

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

October 23, 2023

Public testimony and/or agency comments received by the Planning as of October 23, 2023, 9:00 am for the October 24, 2023, Planning Commission meeting regarding the following item:

- G.1.a. 2023 status report regarding Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1, and Special Management Area Use Permit SMA(U)-2015-6 at Tax Map Key 4-1-003:004 (por.), 005, 007, 011, and 017 and 4-1-005:014 and 017 (the "permits"), with approval conditions as set forth in letter dated December 31, 2018 from the Planning Commission of the County of Kaua'i (the "Conditions") with Coco Palms Hui LLC, as Applicant ("Applicant").

Shanlee Jimenez

From: Derek Leyendeckers <derek.leyendeckers@gmail.com>
Sent: Friday, October 20, 2023 9:40 AM
To: Planning Department
Subject: Coco palms Hearing

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Department,

I am endorsing **Reef Capital Partners to develop Coco Palms Hotel**. As a resident of Houselot, this project presents a promising solution to some of the prevailing challenges in our community.

One of the primary factors driving my support for this project is its potential to address a longstanding issue in our area: **drug abuse**. I have observed firsthand the distressing prevalence of drug-related problems within our neighborhood. The development of the Coco Palms Hotel offers an opportunity to repurpose this problematic location into something that **could significantly enhance the overall quality of life for our community**.

Additionally, **I recognize and commend "I Ola Wailuanui" for its vision to transform this site into a cultural landmark**. This concept holds immense promise, and I am enthusiastic about the idea.

Nonetheless, my proximity to the project site has led to concerns regarding its financial aspects. The organization has collected a modest \$200,000, a fraction of the required \$50-plus million budget. Living close to the site, I am deeply invested in its future. However, the **project's financial feasibility remains a substantial and valid concern**.

In conclusion, while I advocate for the Coco Palms Hotel development, **a comprehensive strategy will need to be developed to ensure the successful realization of this project without imposing an undue burden on the community**.

I look forward to witnessing the progress of this venture, which has the potential to benefit our local community and contribute to the broader appeal of Kauai as a whole. I trust that the developers will make this project a sustainable and responsible reality.

Mahalo,

Derek Leyendeckers

Shanlee Jimenez

From: kate mink <coralreefk8@gmail.com>
Sent: Friday, October 20, 2023 10:25 AM
To: Planning Department
Subject: "Agenda Item G-1-

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Here's another local taxpayer who's fed up with the "developers" of Coco Palms. They're clearly just dinking around, with no intention of proceeding legitimately:

- no Environmental Assessment (EA)
- no Environmental Impact Statement ;
- unauthorized cutting of coconut trees on conservation zoned land;
- ----shows clearly that developers are uncaring scofflaws
- no space for the legally required number of parking stalls;
- No shoreline setback survey
- No required workforce housing sites;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing ordinance

They're exploiting this island and making you, our local government, look like fools for putting up with it. Charge them with their crimes, pull their permits for non-compliance, and let's move on to find a good solution to what to do with this property.

Mahalo,
Kate Mink

Shanlee Jimenez

From: Anjani <anjanithomas@me.com>
Sent: Friday, October 20, 2023 10:35 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

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Aloha,

I am writing to voice my opposition the Coco Palms Hui project for the following reasons:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Mahalo,
Anjani Thomas
Honolulu, Hawaii

Shanlee Jimenez

From: Ruta Jordans <ruta.jordans@gmail.com>
Sent: Friday, October 20, 2023 10:38 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please consider the following details and hold the developers accountable to the law:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Ruta Jordans

6345A Kipapa Road, Kapaa HI 96746

Shanlee Jimenez

From: Renee Rosemark Harper <reneeroseharper@gmail.com>
Sent: Friday, October 20, 2023 10:40 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please do not allow another hotel to be built in the Coco Palms location. The traffic is so bad now that it is a nightmare to get through that area. Also with the increase of higher water levels I, this project should not be approved. A majority of Kauai residents do not want a hotel built there. Please don't allow this project to continue.
Mahalo for your time and consideration.
Renee Rosemark Harper, Lawai

Shanlee Jimenez

From: Regina Floyd <reginafloyd@gmail.com>
Sent: Friday, October 20, 2023 10:37 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

I would like to submit my testimony regarding Agenda Item G-1-a

I live in the Wailua area, in the Homesteads, and have lived up here for the last 7 years. I live RIGHT on Kuamoo and personally see the congested traffic already without a fully functioning 350-room hotel. Even with recent renovations to the intersection, and expansion of Kuhio Hwy, traffic is still an issue

Besides my personal experience with the traffic issues in this area, I am aware of the sacredness of this land, and of the Wailua area where I live. Besides how I personally feel about this subject, the following are additional things to be considered regarding this subject. There are laws, processes, and procedures for a reason and money should not be a reason to bypass what is already in place to protect Kauai's lands and people.

The people of Kauai say no to another hotel in this Coco Palms area. The following are the other issues I imagine you are aware of:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation-zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do

not have space for the legally required number of parking stalls for a 350-room resort;

- The environmental, cultural, traffic and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

The people of Kauai are watching this closely and we are aware of the laws required for something like this and the complete disregard for rules, regulations, and laws that protect this sacred land. Allowing a developer to bypass these requirements shows a complete lack of respect for place, people, and due process.

Thank you for your consideration in this matter.

Regina Floyd

--

Regina L Floyd
Helping Local Kauai Business Grow
Simple Online Business Development
SimpleOBD.com
Get Your Free Listing On Our
Kauai Community Resource Directory
<https://hireachnow.com>

Contact Info:
702 292 2372 (mobile direct)
808 400 1460 (business)
skype: Regina.L.Floyd
Facebook.com/ReginaLFloyd
Instagram.com/ReginaLFloyd
[LinkedIn: ReginaLFloyd](https://LinkedIn.com/ReginaLFloyd)

Shanlee Jimenez

From: linda@kauaidesign.com
Sent: Friday, October 20, 2023 10:44 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Kauai County Planning Commisioners,

I am writing to urge you to hold the would-be developers of Coco Palms fully accountable for the legal and contractual requirements they have disregarded and/or failed to comply with to date. As you must know:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

While I, and thousands of other residents, would prefer to not have a hotel on that sacred, cultural (and environmentally sensitive) site at all, should the developer be allowed to go forward, all of the above must be fully addressed and rectified.

Please do what's in your power to preserve the land and bay, to perpetuate native Hawaiian culture, and to prioritize the interests of Kauai residents over corporate interests. Thank you for doing the right thing.

Linda Pizzitola
KauaiDesign.com
808.635.3703



Shanlee Jimenez

From: Sherill Conley <sherill1234@gmail.com>
Sent: Friday, October 20, 2023 10:52 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a/October 23 Meeting

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Aloha,

I am not a resident of Kauai, but I am a long-time visitor who loves the island as if it was my home. I am an ally for Kauai and its people, in deep respect.

I am writing because the developers of the Coco Palms location are not adhering to laws and regulations (no EA or EIS), are taking actions resulting in a current investigation by the BLNR, and performing non-permitted work with impunity. I also understand that current development plans do not adhere to the Iniki ordinance, which preserves the integrity of the built aspect of Kauai culture. These violations, along with others, make me conclude that the developers are not acting in the best interest of Kauai and should not be allowed to go forward with their plans.

Over many years, I have stayed in the Waipouli Bay area; I am very familiar with it, as I know you are. No reasonable person can imagine that a large hotel in the Coco Palms location will be an asset to Kauai, and is in fact a liability. Traffic in that area of Highway 56 is already beyond capacity and is often gridlocked. The beach across from the hotel location is already not really a beach anymore as it's so severely eroded. 350 guest rooms of the proposed hotel will eradicate what is left of the beach and the residential nature of the Waipouli area.

I hope you will consider my voice and these facts as you consider your next actions.

Mahalo,
Sherill Conley
Oakland, California

Shanlee Jimenez

From: Jordan Loudon <iolaloudon@gmail.com>
Sent: Friday, October 20, 2023 11:00 AM
To: Planning Department
Cc: Mason Chock
Subject: Agenda Item G-1-a
Attachments: Violations and Nonconforming Uses Issues Doc.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Greetings,

I am emailing in hope that you will consider the following items when receiving the status update from Coco Palms Hui, LLC on 10/24/23.

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers **are still under investigation** by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Please hold the developers accountable to the above requirements. To do otherwise is a disgrace to the people and the place.

I have also attached an additional document that may provide more details on the violations and nonconforming use issues on the developers part.

Mahalo for your time,

--
Jordan Loudon
Administrative Assistant
I Ola Wailuanui
iolaloudon@gmail.com
808-421-8392

County Council should be aware that Planning Department is allowing the Coco Palms development to proceed despite the following **nonconforming buildings** (with respect to the CZO)

1. The commercial building has no setback from the Kuhio Highway right-of-way
2. The lot coverage exceeds the 50% lot coverage allowed under the CZO
3. The first floors of the building do not have the required elevations above the Base Flood now applicable to the Properties
4. The number of stalls provided given the number of rooms and other users does not meet the required parking requirements established by the CZZO
5. Two of the King's Cottages, and the Queen's Audience Hall, do not meet the required boundary setback with the property on which part of the coconut grove is located.
6. The Queen's Lagoon Building (for the spa that didn't exist pre-Iniki, but Planning Commission allowed) does not have the required setback from the southern property line.

This is from the Petition filed by Coco Palms Hui in October 2014. See page 7, petition

Under the County's SMA Rules, the development imposes **Significant Adverse Effects** under each and every criteria listed. See 7.4(A) through(E). (SMA rules pages 19-20)

- A. Involves an irrevocable commitment to loss or destruction of any natural or cultural resources, including but not limited to, historic sites, Special Treatment Districts as established in the County CZO, view planes or scenic corridors as outlined in the Development Plan, and recreation area and resources;
- B. Curtals the range of beneficial uses of the environment;
- C. Conflicts with the County's or the State's long-term environmental policies or goals'
- D. Substantially affects the economic or social welfare and activities of the community, County or State;
- E. Involves substantial secondary impacts, such population changes and effects on public facilities;
- F. In itself has no significant adverse effect but cumulately has considerable adverse effect upon the environment or involves a commitment for largers actions;
- G. Substantially affects a rare, threatened, or endangered species of animal or plant, or its habitat;
- H. Detrimentially affects air or water quality or ambient noise level;
- I. Affects an environmentally sensitive area, such as flood plain, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water or coastal water.

Developer's June 20, 2022 Annual Report (fyi, it's from applicant "Coco Palms Hui, LLC," who did not own the fee simple property at the time) says they've completed 10 conditions, they have 12 "ongoing" conditions to complete, and 7 "forthcoming" conditions.

As far as violations of the conditions, see Condition 3 which requires, prior to building permit approval, applicant to meet the requirements and standards of the DLNR and SHPD. They say that as of June 2016 they received approval from SHPD; however, the report is dated June 2022. Since 2016, they violated SHPD's rules by proceeding to clear land without a monitor onsite, cut down coconut trees without a permit, and trespass on State property for which they do not have a Land Lease.

Condition 3.a requires them to have a revised Statement of Work for the project, including any proposed work with potential to affect the historic lagoon, including staging areas, construction of new bridges, dredging, or filling in of areas near the lagoon. They say that condition is "Complete," however it should be updated. They are in violation of SHPD by proceeding to clear land without a monitor onsite, cut down coconut trees without a permit, and trespass on State property for which they do not have a Land Lease. FYI, we have not seen the SOW. We reviewed the Planning Department's files and did not see it in the files. In any event, it should be updated and not based on a SOW from 2015.

Condition 3.b requires Information regarding any potential federal funding or federal permits that may be required, especially relative to the historic lagoons. They say this condition is complete. This condition has been violated. The "Jurisdictional Determination" from Army Corps of Engineers that they don't require federal permits **expired**. They no longer have a J.D.

Condition 3.d requires a Burial Treatment Plan and Burial Site Component of a Data Recovery Plan. They say this condition is complete, but clearly it is not updated. We are informed and believe that 'iwi have been uncovered by their earth work. Clearly, this condition must be updated.

Condition 3.e required a Revised Archaeological Monitoring Plan that meets HAR 13-279-4, including ongoing monitoring during construction and 90 days after completion of construction. They say this condition is complete. We are informed and believe that no monitor was present during the grading and other land disturbance that occurred in the past months. This condition must be updated.

Condition 5 addresses the Seashell Restaurant. They say the condition is complete because they have "no current plans for development in the shoreline area." However, recent blueprints show a plan to "Repair Seashell Restaurant".

Condition 7 requires them to seek to hire Kaua'i contractors. They say "upon approval of building permits for the hotel site, applicant will solicit bids from local contractors in accordance with this condition." However, they hired Layton Construction Co., a Utah contractor. Did they even attempt to hire a Kaua'i contractor? What local contractors did they attempt to hire?

Shanlee Jimenez

From: David Dinner <gentlewaver@gmail.com>
Sent: Friday, October 20, 2023 11:13 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Commission members

You will no doubt receive, over and over, the list reasons why Coco Palms should not be restored to a hotel. I am off island during this meeting, but will save your eyes from reading it again and simply add my voice for the same reasons. The community is undivided in its will to make this site more beneficial to our island than a hotel which is doomed to failure from a group of developers who have failed to live up to their promises and created illegal and unethical acts to achieve their purposes. Please stop this bad dream once and for all.

Aloha,
David Dinner
Kilauea, HI.

David Dinner
Rotary Club of Hanalei Bay, Past President 2020-2021 Craniosacral work and Biodynamic craniosacral work, certified.
808 639 7845
Sent from my iPad with Aloha

Shanlee Jimenez

From: William Wong <alohadundee@yahoo.com>
Sent: Friday, October 20, 2023 11:30 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Subject: Urgent Request to Revoke Permits for Coco Palm Hui Development

Aloha Planning Commission Members,

I must express my deep concern and frustration as a concerned member of our community regarding the ongoing development by Coco Palm Hui. I strongly urge you to take immediate action to revoke their permits.

Lack of Environmental Assessment (EA) and Environmental Impact Statement (EIS): It is alarming that no current EA or EIS has been conducted. This is a clear violation of established regulations and fails to protect our environment adequately.

Unauthorized Cutting of Coconut Trees: The developers are currently under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land. Such actions demonstrate a blatant disregard for our precious natural resources and conservation efforts.

Revocable Permits (RPs) Termination: The BLNR terminated the RPs in August 2023, one of which was designated for parking. As a result, the developers do not have adequate space for the legally required number of parking stalls for a 350-room resort. This compromises both safety and the integrity of the project.

Inadequate and Outdated Assessments: The environmental, cultural, traffic, and other assessments provided by the developers are outdated and insufficient. It is essential that a project of this magnitude adheres to the highest standards for assessment to ensure the well-being of our community.

Shoreline Setback Survey: No shoreline setback survey has been conducted, putting our coastal ecosystems and communities at risk. Global warming makes this development completely out of touch with the realities of rising tides.

Workforce Housing and NPDES Compliance: The developer has failed to obtain required workforce housing sites and has not acquired NPDES permits. These are essential components of responsible development and cannot be overlooked.

Non-compliance with Iniki Ordinance: The most recent plans published by the developers do not comply with the governing Iniki ordinance, which states that buildings must be rebuilt to the original footprint of the preexisting structure. This lack of compliance undermines the integrity of the project.

The above infractions collectively raise serious concerns about the Coco Palm Hui development. It is essential that the Planning Commission takes immediate action to revoke the permits and ensure that the developers adhere to all necessary regulations and standards.

Our community's well-being, the protection of our environment, and the preservation of our cultural heritage are at stake. I urge you to investigate these matters thoroughly and make decisions that prioritize the best interests of our community.

Mahalo for your immediate attention to this critical matter. The concerned citizens of Kauai look forward to hearing about the actions taken to address these issues promptly.

William Wong, Jr.
Wailua Homesteads

Shanlee Jimenez

From: STEPHENIE BLAKEMORE <stephenieblakemore@sbcglobal.net>
Sent: Friday, October 20, 2023 11:37 AM
To: Planning Department; Council Testimony
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

.Aloha

I continue to have concerns about the Coco Palms development plans being submitted by the Reef Corporation for approval.

In addition to the ongoing investigation by the BLNR regarding the failure to meet lease requirements for the property this investment group continues to rely on outdated environmental and economic impact statements to support their proposed construction of a 300+ bedroom resort.

The promise by the Reef Corporation to hold community meetings has been met once with a cursory meeting held on Wednesday October 18th, 2023. Notification to the community was a scant 48 hours prior to the event. Additionally my own querie about twice as many people wanting the project could not be documented as was a statement by the development team that a prior community meeting was held; the developer John Doy, could not recall when, and has yet to verify the date and where such a meeting was held by email, per my request that all who provided emails on the company's sign in sheets be given that information.

Trust and confidence that these investors will provide the community with a culturally and environmentally sensitive project is nonexistent, and the proof can be found just by reviewing the Reef Company's track record here on Kauai and other resort areas, such as Park City, Utah.

Salt Marsh areas such what we are blessed to have on this former hotel site are precious and increasingly important as we all witness the rise of sea levels and erosion of beaches around the state, our island, indeed this county.

I also wonder what will be the cost to residents for this project to gi forward. Traffic is one issue, other infrastructure concerns include sewage and water needs.

We have enough hotels on island, which currently provide a robust income and business opportunities for the county, state and some residents.

Allowing such a poorly managed project; whose investors could care less about Kauai and are desperate to save themselves from poor financial choices is not only against the best interests of the residential taxpayers, but of our keiki. We need to focus on other economic avenues which include cultural, environmental and agricultural projects; ones that will benefit the entire residential community here on Kauai and provide a viable. diverse and sustainable economy for generations to come.

How many times will the Reef Company be allowed to behave so irresponsibly to this community and their investors; at our expense?

Please do not allow this travesty to move forward.

Mahalo

Sent from AT&T Yahoo Mail on Android

From: Douglas Ross <doug@kauaitourguy.com>
Sent: Friday, October 20, 2023 11:49 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

No hotel.

There is so much wrong with this hotel development at the former Coco Palms.

- * There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- * The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- * Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- * The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- * No shoreline setback survey has been conducted;
- * No required workforce housing sites have been obtained by the developer;
- * No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- * The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Permit requirements are in place. To allow a developer to bypass these requirements shows a lack of respect for place, people, and process.

Douglas D Ross
16 year resident

Shanlee Jimenez

From: William Steiner <wwmsteiner@gmail.com>
Sent: Friday, October 20, 2023 12:06 PM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

10/20/23

To: The Kauai County Planning Commission
Subject: Agenda Item G-1-a
From: William Wallace Moekahi Steiner, Ph.D., Pacific Agricultural Land Management Systems (PALMS), POB 4565, Hilo, HI 96720 wwmsteiner@gmail.com

Dear Commission Members:

This is to let you know that citizens of the State of Hawaii beyond Kauai have taken an interest in and are very concerned about the development plans of the Coco Palms Hui and are watching the action as it develops. The concerns revolve around three main factors as listed *per se* which have come to our attention and seem to affect us all.

First, the disregard for Hawaii's environment:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite warnings and of great importance in Hawaii's sensitive environment.
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land, similar to what other developers are doing on the North Shore of Oahu where naupaka is being cut from coastal conservation zones.
- No shoreline setback survey has been conducted, especially important in a time of changing climate and ocean rise.

Second, the insensitivity to Hawaii's culture:

- The environmental, cultural, traffic, and other assessments are inadequate and outdated, bringing to mind the Kupuna burials unearthed in the development of Waikiki.
- No required workforce housing sites have been obtained by the developer in a time of critical housing shortages everywhere in the islands.

Third, the lack of respect for Hawaii's laws:

- The Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, leaves inadequate space for the legally required number of parking stalls for a 350-room resort.
- No NPDES (National Pollutant Discharge Elimination System) has been obtained (recall the saying "all sh--t flows downhill", and downhill is our beautiful ocean).
- The most recent plans published by the developers are not in compliance with the governing *Iniki* ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure. And how will rebuilding take into account the projected increase in potential future hurricanes in a world of changing climate? The obvious lack of respect does not bode well if development by this group is allowed.

