Kamano, Mahukona 1st and 2nd, North Kohala, Hawai'i

TMK: 5-7-002:011, 5-7-003: 003 & 010 (SUB-88-000111)

Request:

Reverse the above decision by the Planning Director dated November 28, 2008 regarding land at Mahukona, North Kohala TMKs (3) 5-7-2:11 and 5-7-3:3 & 10

Name of Intervener:

Maika'i Kamakani 'O Kohala, Inc., 501(c)(3) nonprofit organization

Organization's Information and Background:

Maika'i Kamakani 'O Kohala, Inc (Maika'i) is a federally registered 501(c)(3) non-profit community organization whose mailing address is P.O. Box 40, Kapa'au, Hawai'i 96755-0040. Maika'i was incorporated in August of 2001 by concerned citizens of Hawaiian ancestry to protect and preserve traditions and customs of and for the Hawaiian community. Some of the purposes for which Maika'i is organized include to provide for the education of Hawaiian citizens and those of Hawaiian ancestry; to preserve and cherish all sources and records of ancient Hawaiian traditions, customs, language, and historic sites; and to engage in economic development programs that benefit the social health and moral welfare of community.

Maikai has been actively involved in preserving the North Kohala coast and its many important archeological and cultural sites – the most numerous intact, pre-contact sites in the state.

In 2006, Maikai was granted standing in a contested case hearing regarding a coastal parcel south of Mahukona. Maikai Board members are long time users of Mahukona and their use stands to be harmed by the Planning Director's November 28, 2008 tentative approval.

Maikai supported the inclusion of the Mahukona land on the county's priority list for acquisition by the Commission on Open Space and Natural Resource Preservation. In 2007 Maikai along with five other Kohala groups wrote to KPCT asking to enter in dialog leading to the possible private or trust purchase of Mahukona land for preservation purposes. In May of 2007, Maikai and the five other Kohala groups met with the Mayor requesting the County allow the KPCT permits to expire and to ensure North Kohala groups were included in all decision making and communications regarding Mahukona. In July of 2008, Maika'i wrote a letter to the Planning Director outlining why the KPLT's Mahukona permits should be revoked and let to expire.

The November 28, 2008 decision by the Planning Director is in direct conflict with the North Kohala Community Development Plan which calls for the preservation of Mahukona in open

space, to minimize real estate speculation, and for the County to adhere to the time limits and conditions of permits, zoning changes.

The Mahukona resort subdivision is tied by the Subdivision Code to the Zoning Code and requires compliance with conditions of any Change of Zone (COZ). KPCT is not in compliance with conditions of the COZ, the Special Management Area and the Planning Director's conditions placed on the preliminary plat. The COZ required the developer to "complete construction" of the resort by July 14, 2008". The construction was not complete, nor conditions of the COZ met. No extension of the COZ has been issued, so the COZ should be null and void.

Maika'i kindly requests that no further extensions be granted and that the COZ be voided.

Fred Cachola

Maika'i Kamakani 'O Kohala, Inc.