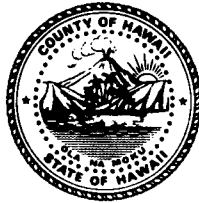


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

PUD 51

CERTIFIED MAIL

September 15, 1994

Mr. Steven Lim
Carlsmith Ball Wichman Murray
Case Mukai & Ichiki
121 Waianuenue Avenue
Hilo, Hawaii 96720

Dear Mr. Lim:

PLANNED UNIT DEVELOPMENT APPLICATION WH(PUD94-01)
APPLICANT: BRIAN COOK - MALULANI GARDENS SUBDIVISION
121 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION
Tax Map Key: 7-5-003: 003

After reviewing the information submitted with the Planned Unit Development, the Planning Director certifies the approval of the Planned Unit Development (PUD) application to allow the construction of a 121 unit Single Family Residential Subdivision Development on a 23.987 acre parcel situated within the Single Family Residential 7,500 square feet (RS-7.5) zone district with variances from the Supplementary Yards and Open Space, Projections into Required Yards and Open Spaces, Minimum Building Site Areas, Minimum Yards, Other Regulations requirements of the Zoning Code, Chapter 25 and Minimum Lot Sizes, Minimum Right-of-Way and Pavement Widths, Intersection Angles, Corner Radius, Cul-de-Sacs, Grades and Curves, Street Lights, Street Names and Traffic Signage, Right-of-Way Improvement requirements of the Subdivision Code (Chapter 23) and Yards and Projections into yards of the Housing Code pursuant to the requirements of Chapter 25 (Zoning Code), Article 21 (PUD, Planned Unit Development).

The subject property is situated on the east (mauka) side of the Queen Kaahumanu Highway approximately 2,600 feet south of the Queen Kaahumanu Highway/Palani Road intersection in Keopu, North Kona, Hawaii, TMK: 7-5-003: 003.

FINDINGS:

1. In accordance with Section 25-247 of the Zoning Code, the

11929

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proposed single family residential uses are permitted by the existing single family residential zoning of the property. In accordance with requirements of Section 25-251(Finding by planning department to approve P.U.D.)

2. **The construction on the project shall begin within a reasonable period of time from the date of full approval and shall be completed within a reasonable period of time.**

The applicant has already constructed a single family dwelling on the property which is being shown as a model home for the proposed Planned Unit Development. The proposed development timetable for the Planned Unit development will be done in phases with Phase 1A occurring as soon as all other necessary governmental approvals have been secured. Phase 1 will consist of 39 house and lot packages. Within Phase 1, there will be two phases, 1A with 19 units and 1B with 20 units. The site work for Phase 1 should be completed on or by May 1995. Subject to the sales in Phase 1, site work in Phase 2 would start by September 1995 with completion in February of 1996. Site work on Phase 3 would start by August 1996 with completion by December of 1996. All house construction should be completed by the summer of 1997, giving the overall project approximately 3 years for the development and completion of construction activities.

3. **The proposed development substantially conforms to the General Plan.**

The following General Plan elements goals, policies and standards of action are in conformance with the proposed Planned Unit Development.

- **HOUSING ELEMENT:**

GOALS: Attain safe, sanitary and livable housing for the residents of the County of Hawaii. Attain a diversity of socio-economic housing mix throughout the different parts of the County. Maintain a housing supply which allows a variety of choice. Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people. Improve and maintain the quality and affordability of the existing housing stock. Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals. Ensure

that housing is available to all persons regardless of age, sex, marital status, ethnic background, and income. The cornerstone of the County's Housing programs and activities shall continue to be the encouragement and expansion of appropriate home ownership opportunities for our residents.

- **POLICIES**

The County shall encourage a volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies. The County shall initiate and participate in activities with the private sector including the provision of leadership and expertise to neighborhoods and nonprofit organizations in the development of housing and community development projects.

- **LAND USE ELEMENT**

GOALS: Designate and allocate land use in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.

POLICIES: Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities. The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

- **LAND USE ELEMENT (SINGLE FAMILY RESIDENTIAL)**

GOALS: To maximize choices of single family residential lots and/or housing for residents of the County. To provide single family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers. The County shall encourage more innovative uses of land with respect to geologic and topographic conditions through the use of residential cluster and planned unit developments. The clustering of residential units in sloping areas is a means of minimizing grading and drainage problems, preserving the natural appearance of the topography, preventing strip development, and making optimum uses of the terrain for buildings and open space. The County shall incorporate flexibility in codes and

ordinances to achieve a diversity of socio-economic housing mix and to permit aesthetic balance between single family residential structures and open spaces.

• **RECREATION ELEMENT:**

GOALS: Provide a variety of recreational opportunities for the residents and visitors of the County. Maintain the natural beauty of recreation areas. Provide a diversity of environments for active and passive pursuits.

POLICIES: The use of land adjoining recreation areas shall be compatible with community values, physical resources and recreational potential. The proposed Planned Unit Development will implement the above goals and policies of the applicable element of the General Plan, in particular with the above cited elements.

4. All residential development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding neighborhood, and shall result in an intensity of land utilization no higher than, and standards of open space at least as high as permitted or as otherwise specified for the district in which this development occurs.

The applicant's design concept for the proposed Planned Unit Development is to provide a neighborhood environment that fosters a "Sense of Community" and promotes social interaction; provide for a safe, pedestrian oriented environment; develop a master plan that fits harmoniously into the local context with housing design that respects local building vernacular and landscaping that blends well with the natural environment and provide housing at a reasonable cost for the "Gap Group" segment of our local residents - those whose income is too high to qualify for affordable housing but not enough to buy the medium price home in Hawaii. The maximum allowable density under the present zoning is 139 units. The applicant would have developed 110 lots, 7,500 square feet in size if a standard subdivision was to be developed. The applicant is proposing to develop 121 units, a 10% increase in density from the standard subdivision layout. The access to the subdivision will be from Queen Kaahumanu Highway with the inclusion of roadway stub-outs to integrate with the proposed 2020 Roadway Plan. The main street with on-street parking has an AC pavement width of 36 feet and a 44 foot right-of-way.

Minor secondary streets have an AC pavement width of 20 feet with a 28 foot right-of-way. Curbing for the streets will be similar to Detail R-1 of the County Standard Details. Sidewalks, 4 foot wide will be provided on both sides of all streets. The drivecourts have a 50 feet x 100 feet AC pavement area versus the 36.92 feet x 72 feet AC pavement area for the County Standard "T-Turnaround." These roadway sizes should allow proper access for service and emergency vehicles. With existing grades of the site ranging from 8% to 14%, street grades will be moderate with two thirds of the streets in the range of 8% to 10% and the remaining one third in the range of 10% to 14%. The main street will have 3 parks which will act as speed buffers forcing traffic to stop at these locations. The parks will also provide spatial interest and visual variety in the community. These elements are designed to provide a higher level of pedestrian safety within the community. The development's average lot size is 5,830 square feet with lots ranging in size from 4,305 square feet to 10,223 square feet. The majority of the lots have a width in the 50 to 55 feet range and a lot depth in the 100 to 110 feet range. With the PUD approach, the houses are controlled in size, to reduce the impact of development and small lot size appearance. The PUD will have the standard 15 foot front and rear yard setbacks. The variance request for side yard setbacks is due to the design of the homes with lanais on the side of the houses. With controlled housing widths, reducing the side yard setback allows for more useable space at the side yard with the lanai. In the worst case scenario, the minimum distance between homes is 15 feet. A primary design goal of the PUD is to provide a safe, visually stimulating and efficient pedestrian network system throughout the community. Sidewalks, 4 feet in width are located on both sides of all streets, providing convenient access to the neighborhood parks and access to all house lots. The drivecourts have landscape pedestrian easements to the main street to allow both pedestrians and bicycle riders an alternate access route to the main street landscape environment and park system. Landscaping will play a central role in the master plan to provide an inviting residential atmosphere with open spaces that are shaded to encourage outdoor activities and social interaction. The major components are the project entry area, main street theme, neighborhood parks, landscaped archaeological sites, pedestrian easements, landscape easements and private drivecourts. The Housing design will be instrumental in adding to the feel of a traditional neighborhood through its use of materials, color and regional architectural style.