Just like the Ho Honua electrical plant story on the Big Island, Coco Palms has the potential to leave a bad taste of chicanery and dishonor for those perpetrating the story hoping to capitalize on a developmental need perpetrated on

the backs of Hawaiian citizens. Please stop this plan and pursue other approaches that will be better for your island's citizens, approaches in a new story that all can be proud of.

Thank you for your consideration and time. Please contact me at the address above or my email address if you have any questions.

Most sincerely and Aloha,
Bill
William W.M. Steiner, PALMS

cc. Mason Chock

Shanlee Jimenez

From: Robin Wong <robinwongkauai@gmail.com>
Sent: Friday, October 20, 2023 12:44 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Trusted Planning Commissioners,

I am writing as an outraged and concerned member of our community to bring to your attention a series of serious infractions related to the Coco Palms development project. I urgently request that you take immediate action to revoke the permits granted to this project due to the following multiple violations and failures:

1. ****Lack of Environmental Assessment (EA) and Environmental Impact Statement (EIS):**** Despite multiple triggers that should have required thorough environmental assessments, the developers have failed to conduct both an EA and an EIS. This neglect is not only illegal but also endangers our precious natural resources.
2. ****Unauthorized Cutting of Coconut Trees:**** The developers are currently under investigation by the Board of Land and Natural Resources (BLNR) for the unauthorized cutting of 77 coconut trees on conservation-zoned land. This action demonstrates a complete disregard for the preservation of our fragile ecosystems. They said in the media (KHON broadcast 10/19/23) *"We think the lease on that land not only allows but requires us to maintain that grove...including removing any diseased trees."* We must demand their arborist's report since they have been proven to be deceitful and self-serving.
3. ****Revocable Permits Terminated:**** In August 2023, the BLNR terminated the Revocable Permits (RPs) for this project, including one parcel designated for parking. Without the necessary permits, the developers lack the legally required space for the number of parking stalls necessary for a 350-room resort.
4. ****Inadequate and Outdated Assessments:**** The environmental, cultural, traffic, and other assessments submitted by the developers are inadequate and outdated, rendering them ineffective in addressing the potential negative impacts of this project.
5. ****Lack of Shoreline Setback Survey:**** The absence of a shoreline setback survey is a glaring oversight, which is crucial for preserving our coastal areas and ensuring the safety and sustainability of our shoreline communities. Global warming and rising tides makes this development an environmental liability for our community.
6. ****Failure to Secure Workforce Housing Sites:**** The developer has failed to obtain the required workforce housing sites, further deepening the housing crisis in our community and violating essential regulations.
7. ****No NPDES Permit:**** The developers have not obtained a National Pollutant Discharge Elimination System (NPDES) permit, which is essential to monitor and regulate water pollution, protecting both our environment and our residents' health.
8. ****Non-Compliance with Iniki Ordinance:**** The most recent plans published by the developers are in direct violation of the governing Iniki ordinance, which clearly states that buildings must be rebuilt to the original footprint of the preexisting structure. This deviation from the law jeopardizes the historical and cultural integrity of this sacred land and our community.

These infractions demonstrate a consistent and alarming pattern of non-compliance and disregard for the laws and regulations that are designed to protect our community's natural, cultural, and social assets. We urge you to act swiftly and decisively to revoke the permits for the Coco Palms development in order to safeguard the interests and well-being of our community and environment.

We trust that you will investigate these matters thoroughly and take the necessary steps to rectify this situation. Our community depends on your commitment to uphold the law and protect our precious resources.

Mahalo for your service.

Robin Wong
Wailua Homesteads

Shanlee Jimenez

From: Lynn Bowen <lbowen808@icloud.com>
Sent: Friday, October 20, 2023 12:49 PM
To: Planning Department
Subject: Written testimony re: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission, you have **authority to hold the developers of Coco Palms accountable to the law. And I wholeheartedly hope that you do. I need you to know that myself & the community will not turn a blind eye to the developers' lawless actions. Please consider the following when making decisions regarding this project.**

Please keep in mind the following.

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of 77 +/- coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated; and will highly impact the community and safety on our roads for both us and our island visitors.
- No shoreline setback survey has been conducted; which considering current climate conditions and the quality of the coastline in Wailua seems prudent that this should be done.
- No required workforce housing sites have been obtained by the developer; this is HUGE where are the workers they will need to run this going to live??? We don't have enough workers to fill the vacancy employment needs currently. If they ship them in where will they live. Housing is already critically low and inadequate.
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.
-
- **Permit requirements are in place. To allow a developer to bypass these requirements shows a lack of respect for place, people, and process!**

Mahalo

Lynn Bowen

Shanlee Jimenez

From: d g <danilfrisco@gmail.com>
Sent: Friday, October 20, 2023 1:04 PM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Testimony regarding development at the former Coco Palms site

Aloha Members of the Planning Commission of Kauai

I am concerned that the development at the site of the former Coco Palm is not proceeding according to statutes, procedures and the oversight that comes with a commercial development, especially one as large and imposing as the one proposed. That this project could go forward under these conditions, which appears to be NO conditions, a free-for-all for the developers, *and whomever else* is holding hands with them, is appalling, at best.

Consider that WE THE PEOPLE recognize that:

1. There has been NO Environmental Assessment or Environmental Impact Statement in spite of multiple triggers.
2. The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land.
3. Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort.
4. The environmental, cultural, traffic, and other assessments are inadequate and outdated.
5. No shoreline setback survey has been conducted.
6. No required workforce housing sites have been obtained by the developer.
7. No NPDES (National Pollutant Discharge Elimination System) has been obtained.
8. The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Please do your job, Use your authority to uphold the law. We are watching you all the way from MAKAkilo!

Mahalo,

Danielle Guion

Shanlee Jimenez

From: Robert Zelkovsky <Robert@bamboomoonvideo.com>
Sent: Friday, October 20, 2023 1:24 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Commissioners -

Thank you for receiving testimony regarding the Coco Palms, agenda item G-1-a.

Please make sure that the developers follow all rules and laws applicable and obtain all necessary permits, especially those regarding the environment.

*How do they propose to handle demo waste?

*How do they propose to handle waste water, that area (Lydgate treatment) is already severely strained, there are daily smells.

*Sea level rise?

*Health of the wetlands?

Many environmental issues, too many to build and service a hotel.

Please deny G-1-a.

Robert Zelkovsky

Shanlee Jimenez

From: Megan Fox <megan@malamakauai.org>
Sent: Friday, October 20, 2023 1:28 PM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

Please reject the proposal for Coco Palms. It is clear that the community does not want this project and that it will cause significant harm to our way of life in a highly under-resourced and under-infrastructure area. Reasons include:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

To allow a developer to bypass these requirements shows a lack of respect for place, people, and process. The project has no genuine community value to even consider bypassing these requirements.

Mahalo for your consideration,

Megan Fox
Executive Director
Mālama Kauaʻi

(808) 828-0685 x12
www.malamakauai.org

Increasing local food production and access for a resilient Kauaʻi since 2006

Shanlee Jimenez

From: songaid2 <songaid2@yahoo.com>
Sent: Friday, October 20, 2023 1:35 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Members of the County of Kaua'i Planning Commission:

My name is Bevin Parker-Evans and my husband and I have lived in Omao for more than 50 years. We are aware of the items on your agenda addressing the developers of the CocoPalms resort. We feel they should be held accountable and to the impunity of our county laws since they have been unable to follow-through on development guidelines. Not only are we angry and upset by their lack of follow-through, but we feel their development permits should be denied for the following reasons.

#1. The County Planning Committee should be acting responsibly and considering the idea of turning down all development permits for tourist development due to the rise in population on Kaua'i of more than 7 thousand persons in the last ten years, which has been affected by a general lack of road infrastructure improvements and changes in lane additions for better traffic conditions as well as other county issues of not being able to provide services for their residents.. We are impacted by the county's of lack of water department employees, and water department infrastructure which is affecting the ability to grow our affordable housing as well.

Additionally, the annual number of flight seat arrivals which includes mostly tourists is up from 600,268 in 2013 to almost double in 2022 of 1,146,335 seats. Doubling the tourist arrivals in only ten years, means that we are not taking care of our residents and making them a priority. All of you on the commission need to study how islands all over the world, many which are larger than Kaua'i have been able to regulate both tourism arrivals, and car useage on their islands to protect the very sensitive environment that an island community has.

Taking care of double the daily arrivals and rental cars on our roadways has not only impacted traffic, but our permanent population increase by 7000 persons in the past 10 years is changing our island's ability to continue to appeal to travelers and visitors. People travel to Kaua'i because of it's unique rural environment and when we change that appeal, we also risk losing tourism appeal.

We need a planning commission who will place a tourist destination building moretorem on our island, and who will begin to evaluate how to reduce rental cars on the island including more responsible laws regarding Turo and other private car rentals. As well, our county council and government should be considering how to reduce the number of flight arrivals and seats. Caring for the people who live here and their welfare means taking care of the everyday causes of lack of employees, loss of young people due to cost of living issues, lack of public county services, and also lack of ability to provide safe access to our roadways, beaches and neighborhoods.

#2. Additionally, your office should immediately terminate the permits for the CoCo Palms developer due to not treating our county laws with respect.

- No NPDES (National Pollutant Discharge Elimination System) has been obtained.
- No shoreline setback survey has been conducted;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No required workforce housing sites have been obtained by the developer;

- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Please consider that this developer has failed to supply any support for the community and has no ability to interact with our laws to show that he cares about our culture or our environment. Please do not allow this developer to continue and please do not provide building permits for him.

Mahalo,
Bevin Parker-Evans
808-651--6793
3721 Omao Road
Koloa, HI 96756

Shanlee Jimenez

From: Fran McDonald <franinkauai@gmail.com>
Sent: Friday, October 20, 2023 1:53 PM
To: Planning Department
Cc: Mason Chock
Subject: Testimony for Agenda Item G-1-a - No Hotel on Coco Palms Site!

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission,

I am writing in support of I Ola Wailuanui and to ask you to hold the developers, Coco Palms Hui, LLC, accountable to the law.

The community will not turn a blind eye to the developers' lawless actions.

Please consider the following details:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

These are important details. To allow a developer to bypass these requirements shows a lack of respect for place, people, and process.

Mahalo for considering my testimony.

Sincerely,
Fran McDonald

Fran McDonald
4317 Kai Ikena Dr
Kalaheo, HI 96741
Call or text me at (808) 635-0165

Shanlee Jimenez

From: Mauiola Cook <mauiola3@gmail.com>
Sent: Friday, October 20, 2023 1:56 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

10/20/2023

Kilauea

Re: Status update from Coco Palms Hui, LLC

Aloha

My name is Maui Ola Cook (aka Christine Anne Cook). I have been a resident of Kaua'i since 1986

I am a resource teacher in creative arts and Hawaiian studies and have taught principally in schools from Kapa'a to Hanalei but have taught at all public elementary schools throughout the island as well. I am a hula practitioner and have been teaching a small class in hula for over 20 years.

It is my kuleana to once again write to you to please consider the following points when receiving updates from Coco Plams LLC.

That hotel flourished in a time much different than today. Currently the traffic flow is horrendous in that area. That is a limited land area with an already too dense traffic flow. Putting a big resort there would create insurmountable infrastructure challenges. The community has been pointing this out for many years.

Please also consider the following very important facts.

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers **are still under investigation** by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;

- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

I humbly ask you all to consider these ideas as you deliberate on renewing or granting permits to developers. Please, no hotels in that sensitive overcrowded culturally significant area.

Mahalo for your kind consideration and for all you do for our island of Kaua'i.

With much aloha

Mauliola Cook

Mauliola3@gmail.com

8086528173

Shanlee Jimenez

From: Darcy Attisani <darcystarr808@gmail.com>
Sent: Friday, October 20, 2023 2:56 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

I Darcy Attisani from Wailua testify against the building of a hotel on the old coco palms site. I fully support protecting the land due to the cultural significance.

Sent from my iPhone

Shanlee Jimenez

From: Lynn Moffitt Wilson <yogalynn@hotmail.com>
Sent: Friday, October 20, 2023 4:50 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Department,

I strongly oppose the development and am amazed it can even be considered whilst the developers are still under investigation by the BLNB for **unauthorized** cutting o coconut trees on **conservation zoned land**!

Nor has an environmental Assessment (EA) or environmental impact statement (EIS) been done. Isn't that customary?

In addition, a **current** environmental, cultural, traffic assessment are needed as well as plans for the required number of parking stalls for a 350 room resort.

Has a shoreline setback survey been conducted? Isn't that required?

Have the plans been modified to meet the requirement for footprints that match the preexisting previous structure?

Please remember the need for housing for the workforce - **required**!

Let's do the right thing !!

-

Shanlee Jimenez

From: David Sutton <malamaourworld@gmail.com>
Sent: Friday, October 20, 2023 5:05 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Ladies and Gentlemen:

Please support our community and stop non-compliant development.

Consider the following at Coco Palms:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Sincerely,

David Sutton
Kilauea, HI

Shanlee Jimenez

From: Bruce hultgren <bhultgren01@gmail.com>
Sent: Friday, October 20, 2023 5:14 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Members,

Item G-1-a on the agenda of the October meeting is consideration of the Coco Palms project.

This project should not be built. There has been no EA or EIS done despite obvious needs.

The developers have shown their disdain for the will of the people of Kauai on multiple occasions.

They have cut trees on conservation zoned land and are still being investigated by BLNR for that.

All the environmental, traffic, cultural and other assessments are seriously out of date, and based on assumptions that are no longer valid.

No NPDES has been planned, as I understand it. The preservation of our waters is a very high priority. Given their prior behaviors, it is unlikely developers would fully and truthfully fulfill this obligation.

This development should be stopped now.

Thank you for your time,
Bruce Hultgren

Shanlee Jimenez

From: Colin McCubbin <colinmcc@direct.ca>
Sent: Saturday, October 21, 2023 4:31 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Re: Agenda Item G-1-a

Aloha mai kākou,

I write regarding the status update of the Cocoa Palms Hui, LLC.

I am strongly opposed to the proposed building of a hotel on the old site, for many reasons, including:

- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the pre-existing structure.
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- No required workforce housing sites have been obtained by the developer; There is severe lack of housing in the area for workers as it is, adding more low paid jobs to the area will only exacerbate this.
- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers; The developers have had many years to obtain these but seem (as evidenced by the recent illegal cutting down of coconut trees on the site) unable to follow rules set down for the good of the 'aina.
- The site is too near the ocean, if current forecasts of sea rise are accurate it may well be under water in the foreseeable future.

I urge you to once and for all to stop all progress on building a hotel on the site, there is enough hotel accommodation on Kaua'i, the sheer volume of traffic caused by tourist vehicles is already overwhelming the limited island road system.

Thank you.

Mahalo nui loa, na'u me ke aloha, na Colin.

Shanlee Jimenez

From: LAUREL PETTERSON <laurelpetterson@gmail.com>
Sent: Saturday, October 21, 2023 7:11 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Committee,

Please keep the hotel from being built on the old Coco Palms property in Wailua. The sea is already encroaching on our widened coastal highway and the potential is heightened for greater sewage contamination. The traffic on our coastal highway is already a problem; the homes up in the Wailua Homesteads are always struggling to find a good time to drive north or south around the Kapaa tourist congestion of rental cars. This piece of land is much more valuable if preserved as a park or cultural site which showcases why people want to visit our beautiful island. Building another big hotel just turns this place into another ugly anywhere.

Aloha, Laurel McGraw
Wailua Homesteads

Sent from my iPhone

Shanlee Jimenez

From: John Kaohelauii <kaulaitourdriver@yahoo.com>
Sent: Saturday, October 21, 2023 10:24 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Subject: Agenda Item G-1-a

Aloha Planning Department, 10-21-23

I do not support these developers in developing the old Coco Palms resort area.

Despite multiple triggers, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been conducted. Furthermore, the developers are currently under investigation by the BLNR for the unauthorized removal of coconut trees on conservation-zoned land.

The Revocable Permits (RPs), which the BLNR terminated in August 2023, were critical for developing a 350-room resort, one parcel designated for parking. As stipulated by law, these permits are necessary for the developers to have enough space for the required parking stalls.

The assessments conducted regarding the environment, culture, traffic, and other aspects must be updated. Moreover, no shoreline setback survey has been carried out, and the developer still needs to acquire the required workforce housing sites.

The developer must also obtain the NPDES (National Pollutant Discharge Elimination System) certification. Lastly, the most recent plans published by the developers do not comply with the governing Iniki ordinance, which emphasizes that buildings must be rebuilt to the original footprint of the preexisting structure.

The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation-zoned land.

Please submit my testimony for the record.

Aloha and Mahalo,
John W. Kaohelauii

Shanlee Jimenez

From: Valerie Weiss <valerieweiss31@gmail.com>
Sent: Saturday, October 21, 2023 11:40 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Department.

PUBLIC SENTIMENT: Once again our community will try our best to eliminate the possibility of the proposed rebuild of the Coco Palms Hotel, due to its unwanted effects on our lives, our movement in our neighborhoods and on the only road beyond the Wailua River. This is a special and historical location that must be preserved, not further desecrated.

TRAFFIC: My objection to the project is that after all this time, the location is no longer viable due to our overloaded road which cannot handle the ingress and egress for this, or any similar project, at this location. We are past the gridlock stage in traffic. Nor does the island need another hotel.

SEA RISE: Additionally we have an encroaching sea which in the recent past has reached the road. This will continue to get worse with forecasted further ocean rise. If we are not already, we should be considering where we will be moving the 'highway' which fronts the hotel location.

PARKING: Parking may also be an issue and we cannot have it spilling over to our other locations.

EA/EIS: Without permission and without an Environmental Assessment or EIS, it was outrageous that a large number of coco palms were cut down without notification. Some of them reportedly were about 100 years old. This is the Coconut Coast. We love our coconut trees and need more of them, not less.

COCO PALMS VENTURES LLC: It is not just that this development group is inept, it is that this is the wrong location for an unnecessary and unneeded hotel/resort. If a hotel is built at this location it will be in spite of the opposition of the majority living (or traveling) nearby.

Mahalo for your time and consideration.

Valerie Weiss

Shanlee Jimenez

From: Lynn Pizzitola <lynn1pizz@icloud.com>
Sent: Saturday, October 21, 2023 12:08 PM
To: Planning Department
Subject: testimony Agenda item G-1-A

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

From: Lynn Pizzitola, 195 Eggerking Rd, Kapaa
To: Kauai County Planning Commishioners

I have been a full time Kauai resident and property owner since September 2001. It is my opinion that this project. if allowed to continue, would benefit relative few island residents and property owners, and would decrease the quality of life for us.

In considering this agenda item, please attend to each of the concerns listed below. I believe it is your duty to require developers to adhere to all county requirements. I believe that the current developers have not done so with the items below, and have not show good faith that they intend to.

Please do your best a stewards of this island, to absolutely require full compliance with the items below.
Thank you very much.

There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;

- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Shanlee Jimenez

From: Sharon Goodwin <sharonmokihana@gmail.com>
Sent: Saturday, October 21, 2023 1:48 PM
To: Planning Department
Cc: PW Waste Water; jhagihara@hhf.com; Bridget Hammerquist
Subject: Re: Agenda item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kaua`i County Planning Commissioners,

YOU, the Planning Commissioners, each have the authority and kuleana to hold Coco Palms developers Reef Capital, LLC RP 21, to the Law. We members of Kaua`i Community will see that you do not turn a blind eye to Coco Palms developers' lawless actions.

