

**BERNARD P. CARVALHO, JR.**  
Mayor



**GARY K. HEU**  
Managing Director

COUNTY OF KAUAI

**DEPARTMENT OF PLANNING**

**News Release**

For Immediate Release: January 29, 2013

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Michael Dahilig, DIRECTOR  
Tel (808) 241-4050

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**Planning Director moves to revoke Coco Palms permits**

LĪHU'E – Citing the lack of action on permits that were first issued in 2005, modified by the Planning Commission in 2009 and then extended for three years, Planning Director Michael Dahilig has filed a petition asking the Planning Commission to issue an order to show cause (OSC) against Coco Palms, LLC Ventures, the owner of the resort that has remained vacant since it was severely damaged by Hurricane Iniki in September 1992.

“Twenty years of blight and inaction must stop now,” stated Dahilig. Noting that the three-year time extension on the special management area (SMA) permits and their related conditions expired on January 25, 2013 without a request for extension or update from the property owner, Dahilig said “the extension was granted with the understanding that the project would be completed by the deadline, however, the property remains in limbo with no foreseeable action in sight. I believe revocation of permits is the proper course of action at this time.”

Mayor Bernard Carvalho and Council Chair Jay Furfaro concur with Dahilig’s approach. In a joint statement, they also asserted that inaction at Coco Palms is no longer acceptable. “The owners have had ample time to seek solutions and yet we are still at square one,” they stated. “It’s time to move forward and look to other options that will address the future of this historic site. Once the permit issue is resolved, we will be in a better position to discuss what those options might be.”

In his filing, Dahilig is asking the Planning Commission to place the matter on the agenda of its February 12 meeting, in order to schedule an OSC hearing with the Commission's hearings officer on Thursday, March 28, at 9:00 am.

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MICHAEL A. DAHILIG  
Director of Planning  
County of Kauai  
4444 Rice Street Suite A473  
Lihue, Hawaii 96766  
[mdahilig@kauai.gov](mailto:mdahilig@kauai.gov)  
808-241-4050

County of Kaua'i  
PLANNING DEPT.

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RECEIVED

IN THE PLANNING COMMISSION OF THE COUNTY OF KAUAI

STATE OF HAWAII

In the matter of:

Special Management Area Permit  
SMA (U)-2005-1; Project  
Development Use Permit (PD)-U-  
2005-4; Use Permits U-2005-6;  
Variance Permit V-2005-1 and Class  
IV Zoning Permit Z-IV-2005-5

Tax Map Keys (TMK): (4)-4-1-003:004;  
(4)-4-1-003:005; (4)-4-1-003:011; (4)-4-  
1-003:017; (4)-4-1-005:014; (4)-4-1-  
005:017

PLANNING DIRECTOR MICHAEL A.  
DAHILIG'S PETITION TO REVOKE  
APPLICANT COCO PALMS  
VENTURES, LLC'S PERMITS AND  
ISSUE AN ORDER TO SHOW  
CAUSE, APPOINT HEARINGS  
OFFICER AND SET HEARING;  
NOTICE OF MEETING; CERTIFICATE  
OF SERVICE

MEETING:  
February 12, 2013 at 9:00 a.m.

**PLANNING DIRECTOR MICHAEL A. DAHILIG'S PETITION TO REVOKE  
APPLICANT COCO PALMS, LLC'S PERMITS AND ISSUE AN ORDER TO SHOW  
CAUSE, APPOINT HEARINGS OFFICER AND SET HEARING**

Comes now Michael A. Dahilig, duly appointed Director of Planning of the County of Kauai (hereinafter referred to as "Director"), and hereby petitions this Honorable Commission to revoke Coco Palms Ventures, LLC's Special Management Area Permit SMA (U)-2005-1, Project Development Use Permit (PD)-U-2005-4, Use Permits U-

2005-6, Variance Permit V-2005-1 and Class IV Zoning Permit Z-IV-2005-5 at Tax Map Keys (TMK): (4)-4-1-003:004; (4)-4-1-003:005; (4)-4-1-003:011; (4)-4-1-003:017; (4)-4-1-005:014; (4)-4-1-005:017. The Director requests the Commission issue an Order to Show Cause to Coco Palms Ventures LLC and set a hearing with the Commission's hearings officer, Richard Nakamura, Esq. on Thursday, March 28, 2013 at 9:00 a.m at the Lihue Civic Center, Piikoi Meeting Room, 4444 Rice Street, Lihue, Kauai. This petition is filed pursuant to Chapter 12 of the Rules of Practice and Procedures of this Commission.