The houses will have a dominant front lanai that in most cases fronts the main street or drivecourt. There is a rear or side lanai with each house for outdoor dining and social purposes. At the street facade, two car garages will be setback from the front of the lanai, minimizing their impact. Hip roofs, 3 foot overhangs, horizontal lapped siding, traditional styled window placement and historical colors will create the feel of "Hawaiian Architecture." Energy efficient design measures are integrated into the design of each home related to cross ventilation, insulation, solar heating and skylighting. There will be 4 to 5 model homes, both one story and two story ranging in size from approximately 1,100 square feet (2 bedroom, 2 bath) to 1,500 square feet (3 bedroom, 2 and 1/2 bath). Sales prices for the homes will range from a low of approximately \$210,000 to a high determined by the prevalent market conditions. The homes in Phase I will sell for approximately \$210,000 to \$250,000. The project's CC & R's will be structured to maintain the quality of the original design intent and insure the investment of the homeowners will be protected.

5. **The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of the Zoning and Subdivision Codes, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.**

The proposed PUD fosters a "Sense of Community" by offering opportunities for the residents to meet, recreate, socialize, walk and experience their neighborhood environment in ways that are not available to the residents of the standard subdivision community. Parks and open spaces are provided for a variety of activities to occur. There are places for children to play versus being limited to the street for this activity. It offers a safe pedestrian environment for the residents who enjoy walking and riding bicycles. It promotes social communication through the use of lanais facing the main street and its park system. In short it offers the residents a safer, more enjoyable, and socially rewarding community to live in. Therein, the proposed Planned Unit Development is a development of a harmonious, integrated whole which justifies exceptions to the normal requirements of this chapter, as the contemplated arrangements and single family residential use make it desirable to apply regulations and requirements differing from those ordinarily applicable

under the district regulations.

6. In accordance with Section 25-252 (Actions permitted on application), the planning department may conditionally approve an application for a P.U.D.. In accordance with Section 25-253 (Imposition of conditions upon approval) Any conditions imposed by the planning department upon approval of an application for P.U.D. may include but are not limited to the time within which the project shall begin and be completed, changed boundaries of the project, uses permitted, specification of minimum development standards, specified street dedication and improvement, utilities to be furnished, and a list or limit of variances permitted. In accordance with Section 25-555 (Effect of P.U.D. application approval) Any P.U.D., as approved, shall be subject to all conditions imposed and shall be excepted from other provisions of this chapter only to the extent specified in said approval.

Based on the above, the following list of variances are approved for this Planned Unit Development:

ZONING CODE:

1. Variances and exhibits 1 to 11 listed in the Table of Contents, page 1 of the Variance Requested Supplement document dated 6-28-94. (ATTACHED AS EXHIBIT 1)

SUBDIVISION CODE:

1. Variances and exhibits 12 to 19 listed in the Table of Contents, page 1 of the Variance Requested Supplement document dated 6-28-94. (ATTACHED AS EXHIBIT 2)

HOUSING CODE:

1. Variances from the Housing Code and listed as exhibits 20 to 22 must be applied for and secured from the Board of Appeals. (ATTACHED AS EXHIBIT 3)

Based on the above findings, the Planning Director has approved the Planned Unit Development Application subject to the following conditions:

- A. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.

- B. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
- C. The effective date of the PUD, except as otherwise conditioned in the following subsections, shall be upon receipt of the official acceptance from the Department of Water Supply and the Department of Public Works, Wastewater Division that the applicant has paid for the water commitment deposit to secure the 121 water commitments for the proposed Planned Unit Development.
- D. The plans for Phase 1A of the proposed subdivision shall be submitted to the Planning Director within five (5) years from the effective date of the Planned Unit Development (PUD). The proposed subdivision shall not exceed a maximum limit of 121 lots and may be accomplished in phases. The subsequent phases shall be submitted for subdivision review only upon securing approval of the Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA) and review and approval by the Chief Engineer, of the Department of Public Works in consultation with the Planning Director. Should the applicant receive the approval of the LOMR from FEMA, the applicant shall have the option to submit subdivision plans for the entire development.
- E. If necessary, the applicant shall prepare a data recovery and mitigation/preservation program for the subject area which shall be submitted to be reviewed and approved by the Planning Department, in consultation with the State Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for subdivision review. This Plan shall consist of a detailed archaeological data recovery plan (scope of work with research design) and a detailed mitigation/preservation plan. The Planning Department and the State of Hawaii's Historic Preservation Division shall verify in writing the successful execution of the plan, prior to land altering activities in the area of historic sites.

Proposed mitigation treatment (preservation in place or

disinterment/reinterment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. This action if applicable, must be submitted and mitigation measures taken prior to issuance of any construction permits for the development of the subject Planned Unit Development.

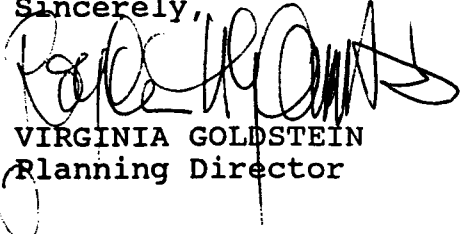
- F. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- G. Access to the property from Queen Kaahumanu Highway Extension shall include improvements as required by the Department of Transportation, Highways Division and the interior roadways shall be constructed in compliance with the roadway variances as approved in the Planned Unit Development application. Any deviations from roadway standards for which the Department of Public Works has sole jurisdiction shall be applied for and secured through the proper appeal process whether it be an administrative or an appeal from the Board of Appeals.
- H. An overall landscaping master plan, which includes landscaping along the property's frontages along Queen Kaahumanu Highway extension, the interior roadways, parks and individual lots and a program for the maintenance of the landscaping shall be submitted to the Planning Director for review and approval, in consultation with the Chief Engineer prior to the issuance of final subdivision approval. The Queen Kaahumanu Highway frontage landscaping shall be installed prior to occupancy of units in Phase 1A. All other lots frontage and park landscaping improvements shall be installed prior to the occupancy of the units in each subdivision phase of the Planned Unit Development.
- I. The applicant shall comply with the Integrated Solid Waste Management Plan as approved by the County Council.

- J. The applicant shall construct all on site sewer, drainage, roadway and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health. In addition, all utilities for the proposed development shall be placed underground.
- K. Comply with all applicable laws, rules, regulations and requirements.
- L. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the Planned Unit Development (PUD) permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- M. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the Planned Unit Development Permit; d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for an additional 5 years); and e) if the applicant should require an additional extension of time, the applicant may submit a request for further time extension pursuant to Section 25-256 (Extensions and Amendments).