I strongly advocate NO HOTEL for these reasons:

1. Because of multiple triggers, an Environmental Assessment, or better an Environmental Impact Statement, must be required. Must include Cultural Impact Assessment !
2. Developers under investigation by State BLNR for unauthorized cutting of coconut trees on conservation-zoned land.
3. Without the Revocable Permits terminated by BLNR in Aug 2023, including one parcel designated for parking, developers do not have space for legally-required number of parking stalls for 350-room resort.
4. No shoreline setback survey conducted. Construction will take place in tsunami zone.
5. Required workforce housing sites not yet obtained by developers.
6. No National Pollutant Discharge Elimination System obtained by developers.
7. Most recent plans published by developers do not comply with the governing Iniki Ordinance stating buildings must be rebuilt to original footprint of pre-existing structure. Building heights must be honored to pre-existing plans.

Once again, I strongly advocate NO HOTEL at the site of Wailuanuiahoano ! !

Sharon Goodwin
Kapa`a Homesteads, Kaua`i

From: Robin Kutkowski <robinkutkowski@gmail.com>
Sent: Saturday, October 21, 2023 2:23 PM
To: Planning Department
Subject: Testimony against development at coco palms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Hello planning department ,

please help in the protection of our precious resources. This is a heavily trafficked area and also has seen environmental impacts such as flooding and sewage.

I petition against developing a hotel area here and please beg you to consider providing Kauai with a space to celebrate Hawaiian culture. There are so many hotels already on our small

Island. Thank you

Robin kutkowski

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

As emotional as this site and these issues are, I Ola Wailuanui strongly encourages those who offer testimony to emphasize the facts stated above. Those are pertinent details. Your testimony regarding the above will be most effective. Permit requirements are in place. To allow a developer to bypass these requirements shows a lack of respect for place, people, and process.

Next! On Wednesday, October 25, 2023, the Kaua'i County Council is meeting and a status update from Planning Director Ka'aina Hull is on the agenda ([click here for agenda](#)). Testimony should focus on the issues stated above. Please **submit electronic testimony to counciltestimony@kauai.gov no later than Tuesday, October 24 at 9 AM** and include "[Agenda Item A-1](#)" in the subject line. If showing up **in person to testify**, the meeting will begin at 9 AM, and will be held at the Council Chambers, 4396 Rice St. Suite 201 Lihue, Kaua'i.

Your support really makes a difference!

Mahalo,

Pua Rossi-Fukino (Board President)
Mason Chock (Board VP)
Jordan Loudon (Executive Assistant)
<https://www.wailuanui.org/>

Sent from my iPho

Shanlee Jimenez

From: Patricia Fallbeck <patriciafallbeck@gmail.com>
Sent: Saturday, October 21, 2023 8:47 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Department,

Tourism has been, and always will be, a major contributor to the financial wellbeing of our Island.

Another hotel at the former Coco Palms Hotel will:

- frustrate tourists with unmanageable traffic
- frustrate residents with traffic delays and limit local commerce by keeping us from traveling away from home to nearby businesses
- discourage tourist trade by providing a hotel with no beach to access
- have environmental disadvantages with the beach erosion

An Hawaiian Cultural Center on the location would:

- promote manageable tourism
- preserve Hawaiian Culture and History
- provide a Destination Vacation attraction
- enhance the study of Hawaiian Culture
- provide an educational resource for post secondary research and education
- honor the heritage of our residents and kūpuna, and,
- respect our historical site

I understand the developers whining about the financial disadvantage to them, but that was the kind of risk developers take. The financial, cultural, environmental, and moral benefits of preserving the area are of greater benefit to the residents. Please consider your decisions and vote in favor of Hawaiians and Hawaii.

Sincerely,

Patricia Fallbeck
3448 Lawailoa Lane
Koloa, HI, 96756

Shanlee Jimenez

From: Faith Harding <tophatandscarf@yahoo.com>
Sent: Sunday, October 22, 2023 7:23 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha~

Please consider that the community is NOT going to turn a blind eye to the developers' lawless actions.

Here is an immense list of details that you perhaps have overlooked!

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Mahalo~

***Faith Harding
Kilauea***



Shanlee Jimenez

From: Robin Yost <58robiny@gmail.com>
Sent: Sunday, October 22, 2023 10:39 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kauai Planning Department,

I am writing on behalf of I Ola Wailuanua, to protect the Coco Palms from Coco Palms Hui, LLC.

There has been no EA or EIS done from the developer.

The environment, traffic, sewage, and infrastructure are stressed already.

No shoreline setback survey has been conducted.

No NPDES has been obtained.

Permit requirements are in place. To allow a developer to bypass these requirements shows a lack of respect for place, people, culture, and law process.

Please make the right decisions for Kauai, and it's future.

Mahalo,
Robin Yost
Kapaa, HI

Shanlee Jimenez

From: haunani@aloha.net
Sent: Sunday, October 22, 2023 10:42 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Department,

Subject: Coco Palms Resort/NO RESORT/NO HOTEL/NO COMDOMINIUM AGENDA ITEM G-1-a

I am writing as a 42 yr resident of the Wailua Houselots subdivision on the development of the 350 Room Coco Palms Resort. I attended the community meeting that was not a community meeting. Loud shouting, very unorganized, no microphone, developer had no interest in allowing the public to voice their concerns. Police had to be called in. So in my eyes this was NOT a community meeting for the community held by the developers.

I stayed back and spoke with Reef Capital spokesperson along with others on many questions we had. I walked away with a sense of total disgust, as these developers are not "environmentally sensitive" to the land, as stated in their opening remarks to the public.

Why haven't these concerns been addressed with the developers that are environmentally sensitive?

1/ NO EA (environment assessment) or an EIS (environment impact statement) done?

2/ PARKING at this resort will impact the Wailua Houselots Subdivision residents as you are all aware that this subdivision has only ONE entrance/exit.

Majority of the parking will be at this entrance/Haleilio Road for all resort guests, workers, and staff. It will be a nightmare with traffic for the residents of this area and the safety of trying to enter and exit with any emergency vehicle.

Developers response, shuttles will be offered and most tourists do not rent vehicles on Kauai???

3/ The developers are still under investigation with the BLNR for unauthorized cutting of coconut trees on conservation zoned land behind the resort, KOKI RD. I own property along KOKI RD, and witnessed first hand on a daily basis of the illegal dumping of this area and it still has not been fully cleaned up.

4/ No shoreline set survey has been conducted for this area.

5/ Workforce, so if our island is having a hard time with staffing our own exiting businesses and resorts what makes this developer think he will be able to staff this 350 hotel room? Of course his answer was he will fly in workers. What happens with our already shortage of housing? Will the local residents now be displaced due to higher rents being offered? No workforce housing sites have been obtained by this developer.

6/ NO NPDES (National Pollutant Discharge Elimination System) has been obtained.

7/ The plans by this developer are not in compliance with the governing INIKI ordinance that states buildings must be rebuilt to to the original footprint of the pre-existing structure.

In ending, I humbly ask that this project be DENIED. For the betterment of our environment and quality of life on Kauai this scared area should be a cultural park for our residents and visitors to enjoy.

Mahalo nui loa,

Haunani Rossi

Wailua Houselot Resident

Shanlee Jimenez

From: teresa tico <haenagirl@gmail.com>
Sent: Sunday, October 22, 2023 10:44 AM
To: Planning Department
Subject: Testimony for Agenda Item G.1.a, Planning Commissions Meeting on 10/24/2023

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Commissioners:

I am writing in regard to the annual review of the proposed Coco Palms resort development. The developers have represented that, despite the pending investigation by DLNR into their alleged unauthorized and illegal clear cutting of dozens of coconut trees on State Conservation land at Wailua and the nullification of the State revocable permits, they intend to start construction **within three weeks**.

I urge you to enter an Order holding the project development in abeyance pending the completion of the State's investigation. You have the authority to do so pursuant to RPPCPC Chapter 12, Section -12-2, which empowers you to revoke or *modify* the developer's permits.

Further, the developers have not secured workforce housing, a condition to the approval of permits. Workforce housing should be required to be completed *before* commencement of any construction. In the past, where fulfillment of housing requirements was not commenced before a project development was built, monetary payments were made to the County *in lieu of* the housing (i.e., Kiahuna). Do not allow this to happen again.

Further, assuming the State RPs are awarded to another applicant (i.e., applicant I Ola Wailuanui), the developers will not have sufficient land to fulfill their parking requirements. Do not allow them to proceed further until the issue of the RPs is resolved by BLNR.

Assuming the developers are not awarded the RPs and they propose to relocate the parking on one of their fee simple parcels, it is my opinion they cannot do so under the antiquated Iniki Ordinances which they have taken advantage of to the breaking point. They have done no State EIS or EA, their federal NPDES waiver has expired, they have done no State Shoreline Setback Survey, and no current County SMA permit or traffic studies, to my knowledge. A lot has changed since 2014 when they filed their Petition for Class IV Zoning, SMA, and Use permits. Allowing them to proceed under representations they made in 2014 is like asking us to believe time stands still.

Further, litigation potentially impacting *free and clear title* to the developer's fee simple parcels, pending at the State of Hawaii Intermediate Court of Appeals, could result in a *reversal* of the Fifth Circuit Court foreclosure action that awarded title to the developers.

Further, a lawsuit in First Circuit Court regarding the requirement for an EIS or EA for the development is pending and scheduled for hearing on November 9, 2023, in Honolulu.

Simply said, the developers are attempting to leap-frog the rule of law and circumvent the regulations with which all other developers must comply. Hold them accountable. Enter an Order holding their development in abeyance pending resolution of the myriad of issues that remain unresolved.

Sincerely,
Teresa Tico, Attorney
PO Box 220

Shanlee Jimenez

From: Bethany Freudenthal <bethanyfreudenthal@gmail.com>
Sent: Sunday, October 22, 2023 1:31 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

The Kauai County Planning Department:

My name is Bethany Brunelle. From 2017 to 2018 I was the crime, courts and breaking news reporter at The Garden Island Newspaper on Kauai.

During my time on Kauai, one of the cases I covered extensively was a civil proceeding between Noa Mau Espirito, Charles Hepa and two developers, Chad Waters and Tyler Greene, who wished to rebuild the infamous Coco Palms Hotel.

While covering this case, I spent hours talking to both parties involved.

At first, Hepa didn't want to talk to me because I was new to the island. Then after I wrote my first story based on the first day of the trial, he called me to the property and gave me a tour.

He told me that he wanted to care for his ancestral property and build infrastructure that would support Kanaka Maoli individuals on Kauai from keiki to kupuna. His dream was to house the houseless, feed the hungry and promote the Hawaiian culture with art, dance, music, song, food and education.

I also spoke often with Waters. He told me he and Greene also wanted to promote Hawaiian heritage, but their actions spoke louder than words. Words that were in the end were the opposite of what they told me. Their actions and words were the opposite of Aloha.

During the court proceedings, Hepa and Mau- Espirito represented themselves and fought for the vision they had for their families and community, but ultimately lost.

After the case was decided, I stood on the sidelines and watched as members of the Kauai community and Kanaka from other islands gathered at Coco Palms to mourn for their ancestors and the Aina.

I watched several weeks later as those remaining on the property were expelled by law enforcement and even more heartbreaking, I watched a few weeks after that as Waters ordered a hale to be taken down with heavy machinery.

I remember how gut wrenching it was to see belongings...letters, clothing, a pink child's toy, get destroyed by these men.

As an observer to these actions and as a highly sensitive person, I could feel deep sadness from the community each time one of these assaults took place.

Waters and Greene are no longer there, but Hepa and Mau-Espirito and those who love the land are, and if I still lived on Kauai, I'd be standing there with them also.

Coco Palms isn't just land. It's a sacred and living place.

Seeing dreams, homes and belongings destroyed by grown men, was an absolute affront to human decency, Hawaiian culture and the spirit of Aloha.

To this day, I hold Mau-Espirito and Hepa in high regards. These two men did everything they could to fight for their ancestors and for their community and they haven't yet given up the fight.

I tried as a reporter to ensure their voices were heard fairly and correctly, but it was a battle for me every day. I don't think this group has been given a fair chance. They've been laughed out of public spaces with public officials ignoring their pleas for justice and equality and respect.

I am writing to urge the Kauai Planning Department to deny any permits that would position developers to rebuild the Coco Palms Hotel. I urge BLNR, the State of Hawaii and the County of Kauai to no longer move forward with permitting the rebuilding of the Coco Palms Hotel.

I urge any person wishing to develop this land to actually LISTEN to the community instead of trying to destroy it.

I urge these public bodies to work directly with members of the Kanaka Maoli who live on Kauai to come up with a plan to develop the land in a way that would benefit the community.

Most importantly, I urge anyone who thinks they have the clout to redevelop Coco Palms to actually listen to the people who live there and whom have suffered generations of trauma, houselessness, and all that ensues, before attempting reconstruction.

Anyone with an ounce of human decency would not attempt to develop this land unless it's for the indigenous community and Hawaiian hearted.

Thank you for your time and consideration of my testimony. Please call or email me with any questions or concerns regarding my testimony.

Mahalo nui loa,
Bethany Brunelle
443-420-2214
bethanyfreudenthal@gmail.com

P.S. Please forgive any typos or grammatical errors. I'm writing this on my phone while traveling.

Sent from my iPhone

Shanlee Jimenez

From: Mason Chock <mason4kauai@gmail.com>
Sent: Sunday, October 22, 2023 2:29 PM
To: teresa tico
Cc: Planning Department
Subject: Re: Testimony for Agenda Item G.1.a, Planning Commissions Meeting on 10/24/2023

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

This is great. Mahalo Teri.

I will be on Maui this week helping families hooponopono. I'm sorry to miss both commission and council meetings.

Mason Chock
President
Kupu A'e Leadership Development
(808) 651-7013

On Oct 22, 2023, at 10:43 AM, teresa tico <haenagirl@gmail.com> wrote:

Dear Planning Commissioners:

I am writing in regard to the annual review of the proposed Coco Palms resort development. The developers have represented that, despite the pending investigation by DLNR into their alleged unauthorized and illegal clear cutting of dozens of coconut trees on State Conservation land at Wailua and the nullification of the State revocable permits, they intend to start construction **within three weeks**.

I urge you to enter an Order holding the project development in abeyance pending the completion of the State's investigation. You have the authority to do so pursuant to RPPCPC Chapter 12, Section -12-2, which empowers you to revoke or *modify* the developer's permits.

Further, the developers have not secured workforce housing, a condition to the approval of permits. Workforce housing should be required to be completed *before* commencement of any construction. In the past, where fulfillment of housing requirements was not commenced before a project development was built, monetary payments were made to the County *in lieu of* the housing (i.e., Kiahuna). Do not allow this to happen again.

Further, assuming the State RPs are awarded to another applicant (i.e., applicant I Ola Wailuanui), the developers will not have sufficient land to fulfill their parking requirements. Do not allow them to proceed further until the issue of the RPs is resolved by BLNR.

Assuming the developers are not awarded the RPs and they propose to relocate the parking on one of their fee simple parcels, it is my opinion they cannot do so under the antiquated Iniki Ordinances which they have taken advantage of to the breaking point. They have done no State EIS or EA, their federal NPDES waiver has expired, they have done no State Shoreline Setback Survey, and no current County SMA permit or traffic studies, to my knowledge. A lot has changed since 2014 when they filed their

Petition for Class IV Zoning, SMA, and Use permits. Allowing them to proceed under representations they made in 2014 is like asking us to believe time stands still.

Further, litigation potentially impacting *free and clear title* to the developer's fee simple parcels, pending at the State of Hawaii Intermediate Court of Appeals, could result in a *reversal* of the Fifth Circuit Court foreclosure action that awarded title to the developers.

Further, a lawsuit in First Circuit Court regarding the requirement for an EIS or EA for the development is pending and scheduled for hearing on November 9, 2023, in Honolulu.

Simply said, the developers are attempting to leap-frog the rule of law and circumvent the regulations with which all other developers must comply. Hold them accountable. Enter an Order holding their development in abeyance pending resolution of the myriad of issues that remain unresolved.

Sincerely,
Teresa Tico, Attorney
PO Box 220
Hanalei, HI 96714
(808) 639-9080

Shanlee Jimenez

From: Bob Lehardy <bob.lehardy@gmail.com>
Sent: Sunday, October 22, 2023 3:45 PM
To: Planning Department
Subject: Written testimony, Agenda item G1a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

My name is Robert Lehardy. I am a resident of Kaua'i and live in Wailua Homesteads.

I am submitting the following testimony for the Kaua'i Planning Commission meeting for Oct 24th, 2023, for agenda item G1a.

The proposed development (Coco Palms) is a major project that will have a significant impact on the environment, culture, traffic, and other aspects of the community.

The developers have not completed an Environmental Assessment (EA) or Environmental Impact Statement (EIS), which are required for projects of this magnitude. This is a serious omission, and the planning commission should not approve the project until an EA or EIS has been completed.

The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land. If true, this shows that the developers have a history of disregarding environmental regulations. The planning commission should carefully consider this history when evaluating the proposed project.

Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort. This is a major safety hazard, and the planning commission should not approve the project until the developers have secured the necessary parking.

No shoreline setback survey has been conducted. This is a violation of state law, and the planning commission should not approve the project until a shoreline setback survey has been completed and approved by the appropriate authorities.

No required workforce housing sites have been obtained by the developer. This is a violation of the county's general plan, and the planning commission should not approve the project until the developer has obtained the required workforce housing sites.

No NPDES (National Pollutant Discharge Elimination System) has been obtained. This is a violation of federal law, and the planning commission should not approve the project until the developer has obtained an NPDES permit.

The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

This is a violation of local law, and the planning commission should not approve the project until the developers have revised their plans to comply with the governing Iniki ordinance.

In addition to the above comments, you may also want to consider the following:

The proposed development is located in a sensitive area that is prone to natural hazards such as flooding and hurricanes. The developers have not adequately addressed these hazards in their plans.

I urge you to carefully consider all of these factors before making a decision about the proposed development. I believe that the project is not in the best interests of the community, and I urge you to reject it.

Shanlee Jimenez

From: Gayle Morrison <gaylemorrison@hotmail.com>
Sent: Sunday, October 22, 2023 4:41 PM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Commission,

Although, because of illness, I was unable to attend last week's meeting in Wailua Houselots, the article about the meeting in the *Garden Island* indicates that the questions and concerns of many Kauai residents were not addressed by Reef Capital Partners. Some of these concerns are general. Here are a few: How is the planned development taking sea-level rise into consideration? How is it that traffic will not be affected by a development at an intersection that is already congested, even with the recent widening of Kuhio Highway? Where are all the workers needed for the hotel to come from, when already there is a shortage of retail and hospitality workers that is forcing local businesses to cut hours or even close—and where will these potential employees live?

But the concerns and questions regarding legal requirements are even more specific. I have the impression that the developers are averse to specifics or certainly not willing to address them directly. Here are a few: Are the various assessments (environmental, cultural, traffic, etc.) they have used up to date and realistic? Why has no EA or EIS been done? How might the BLNR's investigation of their unauthorized work on conservation land affect the project as a whole? How will the developers meet the need for sufficient parking? What about shoreline setback, as well as the Iniki ordinance that limits construction to rebuilding on the footprint of the buildings in existence in 1992? What do the developers plan to do about an NPDES permit?

At the meeting, according to the *Garden Island*, the representative of the developers stated that most people he has talked with support the project and that negative opinions are coming from a vocal minority. I am sure many people do support the project (though I'm not sure the majority of those live in the area that will be impacted directly). Of course, many people remember Coco Palms fondly. I am one of them. I grew up with hotel, more or less. Friends worked there. We took visitors there for a meal or just to walk through the grounds. We knew people who got married in the chapel. If we could turn back the clock by three decades and see Coco Palms restored to what it was before Iniki, perhaps that would be what a majority of residents would choose. Perhaps! But a whole generation has never known Coco Palms as it was. This generation has to deal with new realities: overtourism, a disappearing shoreline, and changing cultural sensitivity. I highly doubt that the developers' anecdotal survey of local attitudes is accurate. What nostalgia for Coco Palms are young people and recent residents likely to share? Reef Capital Partners seems to think they can do what they want, regardless of community concerns and legal requirements.

