

RE: Project Development Use Permit P.D. U-2006-9
Class IV Zoning Permit Z-IV-2006-12

SUBJECT TO CHANGE

APPLICANT: Historic Koloa Village LLC

APPLICABLE CODE:

As represented, the proposed project entails the construction of a 45,000 s.f. retail and office complex, and a 31-unit multi-family residential project on a 5.381 acre parcel in the Koloa Town Center. Pertinent to evaluation of the proposed project are the 2000 Kauai General Plan ("GP"), the Koloa-Poipu-Kalaheo Development Plan (1983) ("KPK-DP"), and the Comprehensive Zoning Ordinance ("CZO").

Kauai General Plan – First and foremost, the GP recognizes that the environment is our economy and envisions maintaining the rural lifestyle and character of Kauai as a priority. In the GP, the historic character and plantation architecture of Koloa Town were identified as Community Assets. Section 6.4.2 of the Kauai General Plan, Preliminary Planning District Vision, states "Koloa's history is preserved through the plantation/western architecture in the town core, its historic churches, and other historic buildings. In the town core, renovations and new buildings follow the style of 'Old Koloa Town'. Shaded by building canopies and large trees, pedestrian walkways connect 'pockets' of public parking at each end of town. The town provides Koloa and Poipu residents with vital services such as grocery stores, the Post Office, and the Neighborhood Center. Both visitors and residents are also attracted to Koloa because of its unique shops, restaurants and taverns."

The GP designation of Residential Community applies to all of Koloa Town. The Town Center designation applies to the subject parcel and all surrounding parcels except those makai and east of Waikomo Road. The GP encourages infill development within Town Centers, and the development of residential projects in close proximity to supporting commercial facilities. Land Use Policies identified for the Koloa area in Section 6.4.4.2(b) include improving circulation within and around Koloa Town, confining commercial zoning and uses to Koloa Town, and refraining from commercial development along Maluhia Road and the East Koloa By-Pass. In Section 6.4.4.2(c)(2), a Land Use Policy identified for the Poipu area is to "develop a network of pedestrian and bicycle trails connecting Koloa, Poipu, and Kukuiula."

Koloa-Poipu-Kalaheo Development Plan - The KPK-DP recognizes that the historic community of Koloa is particularly vulnerable to influences of change from outside its area due to its proximity to the nearby coastal resort areas. Section 10-6.3(d) of the Development Plan designated the Koloa Town core as a Special Treatment-Cultural/Historic (ST-C) District, as "a mechanism to maintain and enhance the character and charm of this historic plantation community." Applications for development within the district must follow the requirements and procedures specified in Article 9 of the CZO for Special Treatment-Cultural/Historic Districts.

Recommendations of the Development Plan encourage design detail of buildings to reflect the established character of the area, and discourage the intrusion of massive structures which disrupt the rural quality of the area or are visually dominant in the landscape. It recommends establishing

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specific planning and design criteria to relate structural proposals to site conditions and to ensure that buildings will not detract from the general character of the community. It recommends giving priority to housing development primarily intended for permanent residences, and that if visitor-related activities are brought into Koloa Town, it should be done so with minimal disruption to existing residential areas.

The KPK-DP stresses the importance of the adoption of a master transportation circulation plan for the area by ordinance as amendment to the General Plan and the Comprehensive Zoning Ordinance. It also recommends:

- (a) diverting through-traffic around Koloa Town on bypass roads from Maluhia Road to Poipu and Kukuiula areas;
- (b) the improvement of bicycle, pedestrian, and bus circulation, and returning streets to minimal vehicular conditions; and
- (c) the acquisition of necessary rights-of-way to improve traffic conditions and emergency response.

The Development Plan also encourages the development of water, wastewater and traffic circulation infrastructure within urban areas to facilitate development. It recommends that drainage system improvements be coordinated with road improvements, diverting drainage around the town center, and establishing drainage systems in relation to open space potentials.