DATED: Lihue, Hawaii, 1/29, 2013

  
MICHAEL A. DAHILIG

Director of Planning  
County of Kauai

IN THE PLANNING COMMISSION OF THE COUNTY OF KAUAI

STATE OF HAWAII

In the matter of:

Special Management Area Permit  
SMA (U)-2005-1; Project  
Development Use Permit (PD)-U-  
2005-4; Use Permits U-2005-6;  
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MEMORANDUM IN SUPPORT OF  
PETITION

**MEMORANDUM IN SUPPORT OF PETITION**

WHEREAS, the Planning Commission of the County of Kauai approved Special Management Area Permit SMA (U)-2005-1; Project Development Use Permit (PD)-U-2005-4; Use Permits U-2005-6; Variance Permit V-2005-1 and Class IV Zoning Permit Z-IV-2005-5 for Tax Map Keys (TMK): (4)-4-1-003:004; (4)-4-1-003:005; (4)-4-1-003:011; (4)-4-1-003:017; (4)-4-1-005:014; (4)-4-1-005:017; and

WHEREAS, these permits included various conditions of approval to construct a resort project at the proposed site owned by Coco Palms Ventures, LLC; and

WHEREAS, the permits were modified by the Commission on April 28, 2009 (Exhibit "A"); and

WHEREAS, the Commission granted Coco Palms Ventures, LLC a three-year extension to January 25, 2013 to obtain final completion of the project as referenced in Condition #16 of the approval (Exhibit "A"); and

WHEREAS, the Director has not received any written requests for further action from Coco Palms Ventures, LLC by the close of Department business on January 25, 2013 (see Declaration of Michael A. Dahilig); and

WHEREAS, on or about January 26, 2013, the Director completed a visual investigation of Tax Map Keys (TMK): (4)-4-1-003:004; (4)-4-1-003:005; (4)-4-1-003:011; (4)-4-1-003:017; (4)-4-1-005:014; (4)-4-1-005:017 and did not note any construction reflective of the proposed plans presented before the Commission at time of approval indicative of project completion (see Declaration of Michael A. Dahilig); and

WHEREAS, the absence of final project completion as set forth by Condition #16 is a violation of the conditions set forth by this Commission; and

WHEREAS, the Director, based on investigation, believes there is reasonable cause to believe that there currently is a failure to perform according to the conditions imposed.

NOW THEREFORE, the Director prays upon this Honorable Commission it take the following action:

1. Pursuant to Section 1-12-5 confirm the finding of the Director there is reasonable cause to believe that there currently is a failure to perform according to the conditions imposed.
2. Pursuant to Section 1-12-6 of the Rules of Practice and Procedures of this commission, order the issuance of an Order to Show Cause in a form compliant with Section 1-12-6(b).
3. Order the Clerk of the Commission to issue the Order to Show Cause to Coco Palms Ventures, LLC.

4. Appoint the Commission's Hearings Officer, specifically Richard Nakamura, Esq. to conduct an Agency Hearing pursuant to Chapter 6 of the Rules of Practice and Procedures of the Planning Commission, and request a report be submitted to the Commission upon completion of the Hearings Officer's proceedings.
5. Set the hearing with the Commission's hearings officer, Richard Nakamura, Esq. on Thursday, March 28, 2013 at 9:00 a.m at the Lihue Civic Center, Piikoi Meeting Room, 4444 Rice Street, Lihue, Kauai.

Dated: Lihue, Kauai, 1/29, 2013.



MICHAEL A. DAHILIG

Director of Planning  
County of Kauai

IN THE PLANNING COMMISSION OF THE COUNTY OF KAUAI

STATE OF HAWAII

In the matter of:

Special Management Area Permit  
SMA (U)-2005-1; Project  
Development Use Permit (PD)-U-  
2005-4; Use Permits U-2005-6;  
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005:017

DECLARATION OF MICHAEL A.  
DAHILIG

**DECLARATION OF MICHAEL A. DAHILIG**

I, MICHAEL A. DAHILIG, under the penalty of perjury, hereby state the following is true and accurate to the best of my knowledge and belief:

1. I am the duly appointed Director of Planning for the County of Kauai.
2. Attached as Exhibit "A", is true and correct copy of the April 30, 2009 approval letter memorializing the extension of the final project completion date to January 25, 2013 for Management Area Permit SMA (U)-2005-1; Project Development Use Permit (PD)-U-2005-4; Use Permits U-2005-6; Variance Permit V-2005-1 and Class IV Zoning Permit Z-IV-2005-5.
3. I monitored the closing of the Department's office at County of Kauai 4444 Rice Street Suite A473, Lihue, Hawaii 96766 on January 25, 2013.
4. I reviewed all incoming correspondence at the Department's closing on January 25, 2013.
5. I have monitored all previous correspondence related to Management Area Permit SMA (U)-2005-1; Project Development Use Permit (PD)-U-2005-4; Use



Permits U-2005-6; Variance Permit V-2005-1 and Class IV Zoning Permit Z-IV-2005-5, and there were no requests for action prior to and on January 25, 2013.

6. On or about January 26, 2013, I conducted a visual investigation of Tax Map Keys (TMK): (4)-4-1-003:004; (4)-4-1-003:005; (4)-4-1-003:011; (4)-4-1-003:017; (4)-4-1-005:014; (4)-4-1-005:017 and did not note any construction reflective of the proposed plans presented before the Commission at time of approval indicative of project completion.

Declarant further sayeth naught.

DATED: Lihue, Hawaii, 1/29 2013.

  
MICHAEL A. DAHILIG

IN THE PLANNING COMMISSION OF THE COUNTY OF KAUAI

STATE OF HAWAII

In the matter of:

Special Management Area Permit  
SMA (U)-2005-1; Project  
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1-003:017; (4)-4-1-005:014; (4)-4-1-  
005:017

NOTICE OF MEETING

**NOTICE OF MEETING**

TO: Coco Palms Ventures, LLC  
1919 West Street, Suite 100  
Annapolis, Maryland 21401

and

Laurel Loo, Esq.  
4357 Rice Street, Suite 201  
Lihue, Hawaii 96766  
Attorney for Coco Palms Ventures, LLC

NOTICE IS HEREBY GIVEN that a meeting on PLANNING DIRECTOR  
MICHAEL A. DAHILIG'S PETITION TO REVOKE APPLICANT COCO PALMS  
VENTURES, LLC'S PERMITS ISSUE ORDER TO SHOW CAUSE, APPOINT  
HEARINGS OFFICER AND SET HEARING will come before the Planning Commission  
on February 12, 2013 at 9:00 a.m. Lihue Civic Center, Planning Commission Meeting  
Meeting Room, 4444 Rice Street, Lihue, Kauai

DATED: Lihue, Hawaii, 1/29, 2013.

  
\_\_\_\_\_  
MICHAEL A. DAHILIG

IN THE PLANNING COMMISSION OF THE COUNTY OF KAUAI

STATE OF HAWAII

In the matter of:

Special Management Area Permit  
SMA (U)-2005-1; Project  
Development Use Permit (PD)-U-  
2005-4; Use Permits U-2005-6;  
Variance Permit V-2005-1 and Class  
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(4)-4-1-003:005; (4)-4-1-003:011; (4)-4-  
1-003:017; (4)-4-1-005:014; (4)-4-1-  
005:017

NOTICE OF MEETING

I HEREBY CERTIFY that a copy of the foregoing document was duly served on the following parties by placing the same in the Certified United States mail, postage prepaid, on the date specified below:

Coco Palms Ventures, LLC  
1919 West Street, Suite 100  
Annapolis, Maryland 21401

and

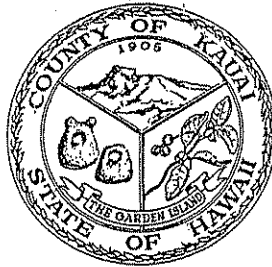
Laurel Loo, Esq.  
4357 Rice Street, Suite 201  
Lihue, Hawaii 96766  
Attorney for Coco Palms Ventures, LLC

DATED: Lihue, Hawaii, 1/29, 2013.