The long and sad history of the property over these past decades suggests that the current developers figure that they will get their way and that promises won't need to be followed by actions. Money talks. Everybody supports development, in their worldview. Climate change? What climate change? But I believe Kaua'i in 2023 is more akamai than that. I urge you to hold Reef Capital Partners to account.

Mahalo for listening.

Gayle Borges Morrison

Shanlee Jimenez

From: Michal Stover <mfsleh@yahoo.com>
Sent: Sunday, October 22, 2023 7:03 PM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Commissioners,

Please hold the developers accountable to the law. When doing so, please note:

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Permit requirements are in place. To allow a developer to bypass these requirements shows a lack of respect for place, people, and process.

Mahalo,

Michal Stover

Kilauea, Kauai

Shanlee Jimenez

From: Hope Kallai <lokahipath2@live.com>
Sent: Sunday, October 22, 2023 7:45 PM
To: Planning Department
Subject: Oct. 24, 2023 Agenda Item G-1-a: Revoke Coco Palms Permits and Variances
SMA(U)-2015-6 Class IV Zoning Permit 2015-8 Project Development Use Permit
PDU-2015-7 Variance Permit V-2015-1 Building Permits
19-1862, 19-1863, 19-1864, 19-1865
Attachments: 2023 Oct. Coco Palms Planning Commission.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha e Planning Department - Attached please find my testimony about
Oct. 24, 2023 Agenda Item G-1-a: Revoke Coco Palms Permits and Variances
SMA(U)-2015-6
Class IV Zoning Permit 2015-8
Project Development Use Permit PDU-2015-7
Variance Permit V-2015-1
Building Permits 19-1862, 19-1863, 19-1864, 19-1865

Please let me know if the attachment does not open correctly.

Mahalo,

Hope Kallai

Francis DeGracia, Chair
Kauai Planning Commission
c/o County of Kauai Planning Department
(808) 241-4050 planningdepartment@kauai.gov

22 October 2023

Re: Oct. 24, 2023 Agenda Item G-1-a:

Revoke Coco Palms Permits and Variances

SMA(U)-2015-6

Class IV Zoning Permit 2015-8

Project Development Use Permit PDU-2015-7

Variance Permit V-2015-1

Building Permits 19-1862, 19-1863, 19-1864, 19-1865

Aloha e Chair DeGracia and Kauai Planning Commission:

Please cancel and revoke SMA(U)-2015-6, Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1, as they are based on false pretenses, inadequate, incomplete, mis-information. The real impacts of the new addition of a 300 seat public event center and a new 4 story commercial spa building to this project enabled by these permits and variances have not been considered.

The reasons to revoke are, expanded below by number:

1. The new Coco Palms project is non-conforming to the CZO.

2. The new Coco Palms project should have triggered an Environmental Impact Statement under Class IV Zoning Permit 2015-8.

3. SMA(U)-2015-6 does not consider protection of any Special Management Area resources.

4. There are No publicly beneficial reasons to eliminate parking and setback and lot coverage requirements this large resort project granted by Project Development Use Permit PDU-2015-7.

5. Variance Permit V-2015-1 for deviations of lot coverage, setback, parking and 6' sound barrier wall should be revoked as these actions have great environmental consequences.

6. The Event Center considered by Building Permits 19-1862, 19-1863, 19-1864, 19-1865 did not exist. There were tennis courts and a zoo during historic resort era, not a 300 seat Event Center.

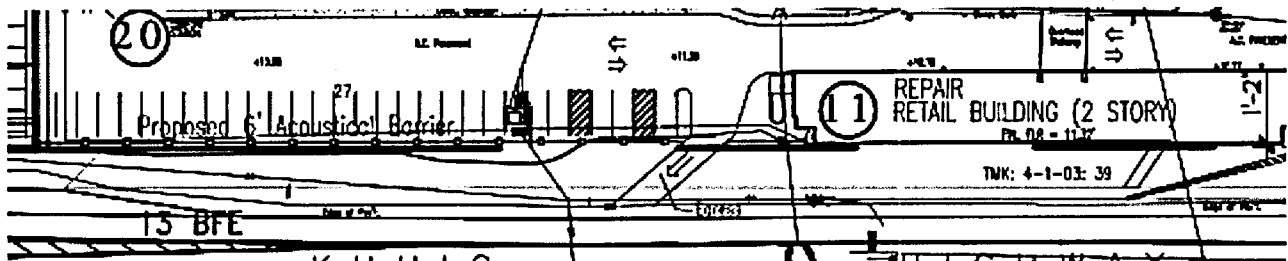
Expanded:

1. The new Coco Palms project is non-conforming to the CZO as it contains “inadequate, harmful or disruptive conditions that may prove detrimental to the social and economic well being of the residents of Kaua’i.”

A. Commercial “Retail” building has **no** setback from highway. According to the 2014 Coco Palms permit application¹, the sound barrier wall is right on the property boundary. Developer plans to include a water feature on the wall to lessen the visual impact of this wall from public areas like the seashore and highway. Page 9 of the 2015 Director’s Report lists the wall as 36” high and was granted an Iniki exemption.

- i) The rear of the building is placed right up against the property line. The CZO requires a minimum setback of 10’ from a road right-of-way. The applicant also proposes to add a “Green Wall” system and a Water Feature on the Wall that faces Kūhiō Highway.
- ii) There is no proposed expansion of this structure, therefore it qualifies for permitting pursuant to Ord. No. 716.

Project blueprints have the “Acoustical Barrier” wall as 6’ high, which would function as a seawall. Flood and hydrologic impacts of the addition of this new 6’ wall have not been adequately considered.



The impacts to Kauai residents of addition of a 6’ sound and water barrier has not been adequately considered. A water feature in a flood and tsunami zone doesn’t fix anything.

B. Coco Palms resort lot coverage exceeds CZO allowable of 50%, then developers added another 4 story building, the Queen’s Spa Building with lot coverage of an additional 4,154 square feet. The former Queen’s Lagoon Spa building was destroyed during Hurricane Iwa in 1982, demolished and removed as the historic site maps included in the 2020 Coco Palms Historic Resort National Register of Historic Places² shows on 3 Coco Palms site

¹<http://www.wkna.org/docs/Coco%20Palms%20Permit%20Application-55-pages.pdf>

²<https://historichawaii.org/2023/03/22/coco-palms-resort-2/>

maps from around 1965, 1970's and the 1980's as being located at the toe (bottom) of the fishpond (lagoon).

The Queen's Lagoon Spa Building was removed almost a decade before Hurricane Iniki destroyed Coco Palms, yet developers have included the Queen's Spa Building as a "re-build" in an entirely new location. A new, much larger building in a new location, on the 'auwai. It has no vehicular access. The Queen's Spa Permit 17-1912 should be revoked as it is not a "rebuild" as alleged. It is new structure with an occupancy load of 106, added to an already parking-stressed project.

**Queen's
Lagoon Spa
was at bottom
of Lagoon.
Tennis Courts
and Zoo
mauka,.
No Event
Center was
ever on this
property.**

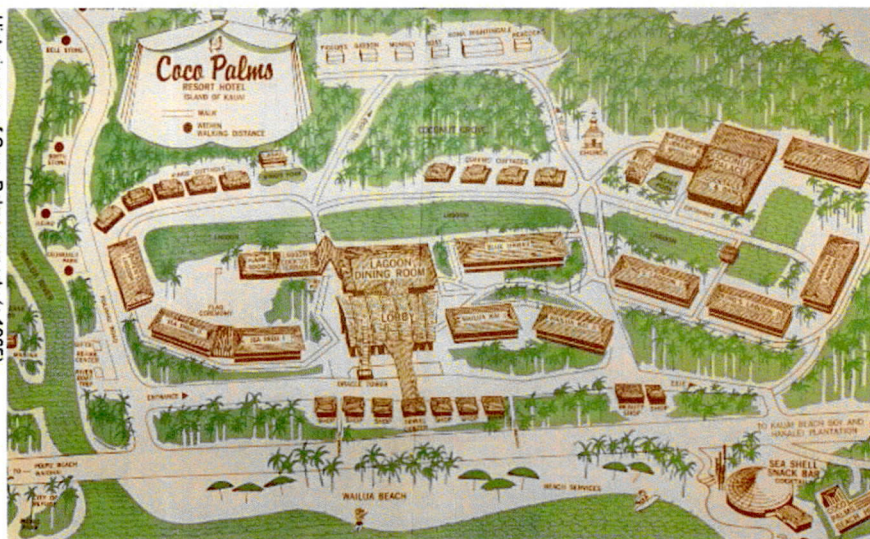


Sections 9-end page 44

Historic map of Coco Palms property (c. 1970s)

United States Department of the Interior
National Park Service / National Register of Historic Places Registration Form
NPS Form 10-900
OMB No. 1024-0018
COCO PALMS RESORT
Name of Property

KAUAI, HAWAII
County and State



Sections 9-end page 45

Historic map of Coco Palms property (c. 1965)

United States Department of the Interior
National Park Service / National Register of Historic Places Registration Form
NPS Form 10-900
OMB No. 1024-0018
COCO PALMS RESORT
Name of Property

KAUAI, HAWAII
County and State

Coco Palms Resort Historic District Resources List

[Letters = Sites, Structures, Objects | Numbers = Buildings]

Building Name	Map Key #	Year Built	Architect	Description	Current Condition	Contributing
COCONUT GROVE	A	1896	NA	Predates resort and contributes to historic setting	Good - but overgrown	YES
LAGOON (former fishpond)	B	Unknown	NA	Predates resort and contributes to historic setting	Good	YES
BRIDGES	C	Unknown	NA	1 concrete bridge and 3 wood bridges across the lagoon	Bridge 1 Good, Bridges 2-4 Poor	YES
POOLS (4)	D		Unknown	3 swimming pools and 1 reflecting pool	Fair	YES
ZOO	E	1955	Unknown	Chain-link cages	Fair - but overgrown	YES
WALKWAYS	F	1955	Unknown	Asphalt and concrete	Fair	YES
COCONUT GROVE THATCH SHELTERS	G	1954	Unknown	Various shelters, enclosures	Fair to Poor	YES
TENNIS FACILITY	H	1974	Unknown	9 tennis courts and pro shop	Overgrown	YES

Queen's Spa gone,
Zoo and Tennis Courts mauka.



Historic map of Coco Palms property (c.1980s) with key added.

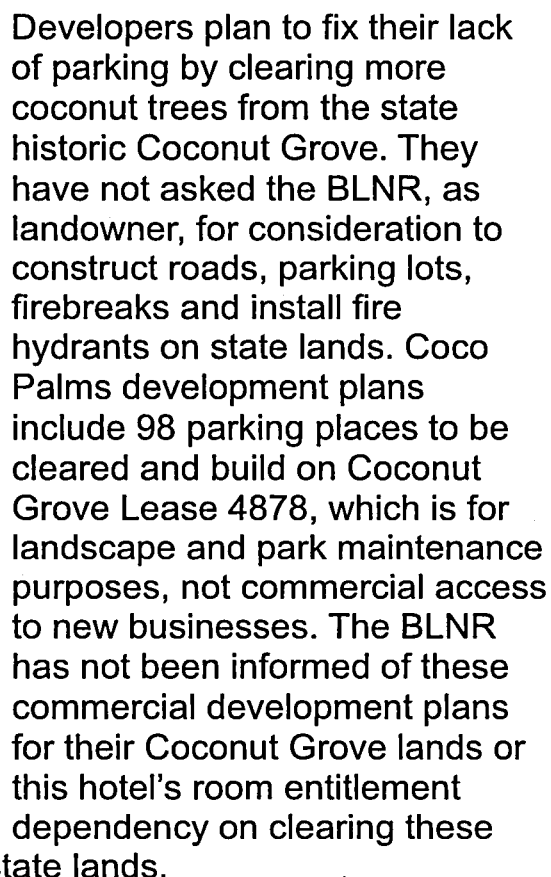
Sections 9-end page 42

C. Prior to Iniki, there was inadequate parking for the preexisting hotel and business, during an era when many tourists did not rent cars. Developers try to claim Iniki exemption to parking requirements after adding new businesses, like rooftop bars and gyms and new spa, massage buildings. There is not enough parking for preexisting Coco Palms, without the addition of new businesses.

Developers include hotel room entitlements from parking places on nearby state lands. 50 resort parking places are included on Coco Palms plans for state month-to-month Revocable Permit (RP) 7444 lands. Originally, the public was promised 20 beach-goer parking places on both the north and south parking lots at Coco Palms and a beach park type bathroom facility with an outside shower. Public parking in North parking lot has been eliminated. This bathroom has turned into an exclusive hotel Comfort Station with plans including keycard access. RP 7444 parking is proposed to be expanded to 70 cars, requiring removal of historic Coconut Grove trees, with a Kauai Bus Stop added, which would result in 85% coverage of this state property,

Developers claim this is a 30 year project, yet 50 parking stalls on state land entitling 150 hotel rooms only have 30 day month-to-month annual state permits.

These 50 parking places on state land are not secure after Dec. 2023.



As the state revocable permits and lease are tenuous, care should be taken to ensure adequate setback from these historic state properties, as they may revert to the public or other lessees. Public access and enjoyment should not be impaired because Coco Palms developers have exceeded the property's development capacity, spilling over to state lands. Elevating bungalows should not enable closer proximity to state property line. It is not in the public interest to reduce setbacks.

When considering room count entitlements using state land, the County of Kauai Planning Department should ensure proper coinciding lease terms. Room entitlements should be coterminous with land leases/permits. If only an annual permit, the variance and use permits should only be for that year. How can a 30 year project be given development rights on a 30 day permit?

If the skeletons of former structures are to be demo'd and removed, why is the Shell Building being rebuilt at 11.57', below the Base Flood Elevation (BFE) of

There are 3 subterranean parking garages under the Shell Building, Ali'i Kai I and Ali'i Kai II buildings. All these buildings are in the former pu'uone wetland field system, turned into an ancient fishpond over 800 years ago. These open

basement garages require sump pumps to keep them dry. This water with potential gas, oil, antifreeze, and other vehicle contaminants is dumped into the historic 'auwai which drains into Wailua River, a "navigable water of the U.S." This should have a current National Permit Discharge Elimination System (NPDES) permit and be considered in an Environmental Impact Statement, but has never been one performed.

3. SMA(U)-2015-6 does nothing to preserve, protect and restore the natural resources of the coastal area nor does it provide public access to those resources. It does the opposite, it enables the elimination of public access.

4. No reason to eliminate parking and setback requirements and lot coverage of large resort project Project Development Use Permit PDU-2015-7 was granted for deviations of pre-existing buildings, not for setback and variances escape clauses for new construction.

According to Coco Palms attorney Michael Belles, the variance application for this project³ considered nonconforming structures that were existing on the property before Hurricane Iniki in 1991 and permits were issued for those preexisting structures.

There were 9 tennis courts and a small zoo for guests on TMK 410030040000, as presented in the 2020 Coco Palms Historic Resort National Register of Historic Places nomination included on the site maps, never a 300 seat Event Center.

Page 5 of the 2015 Director's Annual Report on Coco Palms includes:

3. TMK: 4-1-03: 4 – The existing tennis facility, which consist of nine tennis courts and pro shop, was approved in 1974. According to the permit files, the existing lot coverage for the project is approximately 90,940 square ft., which exceeds the 10% lot coverage maximum within the Open District (57 % of 3.6 acres).

Later, in the same 2015 Director's Report, page 11 states:

- d. Rear Tent On TMK: 4-1-003: 4, , located at the rear of the property, the application proposes to remove the Tennis Center and develop a 9,600 square foot tent (80' x 120), along with a 145 stall graveled parking area. Four other accessory buildings are also proposed. No details about the use of these structures were included in the application.

*Accommodated
300 people*

- i) This is a new building, therefore it does not meet the requirements to qualify for permitting under Ord. No. 716.

³<http://www.wkna.org/docs/Coco%20Palms%20Permit%20Application-55-pages.pdf>

AGOR ARCHITECTS, LLC
808.947.2467 | AGORARCHITECTS.COM



The new, proposed Event Center does not qualify for Iniki exemptions as is new and not pre-existing, yet SMA(U)-2015-6 ,Class IV, Zoning Permit 2015-8 and Project Development Use Permit PDU-2015-7 were issued anyway. Please revoke SMA(U)-2015-6, Class IV Zoning Permit 2015-8 and Project Development Use Permit PDU-2015-7 as these permits consider new development under false pretenses of pre-existing.

The Wailua River community south of Kuamo'o has never been informed of this new business which would severely impact their neighborhood and traffic. The BLNR has never been asked for an access easement through the sliver of Conservation District lands in the Coconut Grove for this new business.

Project Architect's Coco Palms site maps⁴ reflect the elimination of the tennis courts and addition of a new Event Center⁵.

5. Variance Permit V-2015-1 should be cancelled as it affords developers special commercial privileges on open/residential land.

This Variance affords Coco Palms developers the right to develop a commercial party center on Open Residential land without any environmental or cultural scrutiny or agency consideration, a special privilege not available elsewhere on Kauai. This Event Center has great consequences to the Wailua River neighborhood which isn't even aware of these plans. The Wailua Houselot community is unaware that the main entrance to Coco Palms will be off Apana Road, off Hale'ilio Road. There is no excuse for these communities not to have been made aware of these resort plans which will impact their communities greatly.

Coco Palms tour guide Bob Jasper has many pictures and video documenting Coco Palms buildings and facilities. Wandering the Coco Palms 2021⁶ is a 7 minute video made August 20, 2021 highlighting the existing conditions at Coco Palms, with historic photos of the Zoo and Tennis Courts added:

The Zoo⁷

Tennis Courts⁸

Chapel in Coconut Grove⁹

The future of the Chapel is uncertain, as it was built without permission, encroaching on State Lease 4878 lands

⁴<https://www.khon2.com/news/new-rendering-released-as-coco-palms-demolition-nears-completion>

⁵<http://www.wkna.org/docs/WKNA-CocoPalms072814.pdf>

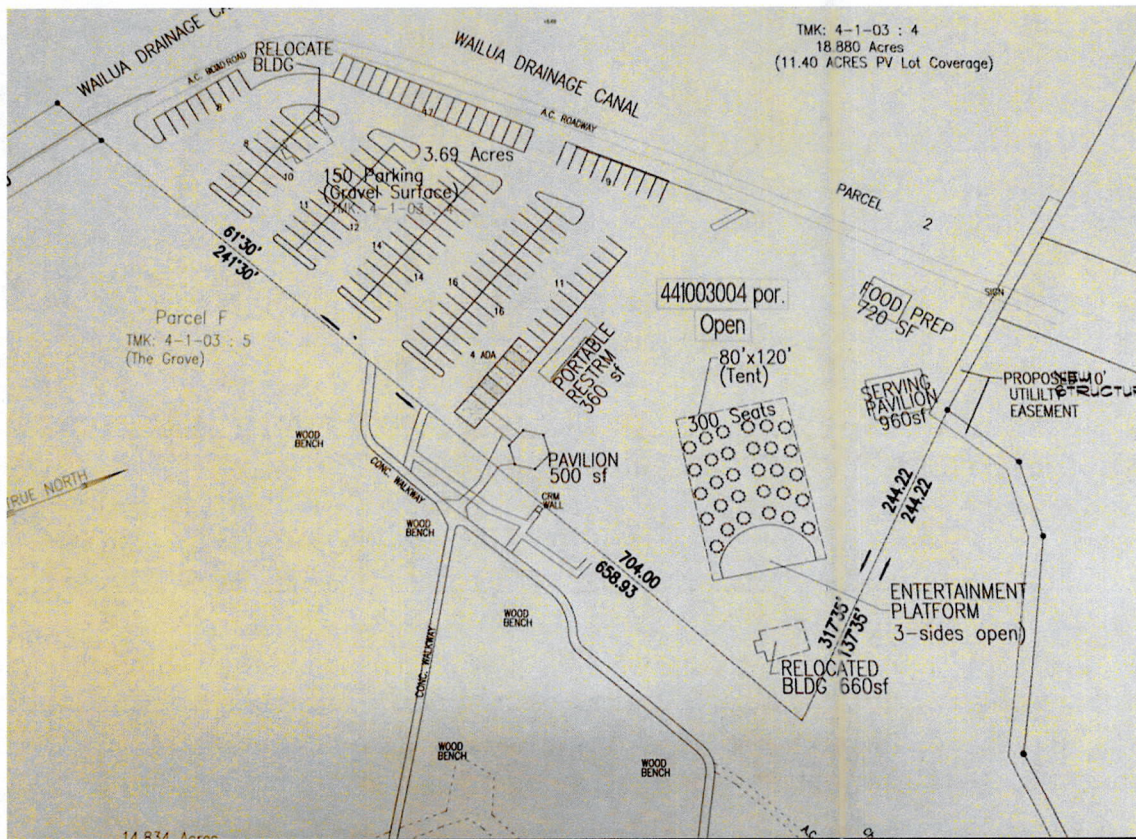
⁶<https://www.youtube.com/watch?v=MvbbUtvFMzI>

⁷<https://youtube.com/clip/UgkxOvzILdvT30bGFRwBLqsGQVohp0HrwPsR?si=zdOu5HYenZf5ylAo>

⁸<https://youtube.com/clip/UgkxIFh-m4LD29fKa4FHKwvBBjLooarlpG7M?si=JGLVZQ1pgvukZNSw>

⁹https://youtube.com/clip/UgkxfySWhTp3aLsBN0FzWCG2HKLp8g0QMF0p?si=5HJ2_QZyaCZkeLTJ

Please revoke SMA(U)-2015-6, Class IV Zoning Permit 2015-8, Project Development Use Permit PDU-2015-7, and Variance Permit V-2015-1 as they are based on inadequate or misinformation. Revoke the variance for the Event Center.