Comprehensive Zoning Ordinance - Elements of the CZO that apply to the subject application include but are not limited to:

- (a) As delineated in CZO Sec. 8-9.1, the purpose of designating a Special Treatment District is because its unique or critical cultural, physical or locational characteristics, and to insure that development within those areas recognize, preserve, maintain and contribute to the enhancement of those characteristics which are of particular significance or value to the general public. The Special Treatment - Cultural/Historic (ST-C) District designates communities and land or water areas which have a particular and unique value to the general public because of significant historic background, structures, or land forms. The designation of a small portion of the lot along Weliweli Road as a Special Treatment - Public (ST-P) District reflects the former site of the historic Koloa Shingon Mission which was lost to fire in the recent past. A Use Permit is required for development in Special Treatment Districts to ensure the integration of the development in concert with those characteristics.
- (b) Pursuant to Article 18 and 20, the Project Development Use Permit requested is for the overall project with respect to the Special Treatment-Cultural/Historic (ST-C) and Special Treatment - Public (ST-P) designations of the parcel (or portion thereof); for development of multi-family residential housing in a General Commercial District; and to allow deviation in setbacks between buildings.

Pursuant to CZO Section 8-18.4(b), "the Applicant shall substantially commence construction of the project development within one (1) year from the date of full approval, and shall demonstrate that the project development will be completed within the schedule furnished with the application."

Pursuant to CZO Section 8-18.4(e), "a permit may not be granted for any commercial development which will create any substantial traffic congestion, will interfere with any projected public improvements, and which does not include adequate provisions for entrances and exits, internal traffic and parking, or will create adverse effects upon the adjacent and surrounding existing or prospective development."

Pursuant to CZO Section 8-18.4(g), "the Planning Commission shall find that the project development will create an environment of sustained desirability and stability, shall be compatible with the character of the surrounding neighborhood, and shall result in an intensity of land coverage and density of dwelling units no higher than are permitted in the Use District in which the project development is to be located."

- (c) Pursuant to Articles 19, 3 and 5, a Class IV Zoning Permit is required for larger projects to ensure that development standards are met, for Use Permits consideration of projects in the Special Treatment Districts, and to ensure public input into the Project Development Use Permit review process. Applicable standards for the Commercial District apply to the commercial portion of the project, and Residential District standards apply to the residential portion of the lot.

EVALUATION:

In the light of the foregoing applicable codes, the following are considered in evaluating the proposed project:

Consistency with the General Plan and the KPK-DP

The proposed project is consistent with the General Plan and the KPK-DP in that it proposes:

- (a) a mix of retail and offices, including a 3,000 s.f. medical clinic, that would serve both visitors and residents alike,
- (b) residential units in close proximity to the commercial services, and adjacent to and of compatible design with other residential projects in the surrounding area,
- (c) dedication of rights-of-way along Koloa, Weliweli and Waikomo Road, and development of curbs, gutters, and five foot (5') wide at-grade sidewalks, around all street frontages for improved pedestrian and bicycle access and drainage within town,
- (d) provision of improved left turn lanes on Weliweli at Koloa and Waikomo Road intersection,

- (e) dedicated turn and storage lanes for entrances to the commercial project as required,
- (f) preservation of mature trees which contribute to the character of Koloa Town, and
- (g) contribution to water infrastructure improvements which will benefit the surrounding area, and wastewater improvements to support the project.

Design Concerns - However, as currently proposed, the design of the commercial portion of the project is not fully consistent with the General Plan or the KPK-DP, as relates to the surrounding historic character and plantation/western architecture. Design concerns include but are not limited to façade, roofs, canopies, windows, materials, color, scale, building shape and height, architectural details, building to site and site to street relationship, second floor accesses and deck, circulation, integration of ADA accessibility, reduction of concrete surfaces, and integration of appropriate and adequate landscaping throughout the project. Although two-story structures have precedent in the commercial Koloa Town core, their connection by a concrete deck does not.

