

PSLU Committee

From: Vernon Kalanikau <frikumvk@gmail.com>
Sent: Friday, May 15, 2020 6:41 AM
To: PSLU Committee
Subject: Fwd: Dr. Bhatia's property on South Kihei Road
Attachments: Keokea Wetlands Map.pdf

Good Morning PSLU Members

I am sending this for your review.
 Mahalo,
 Vernon Kalanikau

----- Forwarded message -----

From: Charlene <char@alohaaku.com>
Date: Wed, May 13, 2020 at 9:45 AM
Subject: Dr. Bhatia's property on South Kihei Road
To: Tamara.Paltin@mauicounty.us <Tamara.Paltin@mauicounty.us>
Cc: Vernon Kalanikau <frikumvk@gmail.com>, Charlene <char@alohaaku.com>

Aloha Tamara,

Charlene Schulenburg and I, Vernon Kalanikau, discussed Dr. Bhatia's attempt to develop her property and that your PSLU Committee is possibly going to be reviewing Dr. Bhatia's request for a hearing before your Committee.

Char has done in-depth, extensive and on-going reviews of all documents regarding this property in the past, as well as other wetlands in the area. May we ask if this is for the proposed subdivision application (dividing the property into 4 separate lots)? As you are likely aware, Dr. Bhatia's request for a subdivision approval was rejected by the Planning Department just four months ago, or is this a revised version of that?

No matter what the reason for the requested hearing, please also be aware that this property is listed in the Federal Wetlands MAP as part of the National Wetlands Inventory. (see attached).

Any action considered on this property should reflect the substantial and repeated Community disapproval of any development on this particular property. Any action should be considered in conjunction with the extreme shortage of remaining wetland inventory (<10% remain from the 1970's) and any approval of development of any kind, or attempted Change In Zoning (CIZ) that would affect possible building on wetland or wetland adjacent properties should be rejected until the Kihei-Makena Community plan is reviewed and a new South Maui community plan has been developed and open space options reviewed and approved by the community.

Based on the above, any CIZ requests, subdividing, development or building on this property should be rejected. If any development of this property cannot be fully rejected, then there is significant outstanding questions and concerns that have been expressed about the development of this property that have not been responded to or communicated to the community. The Committee should, at a minimum, require these questions (numbered below) be formally responded to and communicated to the community in a public forum where further community concerns should be accepted and an open discussion pursued.

Absent either of these steps it is likely further actions by the Community maybe anticipated.

Before the PLUC spends time on this property please be aware of the "Top 10 list" below regarding information and history of this wetland that you and your committee might want to consider:

1. Vernon Kalanikau/Aha Moku 'o Kula-Kai has not been contacted by either the Applicant or by Mike Munekiyo's office regarding any further plans although it was expressed by them that they would reach out to discuss how any further plans would affect cultural practices and/or gatherings, care for and enjoyment of the mitigation pond and the habitat it serves, along with other Hawaiian concerns.
2. The Planning Dept. denied the Applicant's request for a subdivision as recently as January 2020. Per our understanding, the planner that reviewed the application shared *"that as proposed, we cannot approve the subdivision. This is due (at a minimum) to the conflict between the Kihei-Makena Community Plan and the Zoning code. I am now awaiting a revised proposal, and the land owner has requested a meeting with me. Development on the parcel would be severely limited because of the presence of a mitigated retention pond and an emerging wetland that will cover at least half of the lot."* (See www.PacIOOS.com) This lot falls in coastal, shoreline and the Flood AH Hazard Zone with estimated sea level rise, flooding estimates, and economic loss mapped with this parcel severely affected.
3. A petition, along with multiple letters of protest against the requested Subdivision/Change In Zoning process, are already on file. Several organizations such as Sierra Club Maui Group, Aha Moku 'o Kula Kai, Olinda-Kula Soil and Water Conservation Board (the district in which this parcel is located), Uluniu Beach Reserve Association (UBRA), Kai Ani Association, The Kihei Delta Project, KCA, and many others that represent hundreds of people (and property owners) in this central Kihei area are among those who want to conserve this property and the other few remaining Kihei wetlands. All these organizations agree that this lot is one of the most "at risk wetland property's" due to the Applicant's insistence in development.
4. None of the Army Corp of Engineer rules regarding care and maintenance of the retention mitigation pond on the property have apparently been performed. These rules were created to specifically offset the original fill in 1991 and to create a place that benefits the natural wildlife and habitat that have been recently seen and documented on the property. This is critical to the local environment and show disrespect for the rules, and negatively affects the natural habitat in which it was intended to help.
5. The Army Corp of Engineers Nationwide Permit for this property exempts only the mitigation pond portion of her property from being considered a jurisdictional wetland. Further, this permit Expires June 2, 2020 (public file). The Corp recommended the applicant file a new request for a JD on the property.
6. If there would need to be a fresh JD, the County should and the community would insist on the Corp doing an 'on-site review' of this property with current development plans in mind. A cultural representative should be present to ensure the Corp is at least informed as to what the cultural and other current community concerns are as well.
7. This committee should request an interdepartmental agency review of all the concerns the U.S. Department of the Interior Fish and Wildlife Service, the Marine Biologists and many others that were listed when the Applicant attempted a failed Change in Zoning on this property. None of these concerns have been addressed.
8. With so few wetlands left in Kihei, the functionality of any remaining wetlands are being taxed whenever there are large amounts of rain. There should be, at the VERY LEAST, a moratorium placed on this area until the Wetland Hui and experts can assess what further development here will do to increase flooding, personal damages and reduction of quality of life of those living in this area. In addition, Water Quality assessments should also be done to insure that building here would be appropriate at this time knowing all we know now about sea rise associated with climate change, frequency and veracity of storms, velocity of water measurements as provided by the S. Maui Watershed report as well as other data and documentation.
9. Has the Applicant provided what the dollar value of the project she is proposing? If over \$500,000 it automatically requires a MAJOR SMA. If there is no dollar amount (or one just below the limit) then there is serious concern that the Applicant is attempting to subdivide in order to try to mask illegal segmentation of the parcel to decrease individual value as four separate pieces and have each fall below the \$500,000 amount. As we all know, there is little reason to think any building on this lot would not only be expensive, but to match the neighborhood will be expensive.