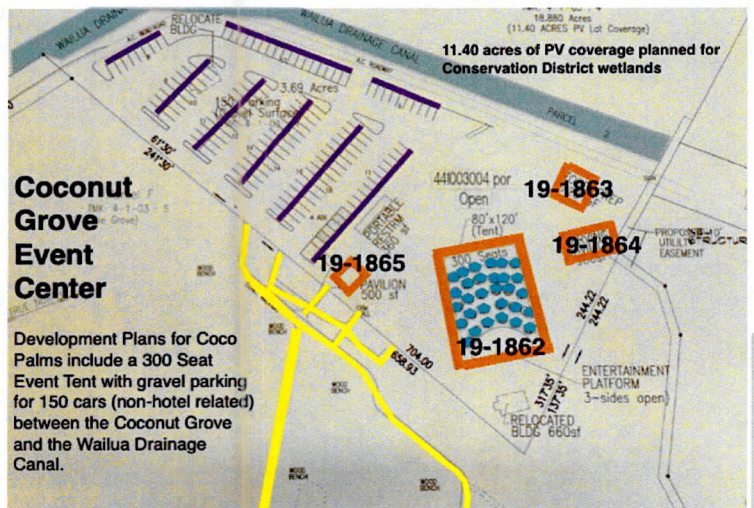


6. Please revoke Building Permits for the Coco Palms Event Center, as they were obtained with inadequate and misinformation on Open/Residential zoned land.

2019 - Coco Palms Event Center Building Permits

Coco Palms Event Center Building Permits

- 19-1862 Event Center Stage Platform
- 19-1863 Event Center Kitchen Area
- 19-1864 Event Center Serving Area
- 19-1865 Event Center Gazebo



In 2016, Project architect submitted plans including 11.4 acre solar field in the Conservation District of 41003004. This is the area now covered by piles of rubbish and white waste, under dumping investigation by DOCARE. It is a wetland, known as the Kaluapulu o Papa'alaе, the birthplace of 'alaе'ula on Kauai.

Project developers have only considered impacts to migratory seabirds, not residential, Endangered Species (protected) waterbirds, like 'alaе'ula, Koloa ducks, and nene. These birds have lived in these coastal wetlands since ancient times, as described in pre-historic mo'olelo and 'oli.

This project, especially after abandoning maintenance on this property for 30 years, is home to Hawaiian waterbirds that should have been considered by an Environmental Impact Statement and Habitat Management Plan, with Incidental Take Permit considerations for protected species, not just downpointed lighting for shearwater outmigration. Project considerations and conditions must include Endangered Species Hawaiian waterbirds living on the property.

The local community is concerned project developers will continue to dump rubbish and future hotel concrete demolition rubble in this wetland in the "back" on Koki Road, to elevate 11.4 acres sufficiently for the proposed commercial solar field, as yet un-permitted. Please ensure proper scrutiny to these future development plans as these project developers have proceeded with reckless abandon to caution, cultural concern and science.

Mahalo for revoking these Event Center Permits, the new 4 story Queen's Spa and taking a hard look at the developer's plans for a commercial solar field in the wetland of Papa'alaе.

Thank you for your time and consideration,

Hope Kallai

Shanlee Jimenez

From: Alex Stoddards <alexkstoddards@gmail.com>
Sent: Sunday, October 22, 2023 8:35 PM
To: Planning Department; Mayor; Council Members
Subject: No Hotel at Old CoCo Palms - Proposal Runs Foul of Kauai General Plan

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission

All decisions of the Council and Planning Commission need to align with the Latest General Plan (2018) that calls for

- cultural preservation
- environmental stewardship
- a focus on affordable housing
- sustainable development
- management of tourism

The hotel project proposed by RP21 developers on the old CoCo Palms site runs Against to every one of the guidelines - no matter how many loopholes they try to use to 'prove compliance'

[The General Plan - Kauai County, HI](#)

As well the General Plan includes an overview and sections covering 'making life more livable/improving the quality of life for residents' - this proposal to build a massive hotel in Kapaa where there's choke traffic - runs CONTRARY to making anything better for residents.

It's so obvious this is a No

Mahalo nui
Alex S.

Shanlee Jimenez

From: Maria Walker <maria.makaleha@gmail.com>
Sent: Sunday, October 22, 2023 8:54 PM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Members of the Planning Commission.

I am writing to you concerning Reef Capital Development group's desire to build a new hotel at the former Coco Palms site. My family and I are strongly opposed to this project because we are deeply concerned about Reef Capital's disregard for Kaua'i County's permitting process and environmental regulations, and their willingness to act outside the law. I will list some of our concerns below:

- There have been multiple points during this development process that require either an Environmental Assessment or Environmental Impact Statement, but none have been filed.
- The site is located in a Special Management Area and subject to Shoreline Setback regulations, but no setback survey has been conducted.
- Reef Capital is still being investigated by the BLNR because they removed multiple coconut palms from a conservation area without a permit.
- The assessments being used by the developers concerning the impacts of the project on traffic, cultural needs, and the land and waters of the area are too old to be relevant and are incomplete.
- There is no indication of any design for a NPDES, and this area is already suffering from inadequate sewage treatment as evidenced by the permanent stink cloud that stretches from the south end of Lydgate to Hale'ilio Rd.
- No workforce housing sites have been designated by the developers.
- There is not space for the required number of parking spaces now that Reef Capital has had its Revocable Permits withdrawn last August.
- The most recent drawings of building plans do not show a structure that stays within the footprint of the original structures as required by the Iniki ordinance.

These issues listed above are strong indications that the developers do not respect Kaua'i County's very important requirements to build a resort of this size in such a sensitive area. These requirements and laws were designed to protect our fragile environment and local communities; they need to be followed to the letter as intended. Continually ignoring even the most basic requirements plainly shows that Reef Capital, and the Coco Palms Hui, LLC, are not qualified to develop this property and cannot be trusted at this point to follow through on the mandated responsibilities for this project.

Please consider revoking any permits that are still valid for these developers since they have not proven they are willing to abide by our county's regulations. Since the Planning Commission is responsible for making decisions that will preserve the health of our environment and the quality of life for our residents, please help Kaua'i to move on from Reef Capital and find an appropriate group to restore the Coco Palms site in a more lawful and respectful manner that will contribute positively to our island home. I will be watching closely to make sure that these developers are not allowed to continually break the law with no oversight to hold them accountable.

Shanlee Jimenez

From: Felicia Alongi Cowden <akamaimom@gmail.com>
Sent: Sunday, October 22, 2023 8:56 PM
To: Hope Kallai
Cc: Planning Department
Subject: Re: Oct. 24, 2023 Agenda Item G-1-a: Revoke Coco Palms Permits and Variances
SMA(U)-2015-6 Class IV Zoning Permit 2015-8 Project Development Use Permit
PDU-2015-7 Variance Permit V-2015-1 Building Permits 19-1862, 19-1863, 19-1864,
19-1865

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

This is great, thank you!

On Sun, Oct 22, 2023 at 7:45 PM Hope Kallai <lokahipath2@live.com> wrote:

Aloha e Planning Department - Attached please find my testimony about
Oct. 24, 2023 Agenda Item G-1-a: Revoke Coco Palms Permits and Variances
SMA(U)-2015-6
Class IV Zoning Permit 2015-8
Project Development Use Permit PDU-2015-7
Variance Permit V-2015-1
Building Permits 19-1862, 19-1863, 19-1864, 19-1865

Please let me know if the attachment does not open correctly.

Mahalo,

Hope Kallai

Shanlee Jimenez

From: Heidi Hughes <heidi@summiteventsdmccom>
Sent: Sunday, October 22, 2023 9:49 PM
To: Planning Department
Subject: Agenda Item G-1-a Coco Palms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

My husband and I have visited Kauai since 2002, owned property here since 2015 and we were thrilled to move here in 2020. While we're not native Hawaiian, Kauai is our home, and living in Wailua houseslots, we are genuinely neighbors of the Coco Palms property. Both my husband and I have had careers in the resort and hospitality industry, and we came here after living for many years in Park City, Utah. We lived through decades of resort development and we feel a unique connection to the situation at Coco Palms. We'd really like to help get this situation get sorted out, for the best possible outcome for community.

Our main concerns to be addressed:

There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS), despite multiple triggers. It should not be hard to agree that this is imperative, especially since the developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land.

The BLNR terminated the Revocable Permits (RPs) in August 2023 and the developers now do not have space for the legally required number of parking stalls for a 350-room resort. Furthermore, the environmental, cultural, traffic, and other assessments are inadequate and outdated; who reasonably believes we need or can sustain more cars, people, sewage, etc. at this specific location on the island?

There has been no shoreline setback survey.

Developers have not obtained the required workforce housing sites nor have they obtained the NPDES.

And, the most recent plans are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

We cannot lose sight of the fact that the developers will do what they believe is the right thing for their business and their investors, and that may not align with the best interests of our community. We also need to keep in mind that their business is to ultimately sell or turn over the actual operation of the property to another entity. Whatever steps we need to take to get these developers to get it right, right now, we absolutely have to.

Sincerely,

HEIDI HUGHES

Shanlee Jimenez

From: Bridget Hammerquist <friendsofmahaulepu@hawaiiantel.net>
Sent: Sunday, October 22, 2023 10:10 PM
To: Planning Department
Subject: Agenda Item G-1-a Coco Palms
Attachments: Coco Palms_Lease 4878.pdf; Coco Palms_ TIMELINE OF Hotel Owner-Developer.docx; Coco Palms OCCL Cease and Desist Letter.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Chair and Members of the Kauai County Planning Commission,

On behalf of Friends of Maha`ulepu, many of whose members reside in or near the District of Wailuanuiaho`āno, please accept this testimony regarding the proposed development of a "350 room Resort" at the site of the former Coco Palms Hotel. This testimony is offered to assure that this Commission is informed of several important considerations as the Commission considers the annual report required of the Developer. As the Commission is aware, after its destruction by hurricane Iniki in 1992, the Coco Palms site has had many unsuccessful would be developers. See attached timeline of the owners through 1992 and then the six owner/developers after 1992 who have all been unsuccessful in their alleged restoration efforts.

The Wailuanuiaho`āno district, including the lands where the former Coco Palms Resort has been, is a unique and sacred area that represents an important part of Kaua`i's history. This area was once the social, political and religious center of Kaua`i. On behalf of our members, please consider suspending any further activity at the former Coco Palms site for the following reasons:

- Despite the requests of this Commission and the Board of Land and Natural Resources on April 14, 2023, the current would be developer RP21 owned by Reef PCG made no effort to meet with the community until October 18, 2023 just days prior to their report back date to this Commission. Their notice of their 10/18/23 meeting was three days prior to the meeting, no doubt impacting the number of people who were available to attend. At their meeting, the developers had no microphone and their voices could not be heard by at least half of those in attendance. The public also had to raise their voices in an attempt to be heard. The developer claimed that those in attendance were "a vocal minority" of individuals opposed to the hotel. In fact, as public comments filed with this Commission will likely establish those in attendance represented a mere minority of a much larger majority of Kauai residents opposed to yet another Resort Hotel. When the Coco Palms was last in operation, 31+ years ago, Kauai did not have the number of Resort Hotels it does today, nor the many vacation rental options for the islands tourist visitors. The public who attended the developers meeting, planned last minute and without any sound system, were clear that another Resort Hotel was not what Kauai needs.

- There is no current SMA permit that complies with State law. As the Hawaii State Supreme Court ruled, SMA regulations adopted in 1992 were applicable to a permit entitlement that was issued in 1982. The Court explained that the State interest in protecting the shoreline is sufficiently great that it is the Commissions duty to assure compliance with current regulations even when dealing with a pre-Iniki entitlement:

“Because the Planning Department petitioned the Planning Commission in 1996, Chapter 12 was already in effect, and therefore, governed the Planning Commission’s authority to revoke, amend, or modify the 1981 SMA Use permit for changed conditions.

Furthermore, the Planning Commission’s Rules of Practice and Procedure clearly authorized the Planning Commission to order compliance with the SMA Use permit... Indeed, in issuing its decision and order, the Planning Commission must fulfill its statutory obligation under the CZMA to “preserve, protect, and where possible, restore the natural resources of the coastal zone of Hawaii‘i.” § HRS 205A-2. “ *Morgan v. Planning Department* 104 Haw. 173 (Haw. 2004, pages 186-190)

- This developer has not conducted a Kapa'a Kai analysis, a condition that is legally required before permits are issued by the Planning Department for a development of this size. As such, any permits they claim to hold are not legally enforceable at this juncture.
- The developer's annual report should include but may not include the fact that they received a Notice of Violation and an Order to Cease any activity on the state leased or revocable permitted lands adjacent to the former Coco Palms site. See attached. The leased Wailua Coconut Grove (12+ acres) was leased to the former owner AmFac, a 65 year lease that commenced 8/18/1983 with expiration 8/17/2048 RP 21 told the public and reported to the County Council that they have a current lease to these lands. The following link to BLNR April 14, 2023 meeting contains the statements of the Director of the Department of Land and Natural Resources who informed the attorneys for RP 21 that they do not have a valid lease to the Wailua Coconut Grove. That lease issued by the State and attached hereto, requires any attempted assignment to an entity other than the designated leasee, AmFac, would be invalid unless the attempted assignment was approved and rendered valid by the Department of Land and Natural Resources. The DLNR Director, Dawn Chang also advised the attorneys for RP 21 and Reef PCG that they do not have a right to the three parcels previously held under revocable permit by Coco Palms Joint Ventures LLC, an entity whose corporate status was involuntarily revoked by the State of Hawaii December 4, 2017. Meeting link and pertinent portions of BLNR hearing follow: [04/14/2023 Board of Land and Natural Resources Meeting](#)

Director Chang states (see above link at 3 hrs 6 min) RP21 attorney confirms they do not represent or have legal connections to Coco Palms Ventures LLC

Director Chang states clearly (see above link at 3 hrs 8 min 30 sec - 3 hrs 10 min) and informs RP21 attorneys and owner representatives that any attempted assignment of the State lease is invalid until approved by the BLNR Board. Through questioning of RP21 owners and their attorneys, the BLNR Board establishes that whatever alleged assignment

they hold has never been approved by the State of Hawaii Land Board.

Director Chang establishes (see above link at 1 hr 27 min) that no one at the BLNR meeting has legal authority to speak on behalf authority of Coco Palms Venture LLC – Chad DeCoursey, John Gibb and John Ritta all said they do not have legal authority to speak on their behalf.

- Any development permits should be suspended because this is without question a large development in a wetland area that involves State land, drainage to a nearby river and the ocean through a large canal at the rear of the hotel which runs under Kuamo'o Road releasing directly to the Wailua River and there has never been an environmental assessment or EIS for this site. On November 9, 2023, there will be a hearing on a Summary Judgement Motion filed in the 1st Circuit, in an action filed for the HEPA violation and for the failure to review any potential environmental impacts from the planned restoration/construction: I Ola Wailuanui vs BLNR Civil No. 1CCV-22-0001495
- Developer cannot proceed because their Army Corp of Engineers NPDS development waiver expired earlier this year.
- Developer has failed to produce the traffic assessment report as a condition of their permits to spite the known Kapaa Wailua corridor traffic congestion.
- The Wailua Wastewater Treatment Plant is already overburdened, currently emitting noxious odors at and near the proposed construction site and currently has reported inadequately treated sewage spills into the ocean. How can it possibly handle the addition of a 350 Resort when by its own DEA released September 23, 2023 1/3 of the plants operational capacity has been lost to malfunctioning equipment and disrepair.

We implore you, as the County of Kauai Planning Commission, to not let this project proceed further without completion of the above and without the unqualified assurance that our island environment and our quality of life will not be irreparably harmed.

Mahalo nui,

Bridget Hammerquist, President
Friends of Maha'ulepu, a 501(c)(3)
Kia'i Wai o Wai'ale'ale, Co-founder
PO Box 1654
Koloa, HI 96756
friendsofmahaulepu.org
friendsofmahaulepu@hawaiiantel.net
(808)742-1037



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ORIGINAL

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. 5-4878

between

STATE OF HAWAII

and

FORT ASSOCIATES LIMITED PARTNERSHIP

covering

PARCEL F, WAILUA COCONUT GROVE
WAILUA, KAWAIHAE (PUNA), KAUAI, HAWAII

TABLE OF CONTENTS

	<u>PAGE</u>
TERM OF LEASE	1
ANNUAL RENTAL	2
REOPENING OF ANNUAL RENTAL.	2
INTEREST RATE	3
RESERVATIONS:	
1. Minerals and waters	3
2. Prehistoric and historic remains.	4
3. Ownership of fixed improvements	4
4. Withdrawal	4a
5. Easements, trails	4a
AGREEMENTS & COVENANTS BETWEEN PARTIES:	
1. Payment of rent	5
2. Taxes, assessments, etc.	5
3. Utility services	5
4. Covenant against discrimination	5
5. Sanitation.	6
6. Waste and unlawful, improper or offensive use of premises	6
7. Compliance with laws	6
8. Inspection of premises.	6
9. Improvements	6
10. Repairs to improvements	7
11. Liens	7
12. Character of use	7
13. Assignments, etc.	7
14. Subletting	8
15. Indemnity	8

	<u>PAGE</u>
16. Costs of litigation	9
17. Liability insurance	9
18. Bond, performance	10
19. Lessor's lien	10
20. Mortgage	11
21. Breach	12
22. Right of holder of record of a security interest	13
23. Condemnation	14
24. Right to enter	15
25. Inspection by prospective bidders	15
26. Acceptance of rent not a waiver	16
27. Extension of time	16
28. Justification of sureties	16
29. Waiver, modification, reimposition of bond provision	17
30. Quiet enjoyment	18
31. Surrender	18
32. Non-warranty	18
33. Incorporation by reference	18
34. Utilization of land	19
35. Annual report	19
36. Construction of improvements	19
DEFINITIONS	20
SIGNATURE PAGE	21
ACKNOWLEDGMENT PAGE	22

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. 54878

THIS INDENTURE OF LEASE, made this 15th day of
March, 1984, by and between the STATE
OF HAWAII, hereinafter referred to as the "Lessor", by its
Board of Land and Natural Resources, called the "Board", and
FORT ASSOCIATES LIMITED PARTNERSHIP, a Texas Limited
Partnership,
whose ~~residence~~ ^{business} and ~~post office~~ ^{mailing} address is c/o Amfac Property
Corporation, 700 Bishop Street, Honolulu, Hawaii 96813,
hereinafter referred to as the "Lessee";

WITNESSETH:

THAT the Lessor, for and in consideration of the
rent to be paid and of the terms, covenants and conditions
herein contained, all on the part of the Lessee to be kept,
observed and performed, does hereby demise and lease unto
the Lessee, and the Lessee does hereby lease and hire from
the Lessor the premises identified as Parcel F, Wailua
Coconut Grove, situate at Wailua, Kawaihae (Puna), Kauai, Hawaii
-----, more particularly described
in Exhibit "A" and as shown on the map marked Exhibit "B",
hereto attached and made parts hereof.