Circulation Concerns - Improvements in the rights-of-way adjacent to the project (including but not limited to location and detail of sidewalks, bus turnout, road and access improvements, landscaping, and bikeways) should be integrated with or compatible with the Koloa-Poipu Area Circulation Plan. These improvements should be resolved with the Planning Department, the Department of Public Works, and the County Transportation Agency, and incorporated in the revised site plan prior to design review and approval by the Planning Commission. The Koloa-Poipu Area Circulation Plan should be completed prior to building permit approval, and the Applicant should resolve and finalize construction plans for adjacent improvements in the rights-of-way, as reflected in the final Koloa-Poipu Area Circulation Plan and as resolved with the Planning Department, the Department of Public Works, and the County Transportation Agency. Approved improvements should be bonded for construction prior to building permit approval, and construction of roadway improvements should be completed prior to the County's issuance of the certificate of occupancy and completion and use of the proposed project.

The Applicant should also be required to contribute its share, in conjunction with other developers and government agencies, of any traffic mitigation measures and/or improvements which should include but not be limited to Capital Improvements such as roads, intersection improvements, traffic signals, sidewalks, bike paths, off-street parking areas or structures, and traffic calming devices, and may include Traffic Demand Management measures such as increased bus service, shuttles, car-pooling, ride-sharing, flex-time work hours, bus/shuttle use incentives, car-pooling incentives and other measures, as identified in a Koloa-Poipu Circulation Plan or a development plan for the Koloa-Poipu area, which has been adopted by the County of Kauai. The share attributable to each development should be determined at the time of adoption of the plan or development plan, or any funding ordinance, and an agreement with the County for the share contribution executed and recorded prior to building permit approval.

Residential Concerns - To be consistent with the Development Plan recommendations for giving priority to permanent residents, the residential units should not be used for any transient accommodations.

Project Consistency with the CZO

Consistency with Cultural/Historical Character - Koloa Town is included in the ST-C District due to its unique plantation town history, its architectural character, majestic trees, and streamside environment. The historic architecture is characterized by variety within a vernacular, and a pedestrian-oriented scale where the height or size of buildings is not adverse to the surrounding tree canopy. Historic buildings range from approximately twenty feet in width to seventy feet in width, but frequently have minimal setbacks between buildings. Commercial building canopies provide cover over sidewalks where they exist; in one case a raised boardwalk fronts a building in the flood zone. Where commercial buildings are freestanding or are in residences rehabilitated for commercial use, separate stairs lead from sidewalks or streets (where sidewalks are missing) to covered porches.

The particular location of the subject lot is of great significance to the center of Koloa Town, where the proposed development would infill between renovated historic storefronts along Koloa Road. Additionally, as Base Flood Elevation must be adhered to, the project would be elevated approximately 4.5' above street level at the Koloa - Weliweli Road intersection. Therefore, the transition from street to building is critical in maintaining compatibility with the historic character of surrounding commercial buildings.

As currently proposed, the site development emphasizes a formal, continuous concrete plaza with 40' wide steps from the street corner to the plaza, rather than interfacing the street to the buildings. Although building facades would be articulated to simulate separate buildings, the proposed canopy and boardwalk are monolithic and do not reflect the undulating facades. Further, a concrete deck is proposed on the upper level which would connect the five "buildings" into a single building mass nearly 350 feet long, creating the feeling of a "mall" or shopping center. More discrete buildings, coupled with a more rural and rustic transition to the street and rural and rustic character in site development (e.g., a landscaped courtyard, variable walkways) would better integrate the commercial buildings into the historic town character.

Traffic & Parking - Project plans should be revised to be in concert with the Koloa-Poipu Circulation Plan, as specified above.

Parking proposed for the commercial project should be adequate because of the proportion of mixed retail to office use, and the small restaurant area represented. To remain adequate, no increase in or conversion of retail, office and restaurant areas should be allowed from that represented in the application.