  
MICHAEL A. DAHILIG

COPY

**BERNARD P. CARVALHO, JR.**  
MAYOR



**IAN K. COSTA**  
DIRECTOR OF PLANNING

**GARY K. HEU**  
ADMINISTRATIVE ASSISTANT

**IMAICALANI P. AIU**  
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**

4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUA'I, HAWAII 96766-1326  
TEL (808) 241-6677 FAX (808) 241-6699

April 30, 2009

Coco Palms, LLC (nka Coco Palms Ventures, LLC)  
c/o Laurel Loo, Esq.  
4357 Rice Street, Suite 201  
Lihue, Hawai'i 96766

Subject: Transmittal of Status Report dated 4/1/09, Request for 3-Year Time Extension, and Modification and/or addition of Conditions of Approval, as authorized by Condition #19 of Special Management Area Use Permit SMA(U)-2005-1, Project Development Use Permit PD(U)-2005-4, Use Permit U-2005-6, Variance Permit V-2005-1, and Class IV Zoning Permit Z-IV-2005-5, Coco Palms, LLC, nka Coco Palms Ventures, LLC), Tax Map Key: 4-1-3: p. 4,5,11, 17 and 4-1-5: 14 & 17

The Planning Commission, at its meeting held on April 28, 2009 approved the staff recommendations as amended on the above referenced subject matter , as follows:

- Accepted the annual status report dated 4/1/09
- Granted a 3 year extension to January 25, 2013 to obtain final completion of your project as referenced in Condition #16 of the original approval. This extension of time is subject to the following conditions being completed in 6 months (or by October 28, 2009):
  1. Clean and restore the Coconut Grove, to the satisfaction of DLNR-Land Division. This includes exploring with DLNR-Land Division the possible restoration of public accessibility. All greenwaste shall be disposed of in a manner and at a site approved by the Department of Health, and shall not be retained on-site. Restoration of public accessibility can be via an access plan approved by DLNR.
  2. Establishment and execution of a plan to manage and operate the drainage ditch on DLNR leased land from the fish pond, in order to control flooding of surrounding properties. Such a plan shall be approved by DLNR.

3. Complete the nomination process of the fishpond to the National register, including a preservation plan and data recovery plan, as recommended by DLNR-SHPD in its letter of January 29, 2009. A letter from DLNR-SHPD confirming the nomination process has commenced shall be acceptable evidence of said nomination.

The following existing condition was amended to read as follows:

17. The applicant shall resolve and comply with applicable conditions or requirements as recommended by the State Department of Health, County Water, and Fire Departments. In addition to the foregoing requirements provided through condition 17 of the subject permit, the applicant shall obtain comments from all referenced agencies, in addition to the Housing Agency, confirming previously identified requirements as well as any new requirements which have been legally adopted by the County.

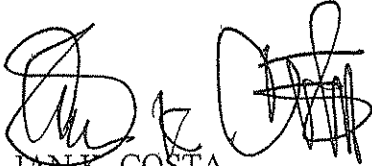
The following conditions were added to the subject permits:

27. Should the subject permits be sold or transferred, the Applicant shall provide a copy of the Agreement of Sale to the Planning Commission. The conditions of approval of the subject permits shall be recorded at the Bureau of Conveyances and attached to the Agreement of Sale, to ensure that the new owner accepts responsibility to address and/or resolve all said conditions of approval.
28. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kauai contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kauai in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non-Kauai residents for particular skilled jobs where no qualified Kauai resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
29. The Applicant shall implement to the maximum extent feasible, as determined by the applicant, the application of Leadership in Energy and Environmental Design (LEED) standards and strategies wherever feasible for sustainable site, utilities and building development. Such proposals shall be reflected on the construction plans.
30. Should the Coconut Grove lease be removed or terminated, and/or the proposed development concept be amended as originally approved by said permits, applicant shall request an amendment to the existing permits.
31. The applicant shall appoint an on-island community liaison to function as the primary contact person to log and facilitate resolution of all concerns relating to

all phases of the project. The Planning Department, Civil Defense, Fire Department, and Kaua'i Police Department shall be informed of the name of the appointee and contact information, and such information shall be kept current. Applicant shall compile all complaints and reflect them in the annual report.

All other conditions imposed by the original permits remain in effect.

Efforts by community groups to resolve issues or concerns should also be reflected in the annual reports. Should there be any questions relative to the above, please contact planner Michael Laureta at 241-6677.



IANK. COSTA  
Planning Director

- C: DPW Engineering Div.
- DPW Building Div.
- Water Dept.
- State Health Dept.
- DLNR-Historic Preservation Div.
- Fire Dept.
- Finance Dept.
- Real Property Div.
- DOT-Highways