TO HAVE AND TO HOLD the demised premises unto the
Lessee for the term of sixty-five (65) years, commencing on
the 18th day of August, 1983, up to and
including the 17th day of August, 2048, unless
sooner terminated as hereinafter provided, the Lessor reserving
and the Lessee yielding and paying to the Lessor at the
Office of the Department of Land and Natural Resources,
Honolulu, Oahu, State of Hawaii, a net annual rental as



provided hereinbelow, payable in advance, without notice or demand, in semi-annual installments on August 18 and February 18 of each and every year during said term as follows:

A. For the first ten (10) years, the sum of SEVEN THOUSAND THREE HUNDRED AND NO/100----- DOLLARS (\$ 7,300.00) per annum.

B. The annual rental hereinabove reserved shall be reopened and redetermined at the expiration of the 10th, 20th, 30, 40th, 50th & 60th years of said term.

C. Determination of rental upon reopening of the annual rental. The rental for any ensuing period shall be the rental for the immediately preceding period or the fair market rental at the time of reopening, whichever is higher. At the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the Lessor; provided, that should the Lessee fail to agree upon the fair market rental as determined by Lessor's appraiser, the Lessee may appoint his own appraiser who shall prepare an independent appraisal report and the two appraisers shall then exchange their reports for review. The two appraisers shall make every effort to resolve whatever differences they may have. However, should differences still exist 14 days after the exchange, the two appraisers shall then appoint a third appraiser who shall also prepare an independent appraisal report and furnish copies thereof to the first two appraisers. After review, all three shall meet to determine the fair market rental in issue. The fair market rental as determined by a majority of the appraisers shall be final and binding upon both Lessor and Lessee, subject to

vacation, modification or correction in accordance with the provisions of Sections 658-8 and 658-9, Hawaii Revised Statutes. The Lessee shall pay for his own appraiser and the cost of the services of the third appraiser shall be borne equally by the Lessor and the Lessee. All appraisal reports shall become part of the public record of the Lessor.

If the rental for any ensuing period has not been determined prior to the expiration of the preceding rental period, the Lessee shall continue to pay the rent effective for the previous rental period, but the Lessee shall, within thirty (30) days after the new rental has been so determined, make up the deficiency, if any, together with interest thereon.

D. The interest rate on any and all unpaid or delinquent rentals shall be at one per cent (1%) per month.

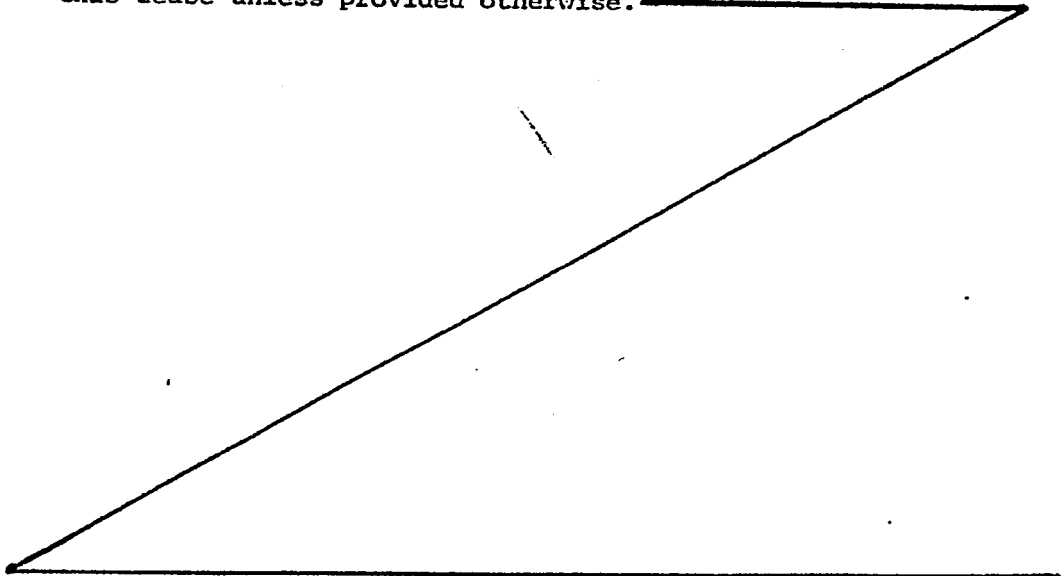
RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the demised premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals", as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in

furtherance of the Lessee's permitted activities on the demised premises and not for sale to others. (b) All surface and ground waters appurtenant to the demised land and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the demised premises as may be required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph just compensation shall be paid to the Lessee for any of Lessee's improvements taken.

2. Prehistoric and historic remains. All pre-historic and historic remains found on said demised premises.

3. Ownership of fixed improvements. The ownership of all improvements of whatever kind or nature, including but not limited to fences and stockwater system(s) located on the land prior to or on the commencement date of this lease, excluding those improvements constructed during the term of this lease unless provided otherwise.



4. Withdrawal. The Lessor shall have the right to withdraw the demised land, or any portion thereof, at any time during the term of this lease upon the giving of reasonable notice by the Board and without compensation, except as provided herein, for public uses or purposes, including residential, commercial, industrial or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the Board to remove soil, rock or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided, that upon such withdrawal, or upon such taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the Lessee is destroyed or made unusable in the process of such withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of the lease; provided, further, that no such withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the Board pays to the Lessee the value of such crops.

5. Easements, trails. All existing rights-of-way, easements, and trails including the right to grant these rights to other parties.

THE LESSEE COVENANTS AND AGREES WITH THE LESSOR
AS FOLLOWS:

1. Payment of rent. That the Lessee shall pay said rent to the Lessor at the times, in the manner and form aforesaid and at the place specified above, or at such other place as the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. That the Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, assessments and other outgoings of every description as to which said demised premises or any part thereof, or any improvements thereon, or the Lessor or Lessee in respect thereof, are now or may be assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during said term.

3. Utility services. That the Lessee shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which said demised premises, or any part thereof, or any improvements thereon or the Lessor or Lessee in respect thereof may during said term become liable, whether assessed to or payable by the Lessor or Lessee.

4. Covenant against discrimination. That the use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin or physical handicap.

5. Sanitation, etc. That the Lessee shall keep the demised premises and improvements in a strictly clean, sanitary and orderly condition.

6. Waste and unlawful, improper or offensive use of premises. That the Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the demised premises, or any part thereof, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on said premises.

7. Compliance with laws. That the Lessee shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws pertaining to the said premises, now in force or which may hereinafter be in force.

8. Inspection of premises. That the Lessee will permit the Lessor and its agents, at all reasonable times during the said term, to enter the demised premises and examine the state of repair and condition thereof.

9. Improvements. That the Lessee shall not at any time during said term construct, place, maintain and install on said premises any building, structure or improvement of any kind and description whatsoever except with the prior approval of the Board and upon such conditions as the Board may impose, including any adjustment of rent, unless otherwise provided herein. The ownership thereof shall be in the Lessee until the expiration or termination pursuant to a breach of the lease, at which time the ownership thereof shall vest in the Lessor.

10. Repairs to improvements. That the Lessee shall, at its own expense, keep, repair and maintain all buildings and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition and repair, reasonable wear and tear excepted.

11. Liens. That the Lessee will not commit or suffer any act or neglect whereby the demised premises or any improvement thereon or the estate of the Lessee in the same shall become subject to any attachment, lien, charge or encumbrance whatsoever, except as hereinafter provided, and shall indemnify and hold harmless the Lessor from and against all attachments, liens, charges and encumbrances and all expenses resulting therefrom.

12. Character of use. That the Lessee shall use or allow the premises hereby demised to be used solely for Landscaping and maintenance of premises for aesthetic, park and recreation purpose(s).

13. Assignments, etc. That the Lessee shall not transfer, assign or permit any other person to occupy or use the said premises or any portion thereof, or transfer or assign this lease or any interest therein, either voluntarily or by operation of law, except by way of devise, bequest or intestate succession, and any transfer or assignment so made shall be null and void; provided, that with the prior written approval of the Board the assignment and transfer of this lease or unit thereof may be made if:

- (1) it contains the personal residence of the Lessee;
- (2) in the case of commercial, industrial, hotel, resort, apartment and other business uses, the Lessee was required to put in substantial building improvements; (3) the Lessee becomes mentally or physically disabled; (4) extreme economic

hardship is demonstrated to the satisfaction of the Lessor; or
(5) it is to the corporate successor of the Lessee; provided,
further, that prior to the approval of any assignment of
lease, the Board shall have the right to review and approve
the consideration paid by the Assignee and, if necessary,
revise the rent of the demised premises based upon the
consideration paid by the Assignee; and, provided, further,
that the rent shall not be revised downward.

14. Subletting. That the Lessee shall not rent
or sublet the whole or any portion of the demised premises,
without the prior written approval of the Board; provided,
however, that prior to such approval, the Board shall have
the right to review and approve the rent to be charged to
the proposed sublessee and, if necessary, revise the rent
of the demised premises based upon the rental rate charged
to the said sublessee; provided, further, that the rent may
not be revised downward.

15. Indemnity. That the Lessee will indemnify,
defend and hold the Lessor harmless from and against any
claim or demand for loss, liability or damage, including
claims for property damage, personal injury or death, arising
out of any accident on the demised premises and sidewalks
and roadways adjacent thereto or occasioned by any act
or nuisance made or suffered on the premises, or by any
fire thereon, or growing out of or caused by any failure on
the part of the Lessee to maintain the premises in a safe
condition, or by any act or omission of the Lessee, from
and against all actions, suits, damages and claims by
whomsoever brought or made by reason of the non-observance
or non-performance of any of the terms, covenants and
conditions herein or the rules, regulations, ordinances
and laws of the federal, state, municipal or county governments.

16. Costs of litigation. That in case the Lessor shall, without any fault on its part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall and will pay all costs and expenses incurred by or imposed on the Lessor; furthermore, the Lessee shall and will pay all costs and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the demised premises or in the collection of delinquent rental, taxes and any and all other charges.

17. Liability insurance. That the Lessee shall procure, at its own cost and expense, and maintain during the entire period of this lease, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Chairman, insuring the Lessor and Lessee against all claims for personal injury, death and property damage; that said policy or policies shall cover the entire premises; including all buildings, improvements and grounds and all roadways or sidewalks on or adjacent to the demised premises in the control or use of the Lessee. The Lessee shall furnish the Lessor with a certificate showing such policy to be initially in force and shall furnish a like certificate upon each renewal of such policy, each such certificate to contain or be accompanied by an assurance of the insurer to notify the Lessor of any intention to cancel any such policy prior to actual cancellation. The procuring of this policy shall not release or relieve the Lessee of its responsibility under this lease as set forth herein or limit the amount of its liability under this lease. The notice to cancel shall be sent to the Lessor sixty (60) days prior to the date of cancellation.

18. Bond, performance. That the Lessee shall, at its own cost and expense, within thirty (30) days after the date of receipt of this lease document, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by said Lessee of all of the terms, conditions and covenants of this lease, in an amount equal to two times the annual rental then payable. Said bond shall provide that in case of a breach or default of any of the terms, covenants, conditions and agreements contained herein, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

19. Lessor's lien. That the Lessor shall have a lien on all the buildings and improvements placed on the said premises by the Lessee, on all property kept or used on the demised premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings situated on said premises for all such costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee and for the payment of all money as provided in this lease to be paid by the Lessee, and such lien shall continue until the amounts due are paid.

20. Mortgage. That, except as provided herein, the Lessee shall not mortgage, hypothecate or pledge the said premises or any portion thereof of this lease or any interest therein without the prior written approval of the Board and any such mortgage, hypothecation or pledge without such approval shall be null and void.

That upon due application and with the written consent of the Lessor, the Lessee may mortgage this lease or any interest therein or create a security interest in the leasehold of the public land hereby demised. If the mortgage or security interest is to a recognized lending institution in either the State of Hawaii or elsewhere in the United States, such consent may extend to foreclosure and sale of Lessee's interest at such foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified to lease, own or otherwise acquire and hold the land or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term "holder" shall include an insurer or guarantor of the obligation or condition of such mortgage, including the Department of Housing and Urban Development through the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, or any other Federal agency and their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a non-governmental

holder shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned Federal agencies.

21. Breach. That time is of the essence of this agreement and if the Lessee shall fail to yield to pay such rent or any part thereof at the times and in the manner aforesaid within thirty (30) days after delivery by the Lessor of a written notice of such breach or default, or if the Lessee shall become bankrupt, or shall abandon the said premises, or if this lease and said premises shall be attached or otherwise be taken by operation of law, or if any assignment be made of the Lessee's property for the benefit of creditors, or shall fail to observe and perform any of the covenants, terms and conditions herein contained and on its part to be observed and performed, and such failure shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of such breach or default, by personal service, registered mail or certified mail to the Lessee at its last known address and to each mortgagee or holder of record having a security interest in the demised premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter such premises or any part thereof, and upon or without such entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of such termination, all buildings and improvements thereon shall remain and become the property of the Lessor; furthermore, Lessor shall retain all rent paid in advance as damages.

22. Right of holder of record of a security interest. In the event the Lessor seeks to forfeit the interest created by this lease, each recorded holder of a security interest may, at its option, cure or remedy the default or breach of rent payment within thirty (30) days or any other default or breach within sixty (60) days, from the date of receipt of the notice hereinabove set forth, or within such additional period as the Lessor may allow for good cause, and add the cost thereof to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the Lessor may: (a) pay to the holder from any monies at its disposal, including the special land and development fund, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of said debt and mortgage from said holder or if ownership of such interest or estate shall have vested in such holder by way of foreclosure, or action in lieu thereof, the Lessor shall be entitled to the conveyance of said interest or estate upon payment to said holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with such foreclosure and preservation of its security interest, less appropriate credits, including income received from said interest or estate subsequent to such foreclosure; or (b) terminate the outstanding interest or estate subject to the lien of such mortgage; without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and thereupon use its best efforts to redispense of the land affected thereby to a qualified and responsible person who will assume the obligation of the mortgage and the debt thereby secured;

provided, that a reasonable delay by the Lessor in instituting or prosecuting any right or remedy it may have hereunder shall not operate as a waiver of such right or to deprive it of such remedy when it may still hope otherwise to resolve the problems created by the breach or default. The proceeds of any redispotion effected hereunder shall be applied first, to reimburse the Lessor for costs and expenses in connection with such redispotion; second, to discharge in full any unpaid purchase price or other indebtedness owing the Lessor in connection with such interest or estate terminated as aforesaid; and the balance, if any, shall be paid to the owner of such interest or estate.

23. Condemnation. That, if at any time, during the term of this lease, or any portion of the demised premises should be condemned, or required for public purposes by any county or city and county, the rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall be entitled to receive from the condemning authority (a) the value of growing crops, if any, which he is not permitted to harvest and (b) the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by the Lessee. The Lessee shall not by reason of such condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of said leasehold interest by reason of such condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee

shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion so taken renders the remainder unsuitable for the use or uses for which the land was demised, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability therefor; provided, that Lessee may remove the permanent improvements constructed, erected and placed by it within such reasonable period as may be allowed by the Lessor.

24. Right to enter. The Lessor or the County and the agents or representatives thereof shall have the right to enter and cross any portion of said demised land for the purpose of performing any public or official duties; provided, however, in the exercise of such rights, the Lessor or the County shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the premises.

25. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the demised premises at all reasonable times following a published notice for the proposed disposition of the same for purposes of informing and apprising such person or persons of the condition of said lands preparatory to such proposed disposition; provided, however, that any such entry and inspection shall be conducted during reasonable hours after notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee; provided, further, that no such authorization shall be given more than two years before the expiration of the term of this lease.

26. Acceptance of rent not a waiver. That the acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant or condition of this lease, nor of the Lessor's right to re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any such breach, and the failure of the Lessor to insist upon strict performance of any such term, covenant or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition or option.

27. Extension of time. That notwithstanding any provision contained herein to the contrary, wherever applicable, the Board may for good cause shown, allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

28. Justification of sureties. Such bonds as may be required herein shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and qualified to do business as such in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates

of deposit (payable on demand or after such period as the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to said Lessor a deed or deeds of trust of real property, all of such character as shall be satisfactory to said Lessor and valued in the aggregate at not less than the principal amount of said bond. It is agreed that the value at which any securities may be accepted and at any time thereafter held by the Lessor under the foregoing proviso shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until such consent be granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation hereunder.

29. Waiver, modification, reimposition of bond provision. Upon substantial compliance by the Lessee of the terms, covenants, and conditions herein contained on its part to be observed or performed, the Lessor at its discretion may waive or suspend the performance bond and/or improvement bond requirements or modify the same by reducing the amount thereof; provided, however, that the Lessor reserves the right to reactivate or reimpose said bond and/or bonds in and to their original tenor and form at any time throughout the term of this lease.

30. Quiet enjoyment. The Lessor hereby covenants and agrees with the Lessee that upon payment of said rent at the times and in the manner aforesaid and the observance and performance of the covenants, terms and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess and enjoy the demised premises for the term hereby demised, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through or under it.

31. Surrender. That the Lessee shall, at the end of said term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the demised premises, together with all improvements existing or constructed thereon unless provided otherwise. Furthermore, upon the expiration, termination and/or revocation of this lease, should the Lessee fail to remove any and all of Lessee's personal property from the premises, the Board of Land and Natural Resources may remove any and all such personal property from the premises and place said property in storage at the cost and expense of Lessee, and the Lessee does hereby agree to pay all costs and expenses for removal and storage of such personal property.

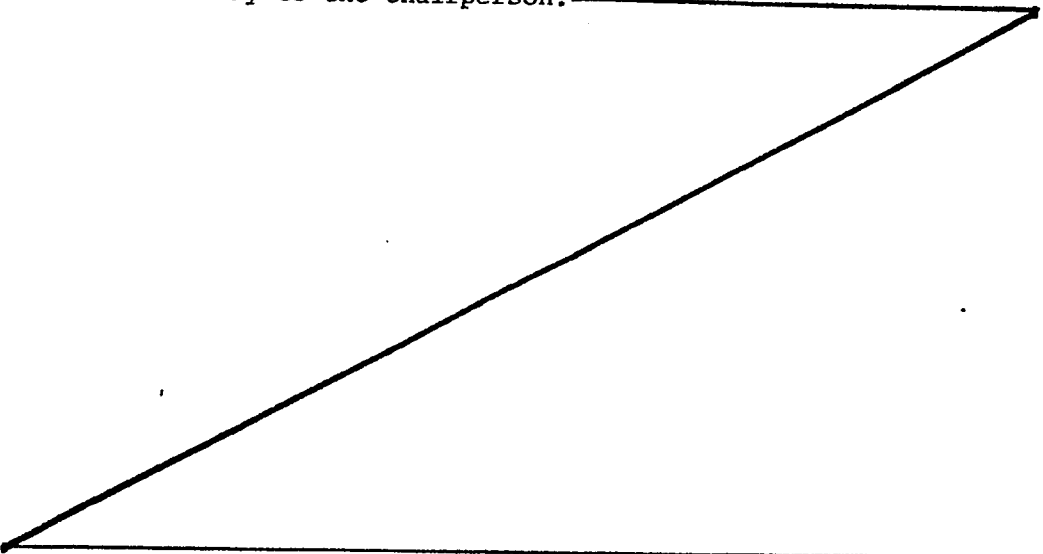
32. Non-warranty. The Lessor does not warrant the conditions of the leased premises, as the same is being leased as is.