Trees and Landscaping - Commercial and residential uses have been integrated around large monkeypods and numerous fruit trees throughout Koloa Town. As represented, the proposed development would retain five monkeypods, two crepe myrtles and a number of mango trees. Landscaping should retain as many mature trees as possible, to aid in retaining a sense of scale. Careful selection of additional landscaping consistent with the historic town character and characteristic of the area would aid in enhancing that quality. Although the vine concept would aid in hiding the parking structure, the incorporation of medium to large canopied trees within the parking area would aid in visually breaking up and screening the overall building mass. The

Applicant should provide an agreement for maintenance of the crepe myrtles trees, sidewalk and asphalt, and provision of liability insurance, as recommended by the Department of Public Works.

Integration of the Residential Project - The proposed residential buildings would appropriately transition the commercial area to adjacent residential districts along Weliweli and Waikomo Roads. The scale and character of the duplexes and triplexes are mostly consistent with the historic character of Koloa Town, with the possible need for further attention and refinement of minor details, including but not limited to window style and color scheme. Reduction of pavement and use of pervious surfaces for parking and driveways should be encouraged to reduce lot coverage and runoff, and to further enhance rural character consistency. To remain consistent with the Use Permit standards for residential use in a Commercial District, no commercial use should be allowed to operate in any of the residential units, other than a "home business" use, as defined in Section 8-1.5 of the CZO and as individually approved by the Planning Department. As the property is not located in a Visitor Destination Area, time shares and transient vacation rentals are prohibited by CZO Article 17.

Design Review - Design of the project should be further refined to address the foregoing concerns relative to consistency with the historic character of Koloa Town. Design review and approval should be required by the Planning Department and Planning Commission prior to building permit application. The revised design of site and buildings should also incorporate Low Impact Development techniques for stormwater management, and additional techniques to maximize efficiency of energy, circulation, pedestrian safety, use of gang mail boxes, provisions for recycling bins, etc., to the maximum extent practicable. Design review and building permit application could be conducted separately for the commercial and the residential portions of the project, provided that wastewater and drainage handling are integrated for the overall parcel.

Schedule for Performance - No schedule for construction was furnished within the application. Given that design review and master transportation plan or development plan adoption would affect the date of "full approval", performance should be required within one year of completion of those items, with completion of the overall project within two years of that date. Deletion or amendment of either portion of the project should require Planning Commission review and approval through a Project Development Use Permit and Class IV Zoning Permit process.

CONCLUSION:

Based on the foregoing findings and evaluation, it is hereby concluded that the proposed project can meet the requirements if conditions are imposed to address the following:

- (a) design concerns to revise buildings and site, such that the project is integrated with and does not adversely affect the historical and architectural character of Koloa Town,
- (b) integration with a master transportation circulation plan that is adopted by the County of Kauai for the Koloa-Poipu area, including construction of improvements adjacent to the project site for pedestrian, bicycle and vehicular circulation, and commitment to contribution of its share for off-site or programmatic improvements required by the plan,

- (c) retention of existing mature trees and integration of landscaping appropriate to the historic character of the town, and to aid in visual screening of the building masses and parking lot,
- (d) dedication of land for and development of rights-of way improvements and of adequate infrastructure to support the project and to enhance the surrounding area, and
- (e) development of a residential component for permanent residents of Koloa Town.

If developed in compliance with such conditions, the commercial and residential uses would be compatible uses to the commercial and residential projects on surrounding properties, and would not be detrimental to health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community. If drainage and wastewater treatment are properly addressed, the project should not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters. The proposed use should not be inconsistent with the intent of the CZO or the General Plan. Minor building to building setback deviations can be allowed between the parking trellises of residential units, provided they remain open as represented.

