

April 12, 2016

County of Kauai Planning Commission
4444 Rice Street
Lihue, HI 96766

RE: **April 12, 2016 Agenda Item H-Executive Session: Coconut Beach Development LLC**
Tax Map Key 4-3-002:015, 16 & 20

Aloha Chair Mahoney and Commissioners,

A shocking event transpired on this property last week when construction of the Dust Fence began along the coastline ON the certified shoreline, despite County rules requiring a 40-foot setback. Responding to our concerns, the county notified the landowner to move the fence, but it's unclear how this mistake occurred.



W-KNA has confirmed with the Public Works Engineering Division that it may take over 2 months before the Grubbing, Grading & Stockpiling permit is approved. Without it, building cannot commence so the dust fence (although permissible) seems premature. Just consider the long-standing Coco Palms' dust fence.

Also, CBD has another certified shoreline application pending (KA-407). The survey photos they submitted to DLNR disregard on-the-ground evidence of the high wash of the waves and attempt to minimize the width of the public beach. Photos below and on page 2, illustrate how far landward the waves actually reach. This evidence resulted in CBD withdrawing their shoreline application KA-402 in November 2015, only to re-submit for KA-407 on January 25, 2016.



Arrows point to the debris line observed by DLNR staff during the 10.14.2015 Site Inspection.

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CBD's Permit Condition #5 regarding a **Grant of Easement** to the County for the "lateral coastal multi-use beachwalk" also requires scrutiny. Residents recently learned that CBD is making a major monetary contribution towards the Multi-Use Path. This raises doubts about whether the Path's location will be sited fairly, or be biased towards the resort's interests. For example, there was the huge error in their Landscape Plan which mistakenly identified 60+ coastal trees as being on private property, instead of the public beach.

Also alarming is the developer's intent to remove mature trees from the beach. The trees do not block lateral access along the beach transit corridor [HRS 115-10]. Other important reasons to leave this coastal environment intact include:

- 1) preserving the beach habitat of the endangered monk seals that haul-out to rest here
- 2) protecting iwi kupuna and cultural deposits within this archaeologically significant property
- 3) maintaining the viability of traditional activities of fishers and gatherers
- 4) sustaining the valuable shade and scenic qualities from the mature stand of ironwood trees
- 5) buffering the high intensity use of the Path/Resort from those enjoying the coast's serenity
- 6) retaining the health of shoreline processes because the existing trees:



- a. provide an excellent root system for dune stabilization
- b. serve as a natural erosion buffer and protecting property and coastal infrastructure during storms and high-wave events
- c. trap windblown sand and store excess beach sand.

The debris from the high wash of the waves shown in these 3 photos indicate that the certified shoreline could be between 10 to 30 feet landward of CBD's surveyor's delineation in shoreline application KA-407 which is pending.



Looking at **Civil No. 12-00065 SOM-KSC, the tolling agreement**, and a letter of memorandum provided by ownership, it states the subject site "will not be subject to the imposition of any laws or ordinances enacted after January 2007 to the end of the total development period provided CBD does not seek to extend or modify the entitlements. Yet, this project is moving forward very slowly and the deadline for completion of all necessary applications for building and site construction permits for the first phase was extended to December 9, 2016.



We invite you to walk the Waipouli coastline between Beach Boy and Marriott Courtyard resorts and assess this community's coastal resource assets. And, consider the dangers and possible liability to the county from exempting CBD from science-based studies that have resulted in improved safety measures along the ocean.

Mahalo for your attention to these concerns as they relate to the Commission's Executive Session.

Sincerely,

Rayne Regush, Chair
Wailua-Kapaa Neighborhood Association