Mr. Steven Lim
Page 11
September 15, 1994

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate the nullification of the Planned Unit Development Permit.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

RHY

Enclosures

xc: West Hawaii Office
Christopher Roehrig
DPW, Building Division
DPW, Engineering

Exhibit 1: Yard Designation

Variance Request No. 1 - Zoning Code

Request:

The applicant request in the six lot drivecourts, the yards be designated as illustrated below:

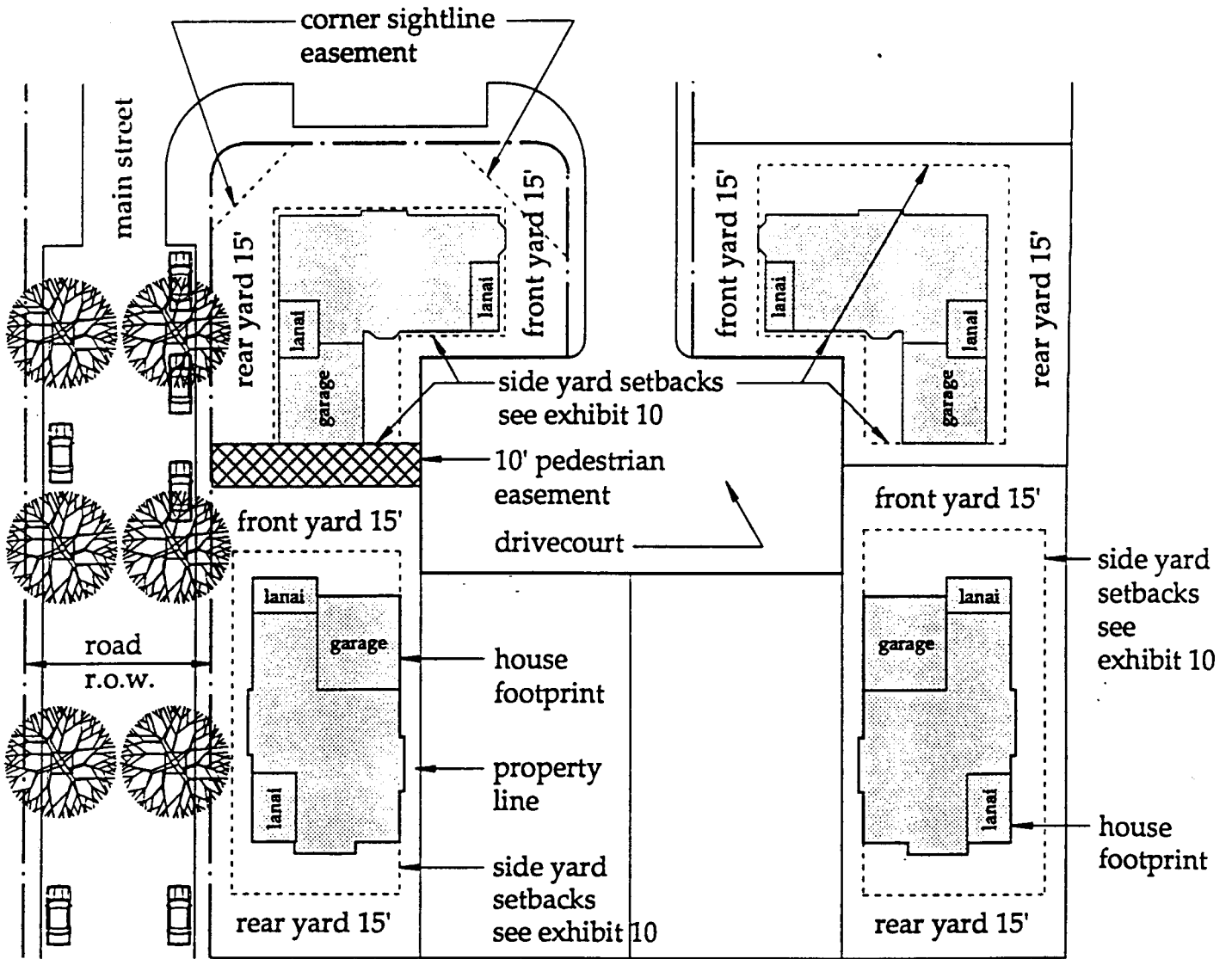


Exhibit 2: Yard Designation Variance Request No. 1 - Zoning Code

Request:

The applicant request in the four lot drivecourts, the yards be designated as illustrated below:

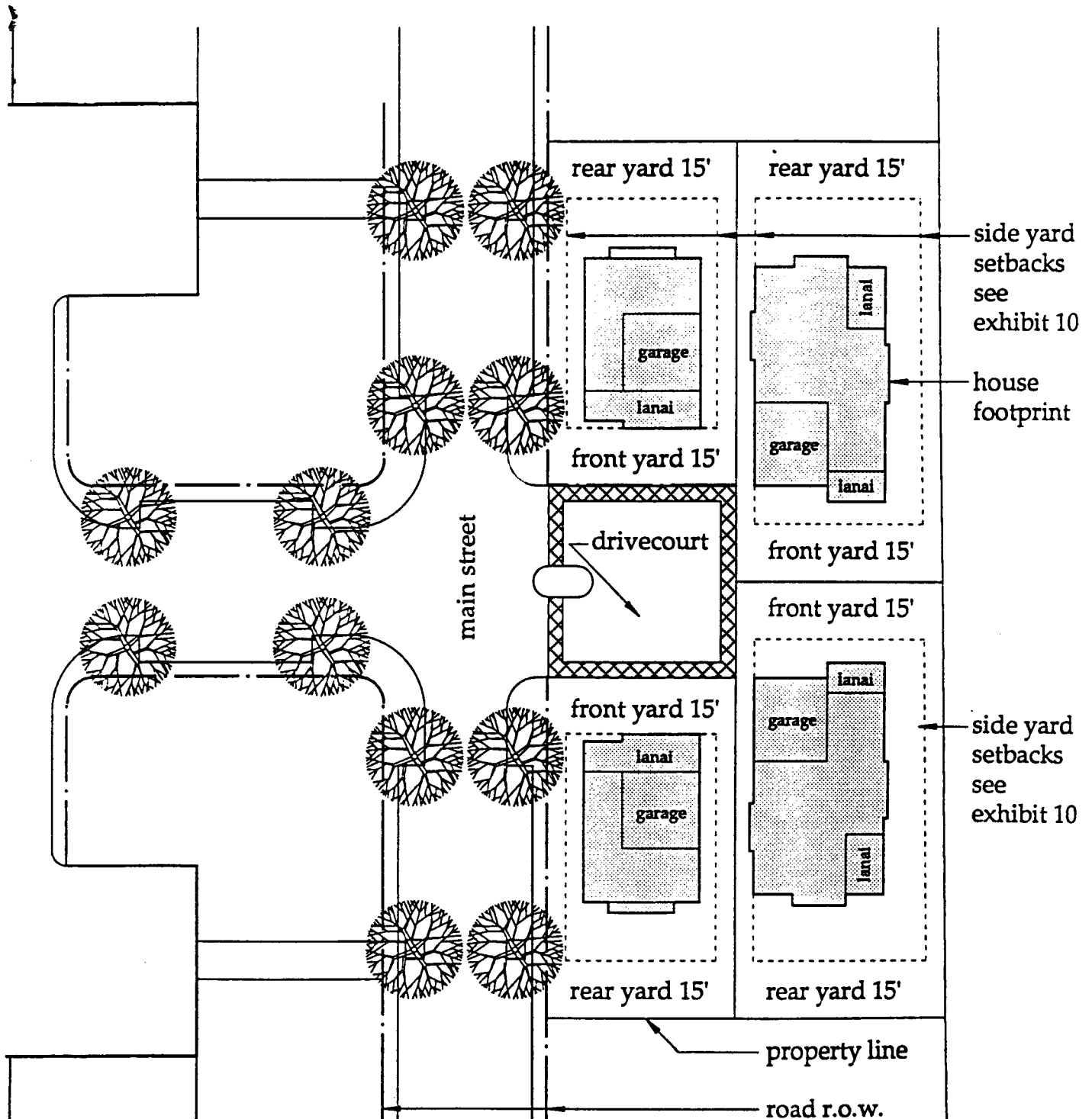


Exhibit 3: Yard Designation

Variance Request No. 1 - Zoning Code

Request:

The applicant request lots running parallel to the main street or define the parks, have yard designations as illustrated below:

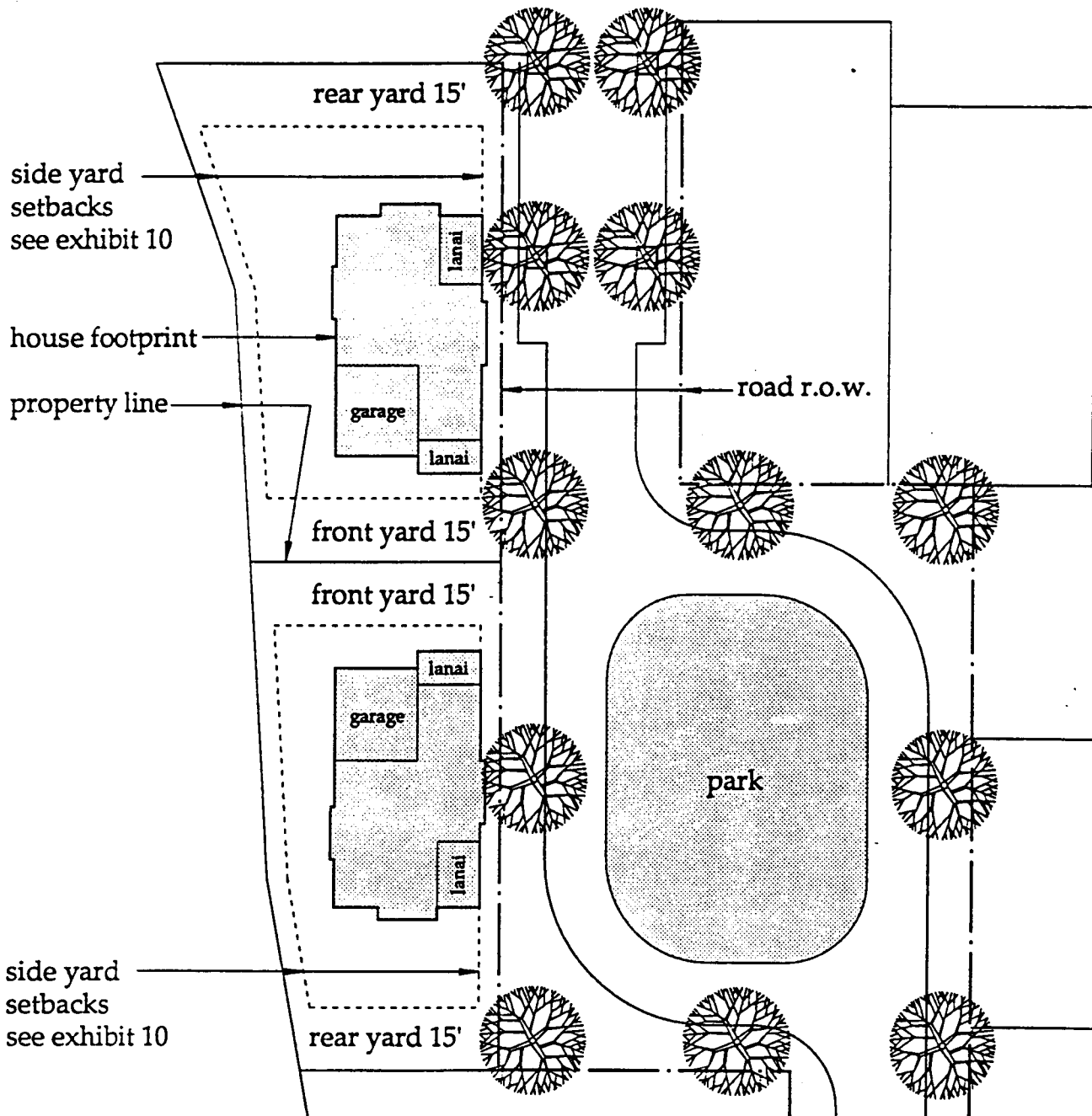
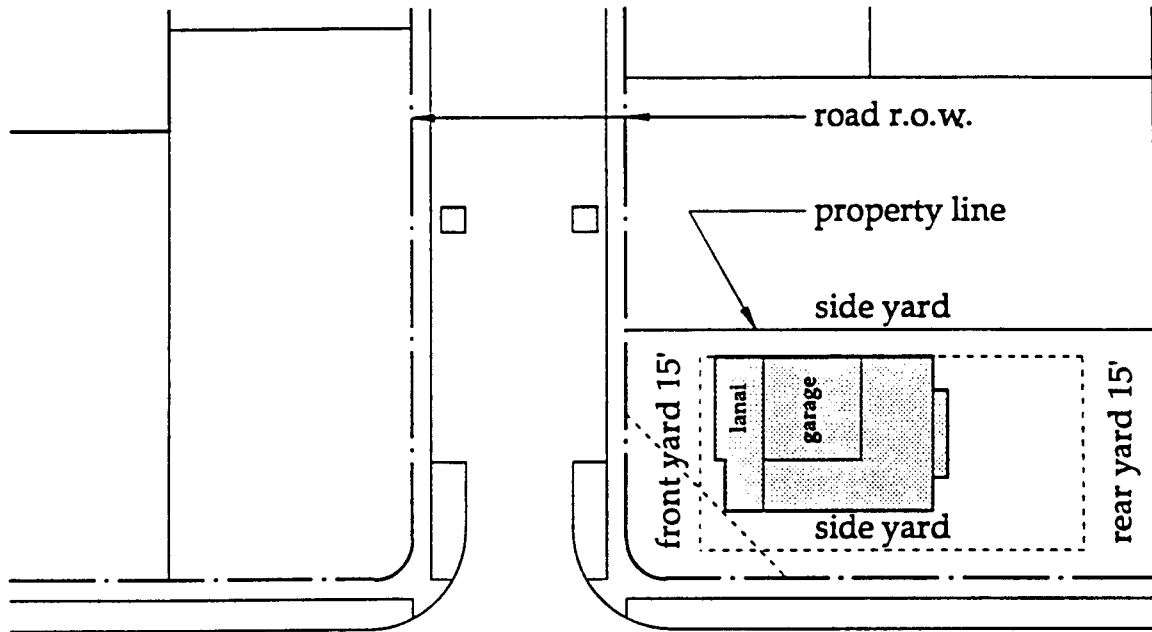


Exhibit 4: Yard Designation

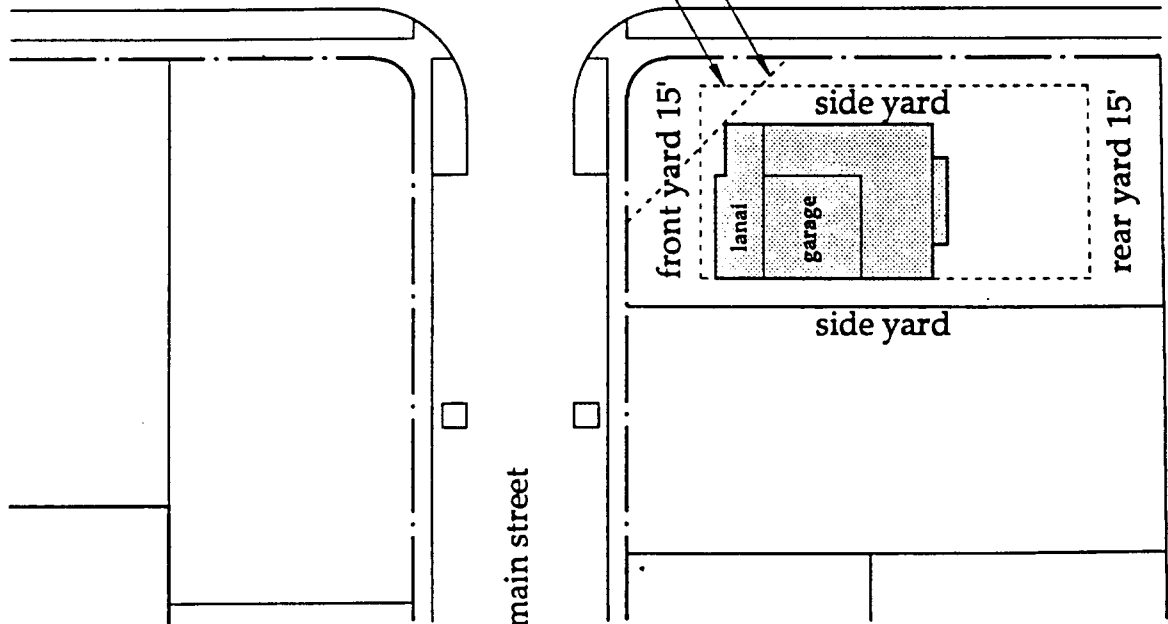
Variance Request No. 1 - Zoning Code

Request:

The applicant request corner lots have a front yard along one street frontage and a side yard designation along the other street frontage:



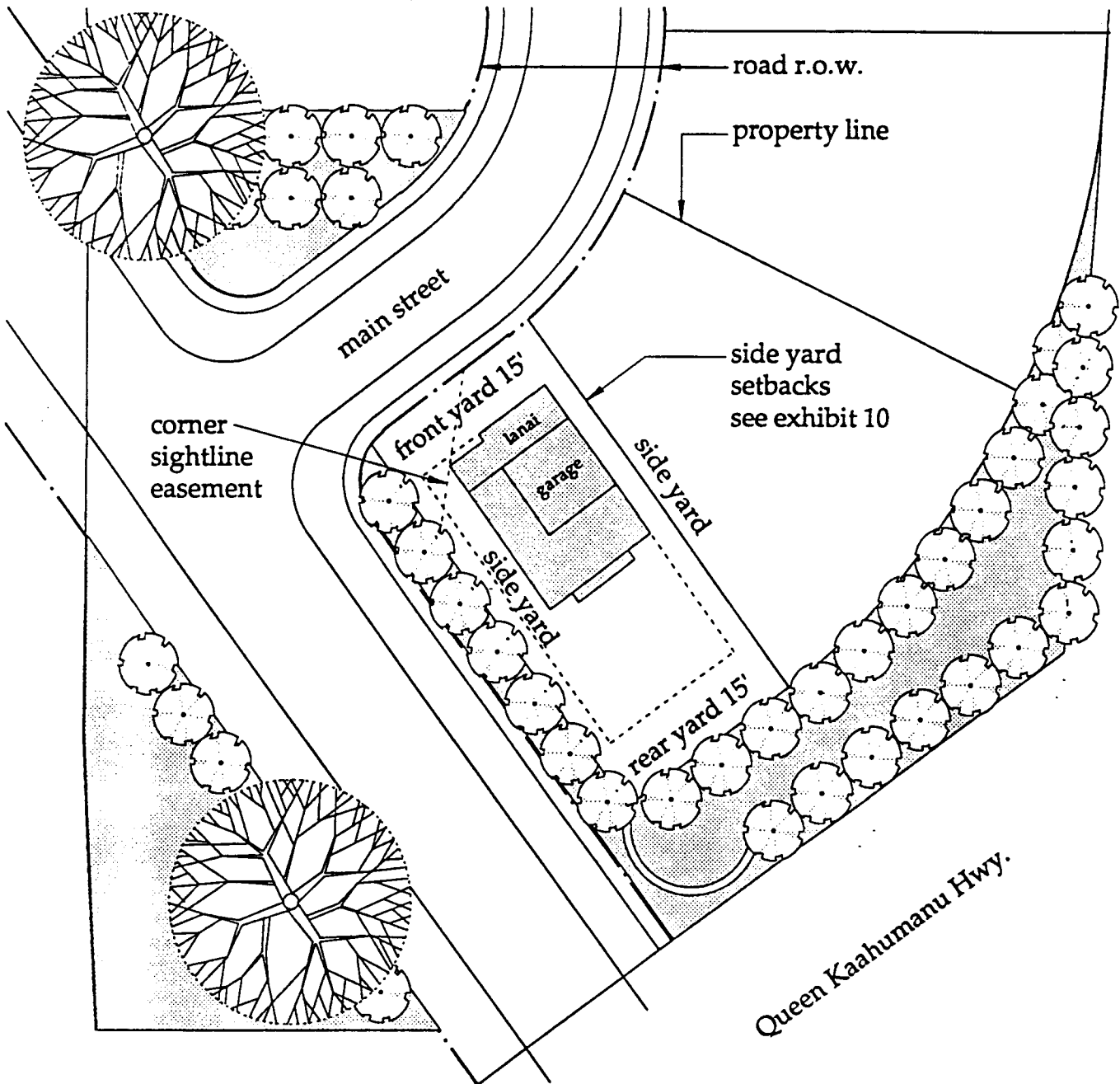
horizontal road extension



*Exhibit 5: Yard Designation
Variance Request No. 1 - Zoning Code*

Request:

The applicant request corner lots have a front yard along one street frontage and a side yard designation along the other street frontage:



*Exhibit 6: Yard Designation
Variance Request No. 1 - Zoning Code*

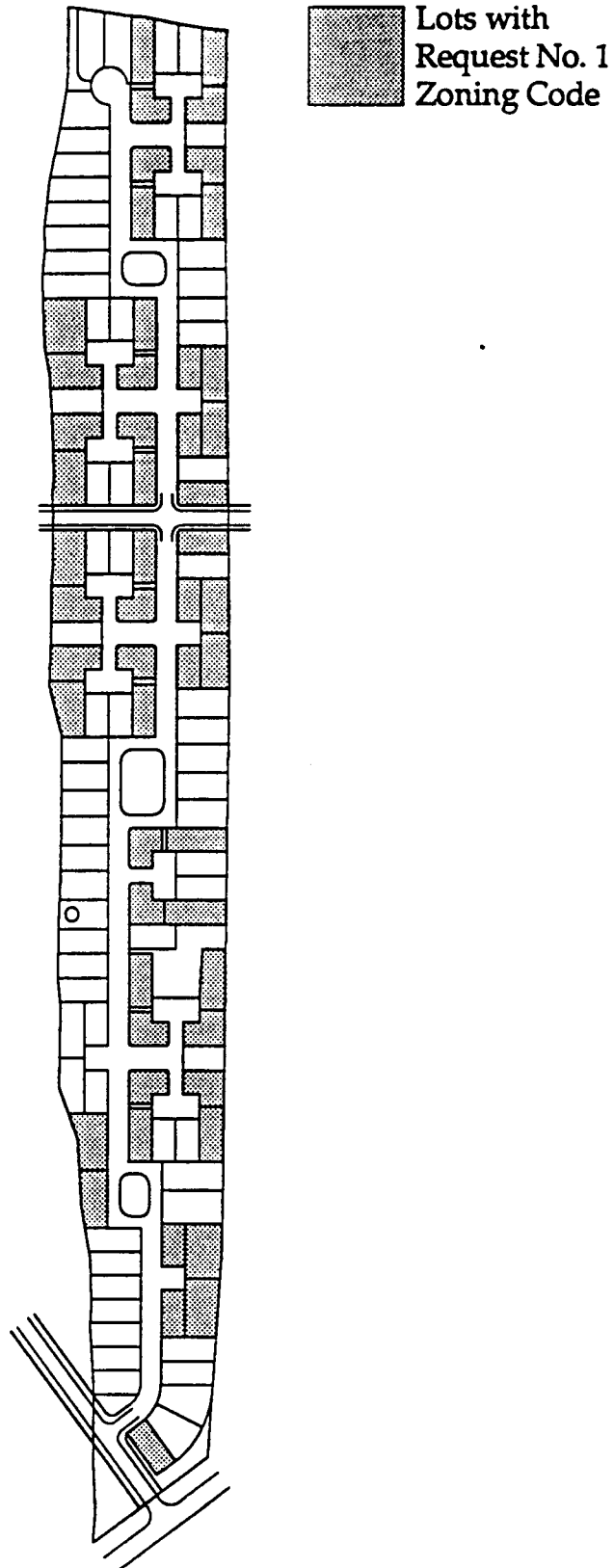


Exhibit 7: Projections Into Yards
Variance Request No. 2 - Zoning Code
Variance Request No. 2 - Housing Code

Request:

The applicant request bay windows and room bays project from 12" to 20" into the required side yard to break up the appearance of long blank facades adding more visual interest to the homes. The homes are designed with a front and rear side lanai. By this side yard criteria requested, a more useable side yard is provided for the lanais.