It should be noted that in order to remain consistent with the historic town character, design concerns to be addressed include but are not limited to façade, roofs, canopies, windows, materials, color, scale, building shape and height, architectural details, building to site and site to street relationship, second floor accesses and deck, circulation, integration of ADA accessibility, reduction of concrete surfaces, and integration of appropriate and adequate landscaping throughout the project. Revised building designs and site plan shall be resolved with the Planning Department, incorporating right-of-way improvements to be made along project frontages as resolved with the Planning Department, Department of Public Works and the County Transportation Agency. The revised building and site plan should be subject to final design review and approval by the Planning Commission prior to building permit application. Prior to building permit approval, the Applicant should construct or post a bond for construction of rights-of-way improvements, and execute an agreement with the County of Kauai to pay its share for implementation of a master transportation circulation plan for the Koloa-Poipu area, adopted by the County of Kauai or incorporated in the Koloa-Poipu Development Plan.

RECOMMENDATION:

Based on the foregoing findings and evaluation, it is hereby recommended that Project Development Use Permit P.D. U-2006-9 and Class IV Zoning Permit Z-IV-2006-12 be approved subject to the following conditions:

1. Prior to issuance of any certificate of occupancy or at the time of final subdivision approval, which ever comes first, the Applicant shall dedicate to the County of Kauai a five-foot wide strip along the length of its Koloa Road frontage, and eight-foot wide strips along the length of its Weliweli Road and Waikomo Road frontages for widening of the road rights-of-way. Prior to building permit approval, the Applicant shall submit a subdivision application and enter into an agreement with the Planning Department to

complete this requirement. The Applicant shall also enter into an agreement with the County of Kauai for maintenance of the crepe myrtles trees and any other trees which are retained in the County rights-of-way abutting the project site, and maintenance of the sidewalk and asphalt affected by them. The Applicant shall also provide general liability insurance, as recommended by the Department of Public Works.

2. Prior to building permit application, the Applicant shall resolve with the Planning Department revised elevations, site and landscaping plans, addressing design concerns including but not limited to façade, roofs, canopies, windows, materials, color, scale, building shape, size and height, architectural details, building to site and site to street relationship, second floor accesses and deck, circulation, integration of ADA accessibility, reduction of concrete surfaces, and integration of appropriate and adequate landscaping throughout the project. Revised plans shall incorporate improvements in the rights-of-way adjacent to the property as noted in Condition #3 below. Building to building setback between the residential parking trellises may vary from applicable development standards, provided the trellises shall remain fully open as represented in the application. The resolved plans shall be subject to final design review and approval by the Planning Commission prior to building permit application.

The revised plans shall reflect and the project shall utilize Low Impact Development (LID) techniques for stormwater management, and additional techniques to maximize efficiency of energy, circulation, pedestrian safety, use of gang mail boxes, provisions for recycling bins, etc., to the maximum extent practicable.

3. In order to address traffic circulation issues relating to the Koloa-Poipu area:
 - (a) For improvements adjacent to the project:
 - (1) Prior to design review and approval by the Planning Commission, applicable recommendations of the draft Koloa-Poipu Area Circulation Plan for physical improvements adjacent to the property (including but not limited to location and detail of sidewalks, bus turnout, road and access improvements, landscaping, and bikeways) as resolved with the Planning Department, the Department of Public Works, and the County Transportation Agency shall be incorporated into the revised site plan.
 - (2) Prior to building permit approval, the Koloa-Poipu Area Circulation Plan shall be completed, and the Applicant shall resolve and finalize construction plans for adjacent improvements in the rights-of-way, as reflected in the final Koloa-Poipu Area Circulation Plan and as resolved with the Planning Department, the Department of Public Works, and the County Transportation Agency. These required improvements shall be constructed, or a bond posted for construction, prior to building permit approval.
 - (3) Prior to the County's issuance of certificate of occupancy, construction of and dedication of the required improvements shall be completed. The Applicant shall

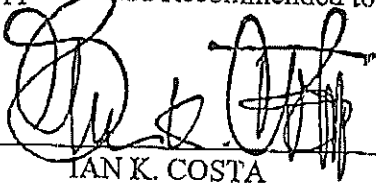
enter into a non-occupancy agreement with the Planning Department which shall expire when the improvements are accepted by the County Department of Public Works.