33. Incorporation by reference. References to various parcels of land herein are in accordance with those designated in the Notice of Sale and the Conduct of Sale which, together with the Special Notice to Bidders are incorporated herein and made a part hereof. The terms of this lease shall govern where there is any inconsistency between the terms thereof and the terms contained in the Special Notice to Bidders.

34. Utilization of land. The Lessee shall, at its own cost and expense, clear the demised premises of all noxious grasses, trees and plants and plant adaptable grasses and trees approved by the chairperson. The Lessee shall also maintain the lawn and coconut grove in a manner consistent with modern nursery and landscaping practices.

35. Annual Report. The Lessee shall submit to the Lessor an annual written report on its activities during the preceding year. This annual report shall be submitted in duplicate and shall address efforts made towards maintenance and improvement work required by this lease.

36. Construction of improvements. The Lessee may construct or provide non-commercial structures upon the demised premises subject to the following conditions:
(1) prior written approval of the chairperson; and (2) upon surrender of the demised premises, Lessee shall remove these structures and restore the premises to a condition satisfactory to the chairperson.



Definitions.

As used herein, unless clearly repugnant to the context:

(a) "Chairman" shall mean the Chairman of the Board of Land and Natural Resources of the State of Hawaii or his successor;

(b) "Lessee" shall mean and include the Lessee herein, its heirs, executors, administrators, successors or permitted assigns, according to the context hereof;

(c) "Holder of a record of a security interest" is a person who is the owner or possessor of a security interest in the land demised and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of such interest;

(d) "Premises" shall be deemed to include the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon;

(e) The use of any gender shall include all genders, and if there be more than one lessee, then all words used in the singular shall extend to and include the plural;

(f) The paragraph headings throughout this lease are for the convenience of the Lessor and the Lessee and are not intended to construe the intent or meaning of any of the provisions thereof.

(g) "Waste" shall be deemed to include, but not limited to, (1) permitting the premises or any portion thereof to become unduly eroded and/or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds in uncultivated portions thereof and (3) failure to employ all of the usable portions of the demised premises.

IN WITNESS WHEREOF, the parties hereto have caused
these presents to be executed this 15th day of March,
1984.

STATE OF HAWAII

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

May 14, 1982

By

S. Ono
Chairman and Member
Board of Land and
Natural Resources

By

W. Kealoha
Member
Board of Land and
Natural Resources

LESSOR

FORT ASSOCIATES LIMITED PARTNERSHIP
a Texas Limited Partnership by
Amfac Property Corp. its General Partner

Approved as to Form:

By ms

By

William K. Salas
Its PRESIDENT

By

Maureen C. Jones
Its ASSISTANT SECRETARY

LESSEE

APPROVED AS TO FORM:

Anna L. Hanaka
Deputy Attorney General

Dated: 10/14/83

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this _____ day of JAN 27 1984, 19____, before
me appeared TENEY K. TAKAHASHI and MAUREEN A. JONES,
to me personally known, who, being by me duly sworn, did say

that they are the PRESIDENT and ASSISTANT SECRETARY
of AMFAC PROPERTY CORP., a Hawaii corporation, a general
partner of FORT ASSOCIATES LIMITED PARTNERSHIP, a Texas limited
partnership; and that the seal affixed to the foregoing instru-
ment is the corporate seal of said corporation, and that said
instrument was signed and sealed in behalf of said corporation
by authority of its Board of Directors as general partner of
(and on behalf of) said partnership by authority of the Limited
Partnership Agreement of said partnership; and said officers
acknowledged said instrument to be the free act and deed of
said corporation as said general partner.

L.S.

Karen Lynn Akau
Notary Public
State of Hawaii

My commission expires: Oct. 22, 1986



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 13,898

December 17, 1962

REVISED DECEMBER 1962

WAILUA COCONUT GROVE

PARCEL F

Wailua, Kawaihau (Puna), Kauai, Hawaii

Being a portion of the Government (Crown) Land of Wailua

Beginning at the south corner of this parcel of land, on the northwest side of Wailua Coconut Grove Drainage Ditch Right-of-Way, and on the northeast side of Kuamoo Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 4863.51 feet South and 6178.43 feet East, as shown on Government Survey Registered Maps 2699 and 2716, thence running by azimuths measured clockwise from True South:-

1. 120° 36' 560.10 feet along the northeast side of Kuamoo Road;
2. Thence along the northeast side of Kuamoo Road, on a curve to the right with a radius of 780.00 feet, the chord azimuth and distance being 121° 10' 21" 15.59 feet;
3. 168° 14' 457.76 feet along Parcel 1, Wailua Drainage Canal;
4. 241° 30' 658.93 feet along L.C.Aw. 3561 to Iosia Kaumualii to a concrete monument;
5. 137° 35' 244.22 feet along L.C.Aw. 3561 to Iosia Kaumualii;
6. 239° 54' 60.40 feet along Lot 1-B of Wailua Rice and Kula Lots;
7. 277° 30' 55.10 feet along Lot 1-B of Wailua Rice and Kula Lots;
8. 299° 07' 150.70 feet along Lot 1-B of Wailua Rice and Kula Lots;
9. 265° 40' 230.00 feet along Lot 1-B of Wailua Rice and Kula Lots;

EXHIBIT "A"

- 2 -

10. 303° 46' 190.04 feet along Grant 12211 to Ernest Apana, Lot 1-C of Wailua Rice and Kula Lots to a pipe;
11. 28° 39' 30" 732.39 feet along Lots 2 and 1 of Land Court Application 1667 to a pipe;
12. 91° 00' 80.75 feet along L.C.Aw. 3568 Apana 2 to Kelani;
13. 359° 00' 85.80 feet along L.C.Aw. 3568 Apana 2 to Kelani;
14. 271° 00' 32.80 feet along L.C.Aw. 3568 Apana 2 to Kelani to a pipe;
15. 28° 39' 30" 243.10 feet along Lot 1 of Land Court Application 1667 to a pipe;
16. 295° 50' 109.30 feet along Lot 1 of Land Court Application 1667 to a pipe;
17. 20° 32' 18.89 feet along the northwest side of Wailua Coconut Grove Drainage Ditch Right-of-Way;
18. 345° 14' 28.89 feet along the northwest side of Wailua Coconut Grove Drainage Ditch Right-of-Way;
19. 29° 47' 30" 73.01 feet along the northwest side of Wailua Coconut Grove Drainage Ditch Right-of-Way to the point of beginning and containing an Area of 14.834 Acres.

Subject, however, to a right-of-way ten (10.00) feet wide, in a nature of an easement in favor of L.C.Aw. 3568 Apana to Kelani for ingress and egress between said L.C.Award and Kuamoo Road, such right-of-way to be designated by the Commissioner of Public Lands or his successors in office at such time as he may deem proper and necessary.

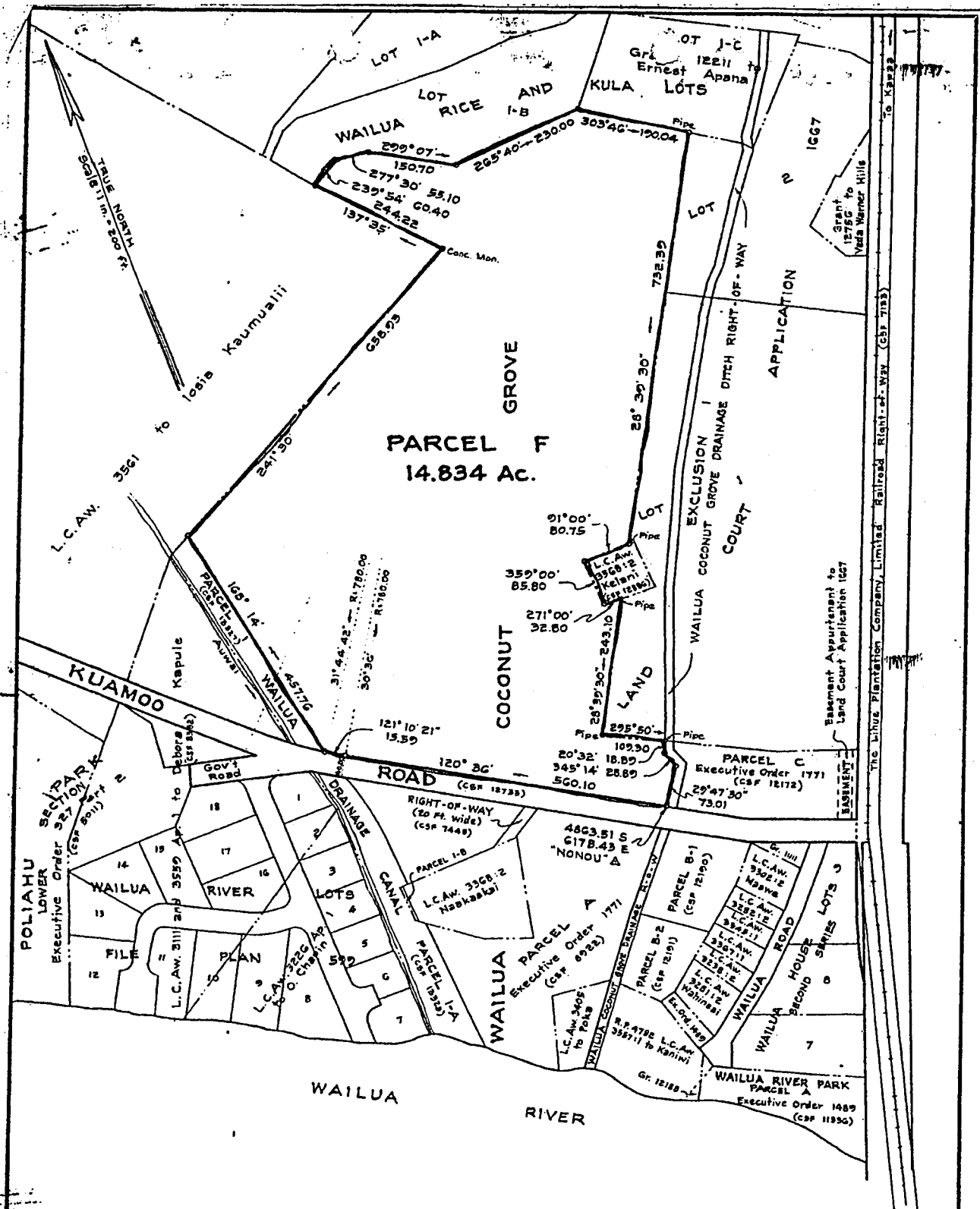
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

Compiled from Govt.
Survey Records.

By: Ichiro Sakamoto
Land Surveyor

ac

N	S	E	W	Area	coord	C.B.14	P. Hashimoto
285.11	1285.12	1344.99	1344.98	14.834	same as	2800 48	D. 17 141.2



REVISED DECEMBER 1962
WAILUA COCONUT GROVE
PARCEL F
Wailua, Kawaihau (Puna), Kauai, Hawaii

Scale: 1 inch = 200 feet

JOB 1403
C.BK

TAX MAP 4-1-03

C. S. F. No. 13898

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

EXHIBIT "B"

1.S. Dec. 17, 1962

COCO PALMS HOTEL OWNER/DEVELOPER TIMELINE

1953	Gus Guslander opens Coco Palms Lodge
1969	AmFac buys Coco Palms Hotel from Guslander
08/18/1983	65 year lease commenced between Hawaii DLNR and AmFac through 8/17/2048 12+ acre Wailua Coconut Grove
1985	Wailua Associates buys the hotel from AmFac
9/11/1992	Hurricane Iniki destroys Coco Palms Hotel
1992 – 2005	Wailua Associates in lawsuits with flood and hurricane insurers over coverage
1/27/2006	Wailua Associates sells hotel to Coco Palms Ventures LLC
7/25/2014	Coco Palms Ventures LLC sells the hotel to RP11 Coco Palms LLC
5/6/2016	RP11 Coco Palms LLC sells hotel to Coco Palms Hui LLC (Chad Waters and Tyler Greene)
2016	Stillwater Equity and Reef Property Capital Group (Reef PCG) loan Waters and Greene (Coco Palms Hui) \$11.2 million for hotel reconstruction
2018	Coco Palms Hui (Waters and Green) allegedly in default on repayment of loan, Stillwater Equity takes over management of hotel reconstruction project and listed it for sale but found no buyers
6/14/2019	Private Capital Group, as agent for Reef PCG, the lender, files foreclosure action against Coco Palms Hui (Waters and Greene)
7/26/2021	Private Capital Group bids \$22 million at the foreclosure auction. There are no other bidders.
5/13/2022	Private Capital Group assigns title of the hotel to RP21 Coco Palms LLC. A Commissioner's Deed conveys title to RP21 Coco Palms LLC, owned by Reef PCG

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
Office of Conservation and Coastal Lands
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
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

Ref:OCCL:MC

ENF KA-23-30

NOTICE OF ALLEGED VIOLATION & ORDER

Coco Palms Ventures LLC
c/o Stillwater
160 W. Canyon Crest Rd
Alpine, UT 84004

Subject Alleged unauthorized land uses in the Conservation District
Kapa'a, Kawaihau, Kaua'i
Tax Map Key Parcel (4) 4-1-003:004

Dear Landowner,

It has come to the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands' (OCCL) attention that there appears to have been work done within the Hawai'i State Land Use Conservation District without proper authorization.

OCCL has received evidence that machinery has been used to clear trees and vegetation, and to grub and grade, on tax map key parcel (4) 4-1-003:004.

Land uses in the Conservation District are regulated by OCCL pursuant to Hawai'i Revised Statutes (HRS) Chapter 183C, Conservation District and Hawai'i Administrative Rules (HAR) Chapter 13-5.

The Protective Subzone in the subject area is shaded green in Exhibit 1. Exhibit 2 shows the approximate location of the alleged work. Exhibit 3 contains drone footage from April 7, 2023 showing an excavator pushing green waste on the property. Exhibit 4 shows photos from April 13, 2023 showing cleared land, piles of vegetation, and dirt road.

Our office does not have any records of any permit being sought or secured for any land use on the subject parcel. This constitutes a potential land use violation, which may subject you as landowner to fines pursuant to HRS 183C-7, HRS.

NOTICE IS HEREBY GIVEN that you may be in violation of Hawai'i Administrative Rules (HAR) Title 13, Chapter 5, entitled Conservation District providing for land uses within the Conservation District, enacted pursuant to the Hawai'i Revised Statutes (HRS), Chapter 183C.

Pursuant to §13-5-2, HAR, "Land use" means:

- (1) The placement or erection of any solid material on land if that material remains on the land more than thirty days, or which causes a permanent change in the land area on which it occurs;
- (2) The grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land;
- (3) The subdivision of land; or
- (4) The construction, reconstruction, demolition, or alteration of any structure, building, or facility on land.

The Department of Land and Natural Resources (DLNR) has reason to believe that:

1. The clearing of vegetation, grubbing, and grading has occurred on TMK: (4) 4-1-003:004, located within the State Land Use Conservation District, Protective Subzone; and
2. These land uses were not authorized by the Department of Land and Natural Resources under Chapter 13-5, HAR.

We recommend that you stop all work. Please provide our office with a statement regarding these allegations within thirty days of this letter.

Pursuant to 183C-7(b), HRS, the Board of Land and Natural Resources (Board) may subject you to fines of not more than \$15,000.00 per violation in addition to administrative costs and costs associated with land or habitat restoration, or both, if required.

Should you fail to immediately cease such activity after written or verbal notification from the department, willful violation may incur an additional fine of up to \$15,000.00 per day per violation for each day in which the violation persists.

Should you have any questions pertaining to this letter, please contact Michael Cain at the Office of Conservation and Coastal Lands at michael.cain@hawaii.gov.

Sincerely,

Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

Copy: DOCARE (Kaua'i); Land Division (Kaua'i); Planning Department

Protective Subzone, Kapaa



4/13/2023

1:7,696
0 0.05 0.1 0.2 mi
0 0.07 0.15 0.3 km
© 2023 Microsoft Corporation © 2023 Maxar ©CNES (2023) Distribution
Airbus DS

Exhibit 1: Conservation District, Protective Subzone



Exhibit 2: Area of alleged violation

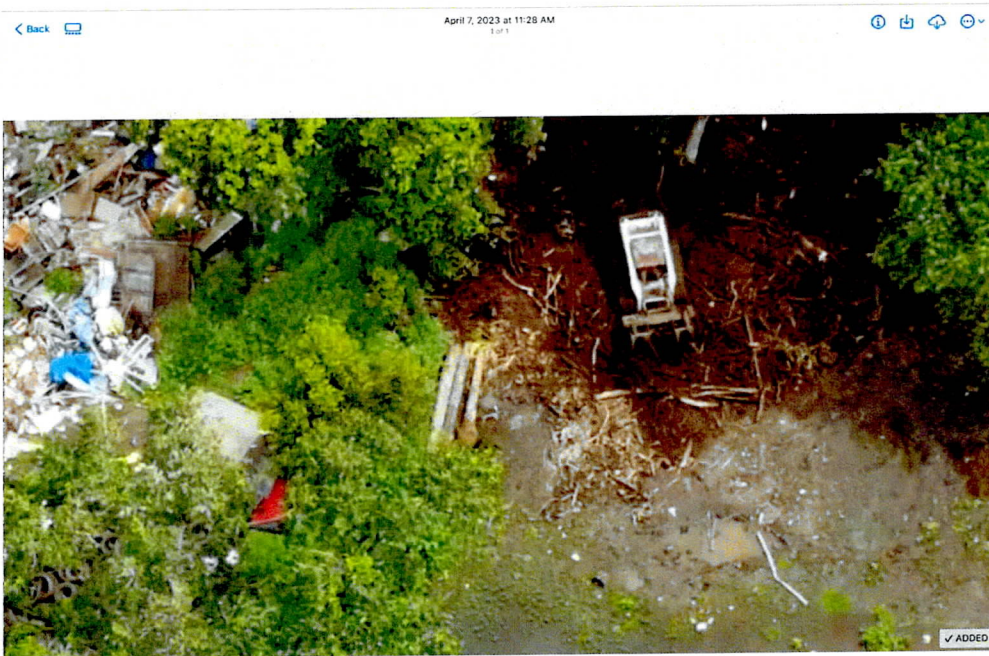
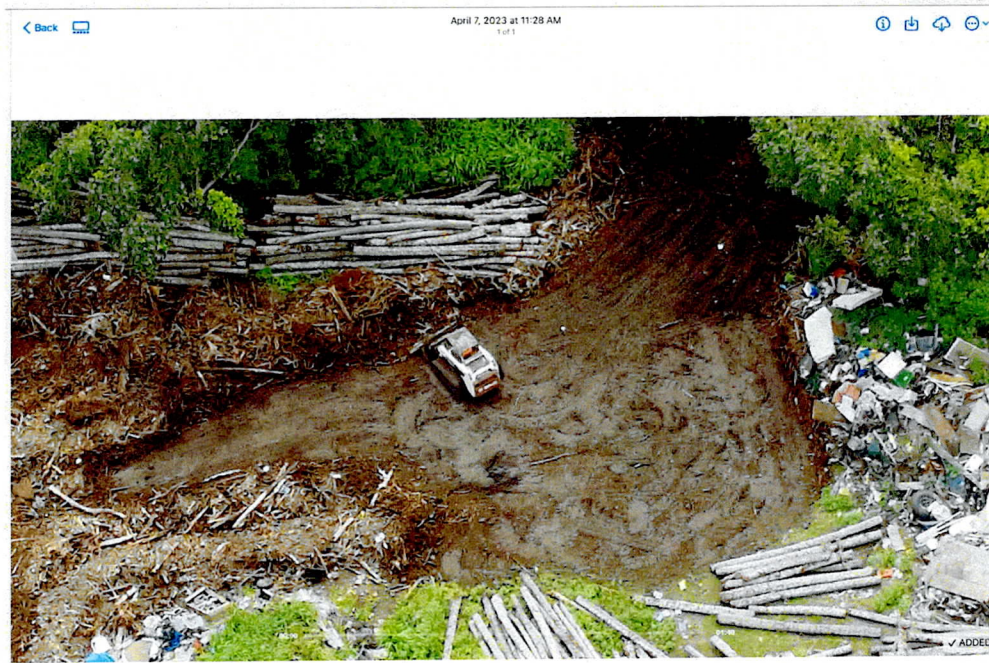