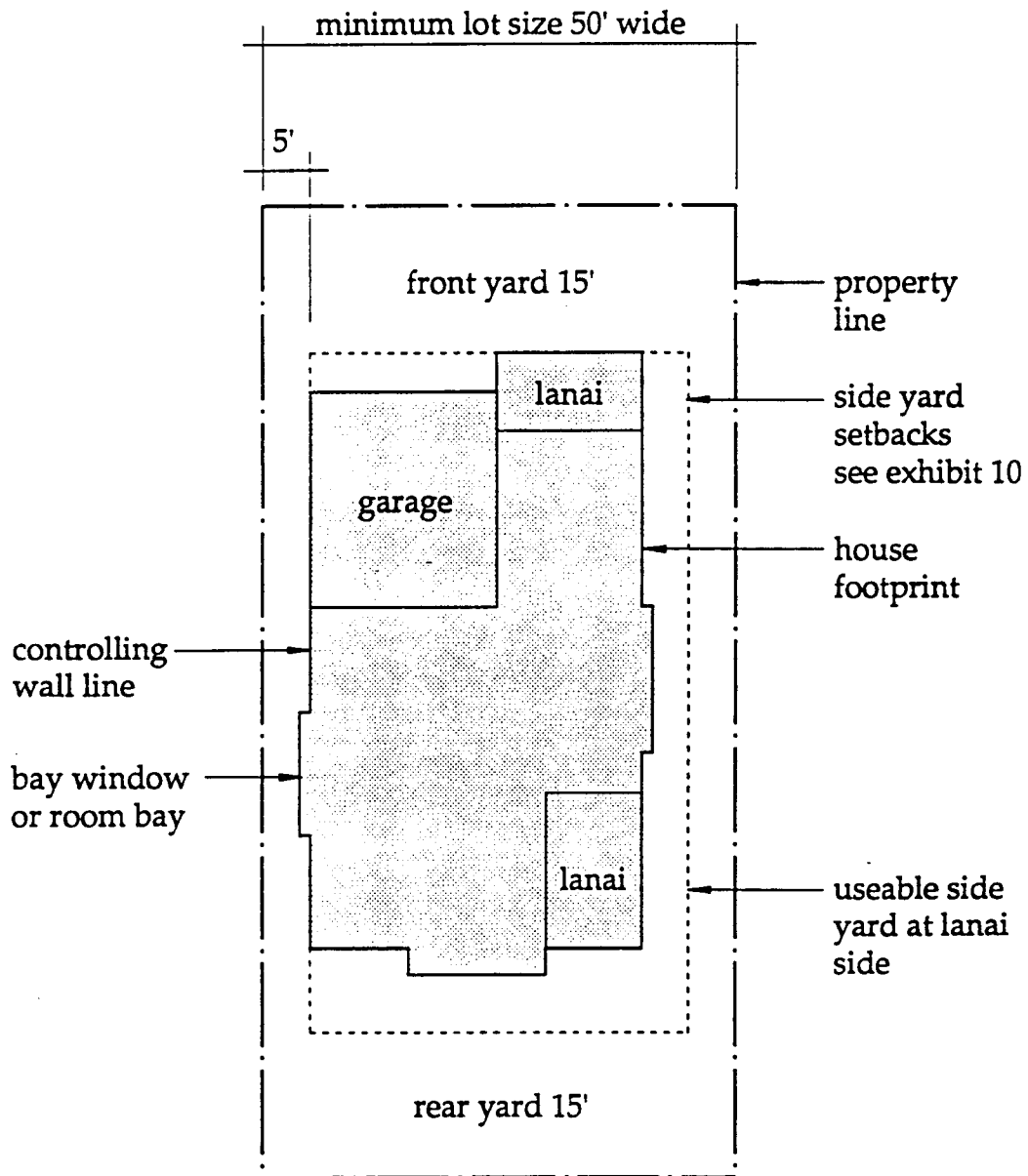


Exhibit 8: Projections Into Yards
Variance Request No. 2 - Zoning Code
Variance Request No. 2 - Housing Code