- (b) Prior to building permit approval, the Applicant shall execute with the County of Kauai (Planning Department, Department of Public Works, and OCA Transportation Agency, the Mayor, County Attorneys and the County Council) and record with the Bureau of Conveyances on the deed for the subject property, an agreement that :
- (1) The Applicant or its successors in interest to the property shall contribute its reasonable share of funding, in conjunction with other developers and government agencies, of any traffic mitigation measures and/or improvements which may include but not be limited to Capital Improvements such as roads, intersection improvements, traffic signals, sidewalks, bike paths, off-street parking areas or structures, and traffic calming devices, and may include Traffic Demand Management measures such as increased bus service, shuttles, car-pooling, ride-sharing, flex-time work hours, bus/shuttle use incentives, car-pooling incentives and other measures, as identified in any Koloa-Poipu Circulation Plan or development plan for the Koloa-Poipu area adopted by the County of Kauai within seven years of approval of the subject zoning permit.
 - (2) The share attributable to each development shall be determined at the time of adoption of the plan or any implementing funding ordinance adopted, shall run with the land, and shall be retroactively applied to the development of the subject property.
- (c) The Applicant shall present the Planning Commission a copy of the draft agreement to the foregoing at the time of design review.
4. Regarding the residential portion of the project, prior to building permit approval, the Applicant shall provide draft copies of deed restrictions which state that transient vacation rentals shall be prohibited in the units pursuant to applicable CZO codes, and that no commercial use shall be allowed to operate in any of the units, other than a "home business" use, as defined in Section 8-1.5 of the CZO and as individually approved by a zoning permit by the Planning Department. Such restriction shall be incorporated into the deeds for the land at the time of final subdivision and shall run with the land.
 5. The project shall be constructed as last represented in the public hearing, except as modified by the approved design reviews and transportation plan. The Applicant shall substantially commence construction (as evidenced by completion of building foundations) within one year of completion of design review approval and master transportation plan or development plan adoption, with completion of the overall project within two years from commencement of construction. Deletion or amendment of either portion of the project shall require Planning Commission review and approval through a Project Development Use Permit and Class IV Zoning Permit process.

- 6. Parking shall be provided as represented, and in excess of the minimum required for the commercial project. No increase in or conversion of retail, office, restaurant or residential areas to other uses shall be allowed from that represented in the application.
- 7. Prior to or at the time of building permit application, the applicant shall remit payment of an Environmental Impact Assessment Fee and a Park Dedication Fee, pursuant to the requirements of Chapter 11A and Chapter 9 of the Kauai County Code, respectively.
- 8. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following types: shielded lights, cut-off luminaires, or indirect lighting. Spotlights aimed upward or spotlighting of structures shall be prohibited.
- 9. The applicant shall resolve and comply with all applicable conditions as recommended by the Water, Fire, and Public Works Departments, and with the State Departments of Health, DLNR Historic Preservation Division, and Transportation Highways Division.
- 10. The Applicant shall provide a yearly status report to the Planning Department and the Planning Commission, showing compliance with permit conditions, until compliance with all conditions and final construction of the project is complete.
- 11. The Planning Commission reserves the authority to impose additional conditions, modify or delete conditions stated herein, or to revoke the subject permits through proper procedures should the applicant fail to comply with the conditions of approval or if unforeseen problems are generated by the proposed use at the project site.
- 12. The applicant is advised that additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).

By /s/Barbara Pendragon
 Barbara R. Pendragon
 Planner

Approved and Recommended to Planning Commission:



 IAN K. COSTA
 Planning Director

Date: JUL 25 2006