10. There is evidence of non-permitted illegal filling of dirt and added materials that increased the elevation of this lot approximately 3 ft. over parts of the property during the time the Applicant has owned it. There are photos and some other documentation proving this that has been provided to the Planning department.

Please be aware that although the Applicant has a shrewd style and can be convincing, she has also made several misleading and incorrect claims about this property. She cloaks herself in 'caring about the aina' yet by her own admission has done nothing to help the mitigation pond, the wildlife, the wetlands or any action in the area that would prove this. Per her own statements, she bought the property sight unseen, made a bad investment and to the best of our knowledge hadn't even stepped foot on the property until November of 2017. This is not the Committee's or the County's responsibility.

If the Applicant is attempting to do something different on this lot that is not a subdivision or a "revised version of the subdivision" reviewed in January, we would like to know what these plans are ASAP please, so that we, the public, our organizational partners, or other concerned people can do our due diligence, make comment, recommendations and express concerns about development on this lot at your committee level please.

The looming question is why is the County and Planning allowing these, and other issues in the petition mentioned earlier, to be ignored and the property owner allowed to not address them? The Planning Department should also publicly comment on why all the interagency concerns are not of concern to them, if this is the case. Otherwise they would ask the Dr. to comply with them.

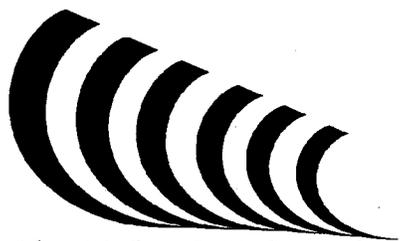
In summary: Wetland Conservation for Maui's sustainability and resiliency are the focus for our community now. The issues mentioned above and about 20 other major concerns need to be properly addressed. The community DOES NOT SUPPORT any subdivision, development or building on this site.

Mahalo,

Vernon Kalanikau and Charlene Schulenburg Char's cell - (808) 446-4310, Vernon's Cell – (808) 385-0731

P.S. If the Applicant is willing to sell her lot, we have some suggestions and possible solutions for this to be considered.

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Vernon Kalanikau
Representative (Po'o)



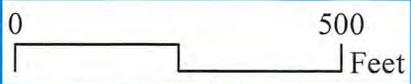
'Aha Moku O Kula Makai

The Moku Council for South Maui
<https://www.kulamoku.com>



Legend

-  1488 S Kihei Rd
-  Known United States Army Corps of Engineers Approved Jurisdictional Determinations
-  Wetlands Based on the National Wetlands Inventory
-  Keokea Discharge Pathway



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXISTING UNITED STATES ARMY CORPS OF ENGINEERS JURISDICTIONALLY PROTECTED WETLANDS AND WETLANDS DETERMINED BY THE NATIONAL WETLANDS INVENTORY




**NATIONALLY
RECOGNIZED
WETLANDS**