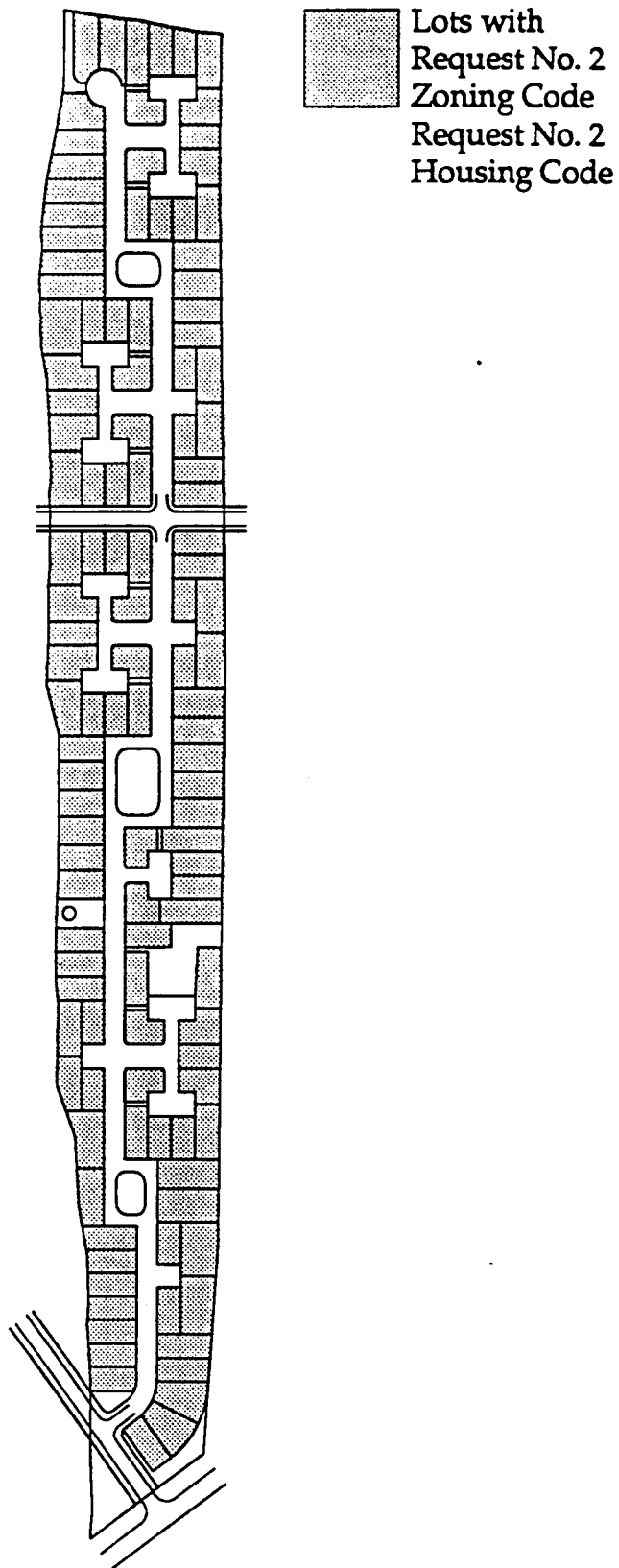
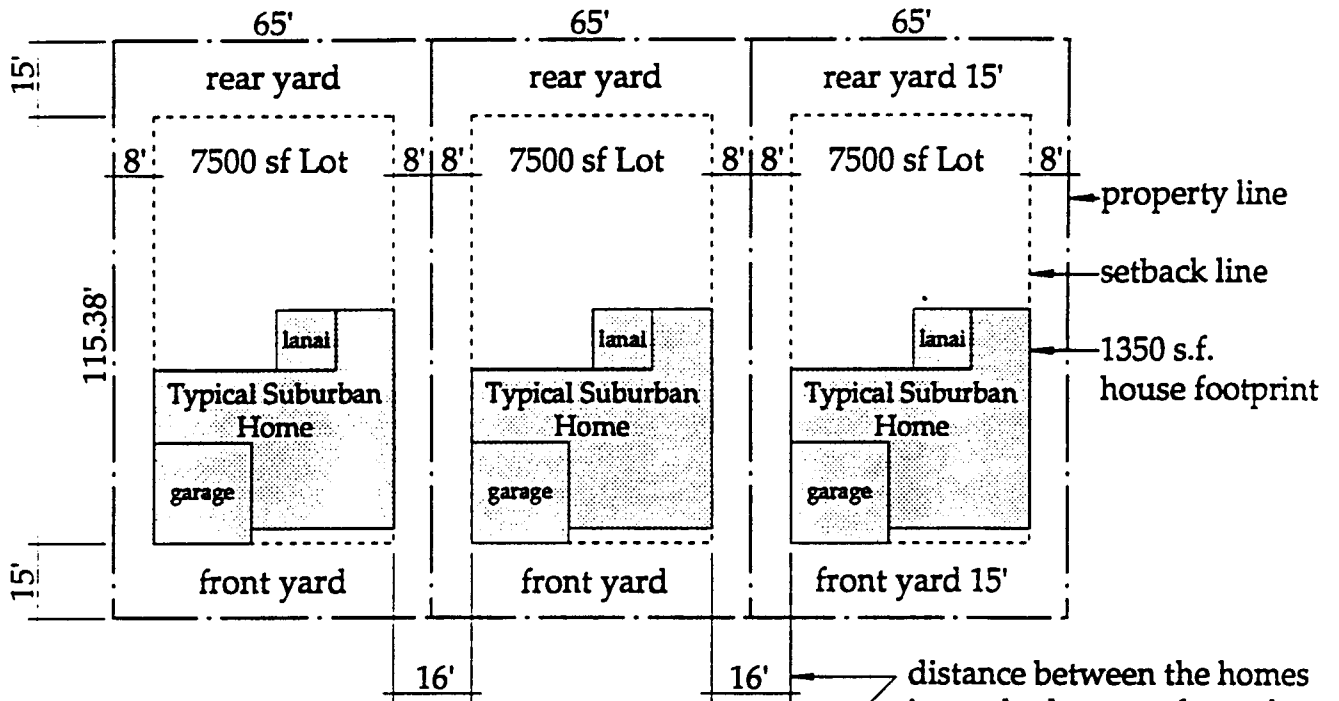
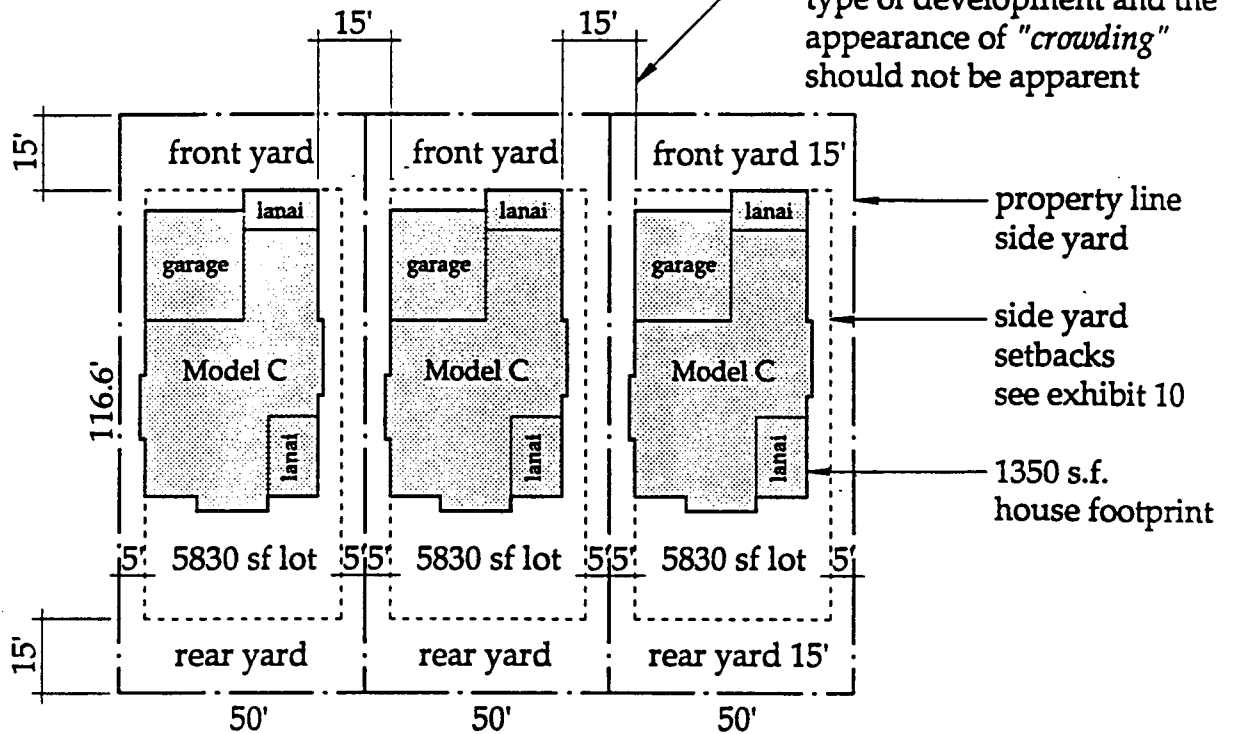


Exhibit 9: Comparison-Distance Between Homes

Standard Subdivision



distance between the homes is nearly the same for each type of development and the appearance of "crowding" should not be apparent



Planned Unit Development

Exhibit 10: Minimum Yards
Variance Request No. 5 - Zoning Code
Variance Request No. 1 - Housing Code

Request:

The applicant request all the lots have a 5' setback on the side yards for a one story house and a 6' setback on the side yards for a two story house. Front and rear yards will remain as per the standard yard criteria set by the Zoning and Housing Code. This side yard setback would also apply to the houses that have more than one street frontage. The reason for the request is to provide more useable yard space on the side yards where the lanais occur. The houses range in width from 34' to 35'. Below is an illustration of the different conditions for Model "A", Model "C", and Model "D". The setback is taken to the controlling wall we have requested. The 50' width of the lots illustrated below are the minimum widths for the project.