Exhibit 3: Drone footage, April 7, 2023



Exhibit 3: Drone footage, April 7, 2023



Exhibit 4: Ground photographs, April 13, 2023

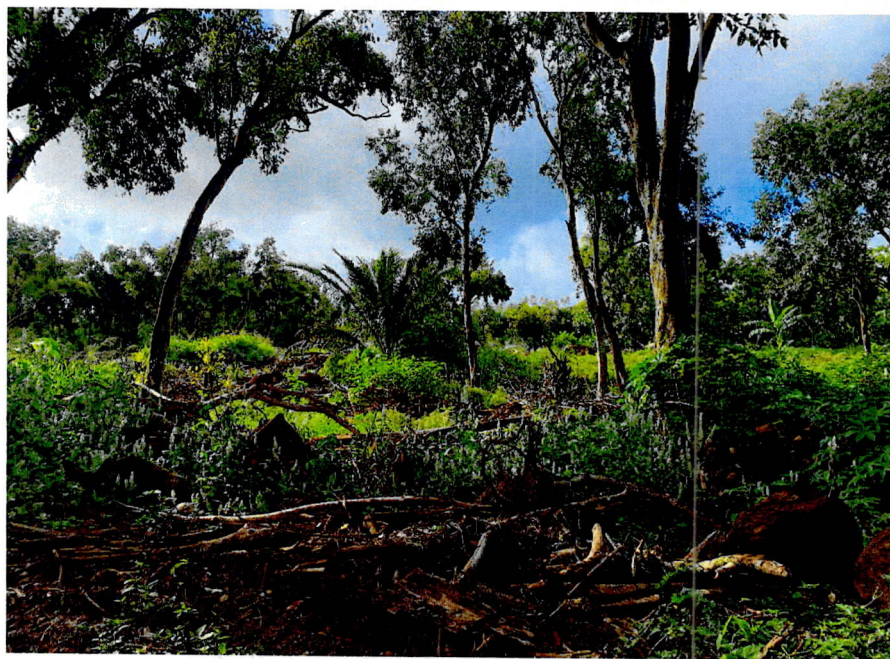


Exhibit 4: Ground photographs, April 13, 2023



Exhibit 4: Ground photographs, April 13, 2023

Shanlee Jimenez

From: Ellen Ebata <hawaiiellie@gmail.com>
Sent: Monday, October 23, 2023 12:27 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Chair and Members of the Kauai County Planning Commission,

Please suspend any further development at the former Coco Palms Hotel site.

The "vocal minority" that current developers, Reef Capital, referred to - ie, the community members who showed up for their October 16th meeting - is actually a group consisting of brilliant, courageous, well-informed, well-intentioned, experienced activists who recognize the dangers and pitfalls associated with this project.

*Despite multiple triggers, no Environmental Assessment (EA) or Environmental Impact Statement (EIS) has been conducted

*No shoreline setback survey has been conducted. Like an EIS, this is essential as climate catastrophe devours our coastlines

*The environmental, cultural, traffic and other assessments are inadequate and outdated. The cultural value of the area cannot be overstated - sacred land, birthplace and home to alii. And how will that already clogged corridor handle the traffic that would come with a 350-room resort?

*A BLNR investigation into the developers' unauthorized cutting of coconut trees on conservation zoned land is not yet complete

*No National Pollutant Discharge Elimination System (NPDS) permit has been obtained

*The Wailua Wastewater Treatment Plant is already in disrepair and overburdened. Add to this a 350-room hotel and what will be the result?

After its destruction by hurricane Iniki in 1992, multiple developers have tried unsuccessfully to restore the Coco Palms Hotel to its former glory. Surely you have

pondered the reasons behind this tortured history. Listen!
As this is about the aina speaking loudly and clearly that
until regulations are followed and an acceptable plan is
developed for use of this land, it is unavailable for development.

This project is an environmental catastrophe in the making.
With the authority invested in you, please spare Kauai this
disaster.

Thank you for your consideration of these vitally
important matters.

Sincerely,

Ellen Ebata
Koloa

Shanlee Jimenez

From: Natalie Ellis <koko1284@gmail.com>
Sent: Monday, October 23, 2023 5:59 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

I am writing to voice my concern about the lawless actions by the developers for Coco Palms Hui. They have continually shown that they cannot be trusted. The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land. The developers do not have space for the legally required number of parking stalls for a large resort in their one parcel designated for parking without the proper revocable permits. Those were terminated by the BLNR in August 2023. Workforce housing sites have not been obtained by the developer (as required by law) and they have not obtained a National Pollutant Discharge Elimination System. In the developers most recent plans, they are not in compliance with the governing Iniki ordinance stating that buildings must be rebuilt to the original footprint of the preexisting structure. No environmental assessments or environmental impact statements have been done. The environmental, cultural, traffic, and other assessments that have been done are inadequate and outdated. Please do not allow these untrustworthy developers to bypass these requirements. It is a slap in the face to the people, the process and ultimate lack of respect for such a special place.

Mahalo,
Natalie Ellis

Shanlee Jimenez

From: Nikki Cristobal <nikkicristobal808@gmail.com>
Sent: Monday, October 23, 2023 6:27 AM
To: Planning Department
Subject: Testimony for Agenda Item G.1.a, Planning Commissions Meeting on 10/24/2023

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Committee,

I am writing in concern for the annual review of the proposed Coco Palms resort development.

I strongly urge the Planning Committee to suspend the Coco palms development. There is investigation by the DLNR into illegal activity by the developers in the cutting of historic coconut trees on-site that is designated State Conservation land and their RPs required to proceed with development are nullified.

Additionally, workforce housing has not been secured in a time where we are in housing crisis. Further, the developers have not proven they have a legal parking plan should their development proceed without RPs, they do not have the required State EIS or EA, they have no shoreline setback studies, and no traffic impact studies, and there is existing community concern about their litigation regarding their title to the fee simple parcels.

There exists over eight legal concerns over the continuance of the coco palms development by the current developers in addition to ethical and cultural concerns and overwhelming community opposition. Allowing this development to continue as planned would not only show the Planning Committee's lack of concern for upholding the law but would also should a lack of care for our community and culture.

I urge the Planning Committee to make the only proper decision in this case and stop the development of Coco Palms.

Mahalo,

-Nikki Cristobal, Ph.D.

Shanlee Jimenez

From: noelanjosselin808@gmail.com
Sent: Monday, October 23, 2023 7:30 AM
To: Planning Department
Subject: Oct. 24, 2023 Agenda Item G-1-a: Revoke Coco Palms permits and variances

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To: Chair DeGracia and Kauai Planning Commission:

Please cancel and revoke SMA(U)-2015-6, Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1, as they are based on inadequate, incomplete, mis-information. The impacts of a 300 seat public event center and a new 4 story commercial spa building to this project enabled by these permits and variances have not been considered.

The reasons to revoke are;

1. The new Coco Palms project is non-conforming to the CZO, 2. The new Coco Palms project should have triggered an Environmental Impact Statement under Class IV Zoning Permit 2015-8.
3. SMA(U)-2015-6 does not consider protection of any Special Management Area resources.
4. There are No publicly beneficial reasons to eliminate parking and setback and lot coverage requirements this large resort project granted by Project Development Use Permit PDU-2015-7.
5. Variance Permit V-2015-1 for deviations of lot coverage, setback, parking and 6' sound barrier wall should be revoked as these actions have major environmental consequences.
6. The Event Center considered by Building Permits 19-1862, 19-1863, 19-1864, 19-1865 did not exist. There were tennis courts and a zoo during historic resort era, not a 300 seat Event Center.

Many of these issues have NOT been disclosed to the community, please cancel and revoke these permits.

Mahalo,
Noelani Josselin
Sent from my iPhone

Shanlee Jimenez

From: Lauren Esaki-Kua <laesaki@gmail.com>
Sent: Monday, October 23, 2023 7:52 AM
To: Planning Department
Subject: Testimony against Coco Palms development progressing

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission,

I am writing to encourage you to prevent any further work at Coco Palms due to the developers failing to conduct an Environmental Assessment, which is required under HRS 343; the BLNR terminated revocable permits; a failure to conduct a shoreline setback survey; as well as a failure to procure an NPDES permit. These are important legal requirements that have been put in place to ensure our environmental and cultural places are cared for and that there are no significant impacts to our community. Without such assessments and permits, it is unconscionable to allow the developers to carry forward any future work. I also urge you to listen to the voices of Kaua'i residents, who will bear the brunt of the negative effects of such a development that has --from the start-- failed to comply with basic planning requirements.

Mahalo for your time in serving our island and for taking the voices of our residents to heart.

Lauren Esaki-Kua

Shanlee Jimenez

From: Sandy Swift Photography <sandyswiftphotography@gmail.com>
Sent: Monday, October 23, 2023 8:01 AM
To: Planning Department
Subject: Agenda Item G-1-a Coco Palms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please help stop this development before its too late and there is no way to undo what's been done...

We have a window of opportunity to choose what's right for the island versus what's right for outside interests.

No good can come of a hotel at Voco Palms site

- * There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- * The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- * Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- * The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- * No shoreline setback survey has been conducted;
- * No required workforce housing sites have been obtained by the developer;
- * No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- * The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Shanlee Jimenez

From: Sandy Swift <sandy.swift321@gmail.com>
Sent: Monday, October 23, 2023 8:08 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please support the community in fighting this development. No developer to should be able to bypass the needs of the island and the processes set in place to protect it.

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

Shanlee Jimenez

From: sandy swift <littlestan78@yahoo.com>
Sent: Monday, October 23, 2023 8:11 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please support the community in fighting this development. No developer should be able to bypass the needs of the island and the processes set in place to protect it.

- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

[Sent from Yahoo Mail on Android](#)

Shanlee Jimenez

From: Laurie And James <jamesnlaurie@yahoo.com>
Sent: Monday, October 23, 2023 8:32 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,
Planning Department and members,
Mahalo for taking the time to read our concerns about Coco Palms.
Please, take into consideration for the people of this island we call home, Kaua'i.
We, do Not want to have any more traffic in this main corridor, as we are dealing with a heavy volume, during the morning rush our, and pauhana time.
This, Reef Capital Partners LLC. Do Not have the residents of Kaua'i in mind!
It concerns my family and I, that they were able to bypass strict environmental laws in this area;
~There has been No Environmental Impact Assessment.
~No shoreline setback survey, which we know how bad it is in the winter.
~No 'National' Pollutant Discharge Elimination System(NPDES) as we all can smell the pollutants as we are passing in this corridor.
~The developers are Not in Compliance with governing Iniki Ordinance.
We Do Not Need Another 350 room Hotel in This Area, Please.
What We Do Need Is A Host Cultural Center.
We cannot go Back into time, as it once was. But, we can share it and reminisce.
The population has tripled if not more, and we cannot have This built here.
This area is a sacred site to many, it is a wetland area, and for this LLC to build and disappear with the finances going back with them, how much will Our County lose out on?
Building a Cultural Center will bring revenue to the County as well as the State. We (The State and County) and the People will Benefit more, If it was managed locally.
We have every Culture Center, except a Host Cultural Center.
Mahalo for taking the time to read our concerns.

Sincerely,
Laurie Avilla and Ohana

Shanlee Jimenez

From: Kate Wilson <kate.com@gmail.com>
Sent: Monday, October 23, 2023 8:50 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

From:

Kate Wilson

374 Eggerking Rd.

Kapa'a, HI 96746

kate.com@gmail.com

10/23/2023

To: Kaua'i County Planning Department

Re: Accountability of the Coco Palms Site Developer for Non-Compliance with Environmental, Legal, and Regulatory Standards

To Whom it May Concern

I am writing to express my deep concern regarding the ongoing development project led by the current developer of the former Coco Palms Hotel site. As a concerned citizen and a resident of this community, I feel compelled to bring to your attention the numerous instances of non-compliance and violations committed by the developers. It is my sincere hope that you will take the necessary actions to hold them accountable for their actions and ensure that the development adheres to all relevant environmental, legal, and regulatory standards.

Lack of Environmental Assessment (EA) and Environmental Impact Statement (EIS): Despite multiple triggers that should have prompted the requirement for an Environmental Assessment or Environmental Impact Statement, the developer has failed to conduct any such assessments. This disregard for the environmental implications of their project is deeply concerning and should not be tolerated.

Unauthorized Cutting of Coconut Trees: The developer is currently under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation-zoned land. This action not only demonstrates a lack of respect for our natural resources but also raises questions about their willingness to comply with established regulations.

Revocable Permits (RPs) Termination: In August 2023, the BLNR terminated the Revocable Permits issued to the developer, including a parcel designated for parking. Without these permits, the developers do not have the legally required number of parking stalls for a 350-room resort, thereby further violating regulations.

Inadequate and Outdated Assessments: The environmental, cultural, traffic, and other assessments provided by the developer are inadequate and outdated. It is essential to ensure that accurate and current information is used to assess the project's impact.

Lack of Shoreline Setback Survey: The absence of a required shoreline setback survey raises concerns about the project's potential impact on the coastal ecosystem and the surrounding environment.

Workforce Housing Sites: The developer has failed to secure the required workforce housing sites, which is essential for ensuring the well-being of the local community and adhering to housing regulations.

National Pollutant Discharge Elimination System (NPDES): No NPDES permit has been obtained, putting our natural water resources at risk and demonstrating a failure to address water pollution concerns.

Non-Compliance with Iniki Ordinance: The most recent plans published by the developer do not comply with the governing Iniki ordinance, which states that buildings must be rebuilt to the original footprint of the preexisting structure. This non-compliance is inexcusable and must be rectified.

In light of these numerous violations and non-compliance issues, I urge you to take immediate and stringent action against the developer. This should include thorough investigations, the imposition of penalties, and a cease-and-desist order on any further development until all outstanding issues are addressed. The protection of our environment, culture, and community should be of paramount importance, and we must hold developers accountable for their actions when they threaten these values.

I trust that the Planning Department and the County of Kaua'i will act swiftly and decisively to rectify these matters and protect the best interests of our community. We are all counting on you to ensure the compliance of all relevant environmental, legal, and regulatory standards and that our cherished resources and heritage are safeguarded for future generations.

Thank you for your attention to this pressing matter.

Sincerely,

Kate Wilson

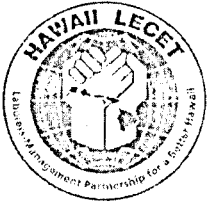
From: Brian <brian@hawaiilecet.org>
Sent: Monday, October 23, 2023 8:55 AM
To: Planning Department
Subject: Testimony in support of Coco Palms
Attachments: Kauai-PlanningCommission_Coco-Palms-StatusReport_2023-October-24..pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kauai Planning Commission,

Please see attached for our written testimony for the October 24, 2023 hearing at 9:00 am, for the Coco Palms annual status report for the Kauai Planning Commission, Agenda Item G.1.a

Mahalolo!
Hawaii LECET



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

650 Iwilei Road, Suite 285 • Honolulu, HI 96817 • Phone: 808-845-3238 • Fax: 808-845-8300

October 23, 2023

Email: <planningdepartment@kauai.gov>

To: **Francis DeGracia, Chair**
Kaua'i Planning Commission, City & County of Kaua'i
Lihue Civic Center
Moikeha Building, Meeting Room 2A-2B
4444 Rice Street
Lihue, Kauai, Hawaii 96766

Re: **TESTIMONY IN SUPPORT OF COCO PALMS RESTORATION**

FOR HEARING ON TUESDAY, OCTOBER 24 2023 at 9:00 AM, MOIKEHA BUILDING

Aloha Honorable Chair DeGracia, Vice Chair Apisa, and Commissioners,

The **Hawaii Laborers & Employers Cooperation and Education Trust (Hawaii LECET)** is a labor + management partnership established in 1992 between the 5,000 statewide members of the Hawaii Laborers Union and over 250 construction companies from the *General Contractors Association* and the *Building Industry Association*.

Hawaii LECET is in strong support of the restoration of Coco Palms. We support the speedy restoration of this already long-delayed project. The owner has committed to using local union labor to create quality jobs for our area workforce., and the new Coco Palms development has already committed to maintaining public access and providing public parking – a win-win for all.

The Coco Palms project will contribute hundreds of millions to Kauai's economy, and we urge the Kauai Planning Commission to continue to support this project. Thank you for this opportunity to offer our support.

Mahalo,

**Hawai'i Laborers & Employers
Cooperation and Education Trust**

Shanlee Jimenez

From: Roslyn Cummings <mana.eolakakouhawaii@gmail.com>
Sent: Monday, October 23, 2023 8:57 AM
To: Planning Department
Subject: Testimony for Agenda Item G-1-a

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- There has been no Environmental Assessment (EA) or Environmental Impact Statement (EIS) done despite multiple triggers;
- The developers are still under investigation by the BLNR for the unauthorized cutting of coconut trees on conservation zoned land;
- Without the Revocable Permits (RPs), which were terminated by the BLNR in August 2023, one parcel of which was designated for parking, the developers do not have space for the legally required number of parking stalls for a 350-room resort;
- The environmental, cultural, traffic, and other assessments are inadequate and outdated;
- No shoreline setback survey has been conducted;
- No required workforce housing sites have been obtained by the developer;
- No NPDES (National Pollutant Discharge Elimination System) has been obtained; and
- The most recent plans published by the developers are not in compliance with the governing Iniki ordinance that states buildings must be rebuilt to the original footprint of the preexisting structure.

I urge the Kauai County Planning Commission under the direction of Planning Director Ka'aina Hull to consider the above statements as FACTS

I Roslyn Manawaiakea Malama mare Cummings do not support any development plans that do not include environmental, cultural, and religious factors in respect to the Law.

Aloha.

Shanlee Jimenez

From: Michael Goodwin <goodwinkip@gmail.com>
Sent: Monday, October 23, 2023 9:00 AM
To: Planning Department
Subject: Agenda Item G-1-a

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commissioners,

Please revoke:
SMA (U)-2015-6
Class IV Zoning Permit 2015-8
Project Development and Use Permit PDU-2015-7
Variance Permit V-2015-1
Conditions Dec 21, 2018 Planning Commission letter.

These permits were granted eight years ago, at a time when the public was more favoring, or ambivalent to, increased tourism with job creation as a prime motivator. Since then, airport arrivals and car rental have much increased while highway infrastructure, wastewater treatment capacity, beaches and other visitor destination sites have stayed the same. Meanwhile unemployment is near a record low, and worker housing is an urgent problem, and unaddressed by this developer.

"Overtourism" has entered the Island lexicon.

A National Register of Historic Places Registration Form prepared in January 2020 describes Coco Palms Resort this way, "...small scale buildings, where low rise forms were designed to convey...a feeling of Polynesia...the site's private rural character gives the property a singular Hawaiian sense of place."

Developer Reef Capital LLC's ambitions are wildly removed from this yesteryear portrayal. Most of the 25 buildings on the plan, nominally "in the footprint", are at least a story taller, rising up to 49 feet. Added retail businesses and an event center stress the coconut grove with its State and federal protections. Together with traffic impacts, they demand a revised Traffic Impact Analysis and an EIS, allowing for public comment.

The public's interests are not served by allowing this large scale project to proceed. Please serve the public by revoking the above permits.

Thank you,
Kip Goodwin