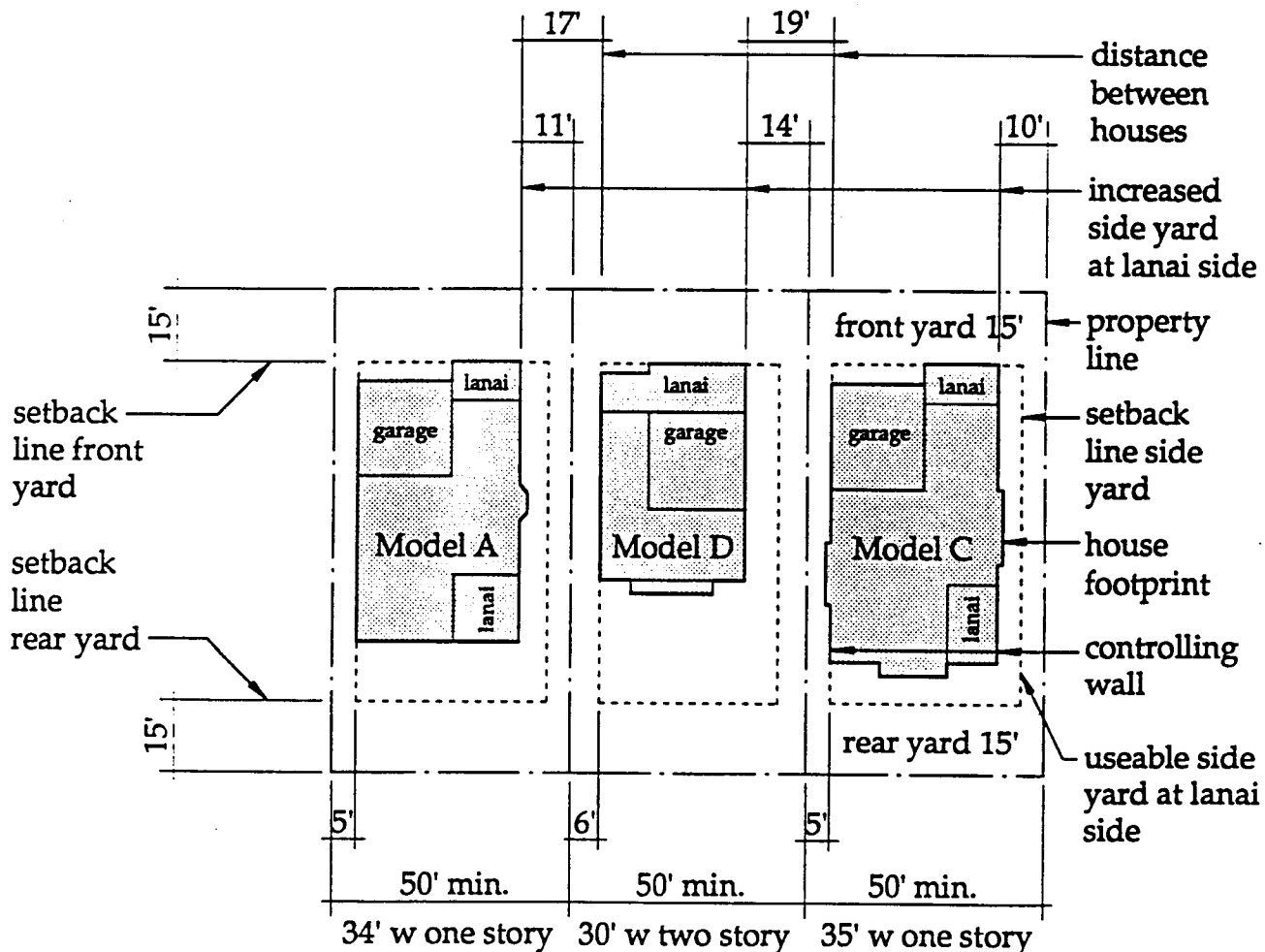
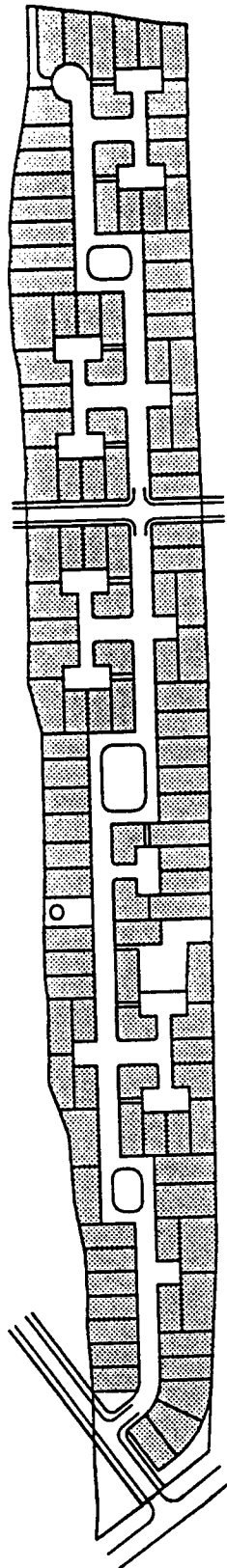


Exhibit 11: Minimum Yards
Variance Request No. 5 - Zoning Code
Variance Request No. 1 - Housing Code

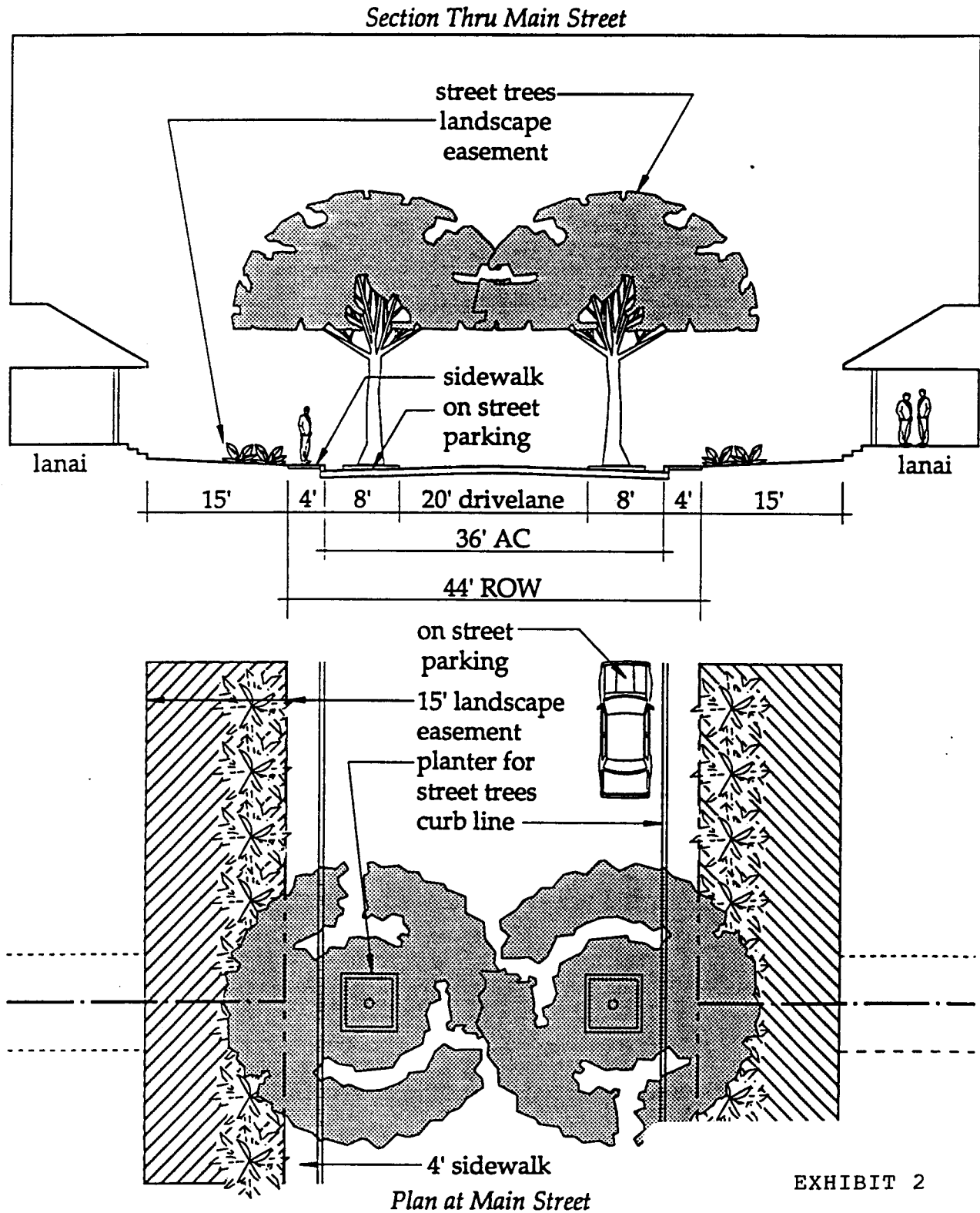


■ Lots with
Request No. 5
Zoning Code
Request No. 1
Housing Code

*Exhibit 12: Reduced Road R.O.W.
Variance Request No. 3 - Subdivision Code*

Request:

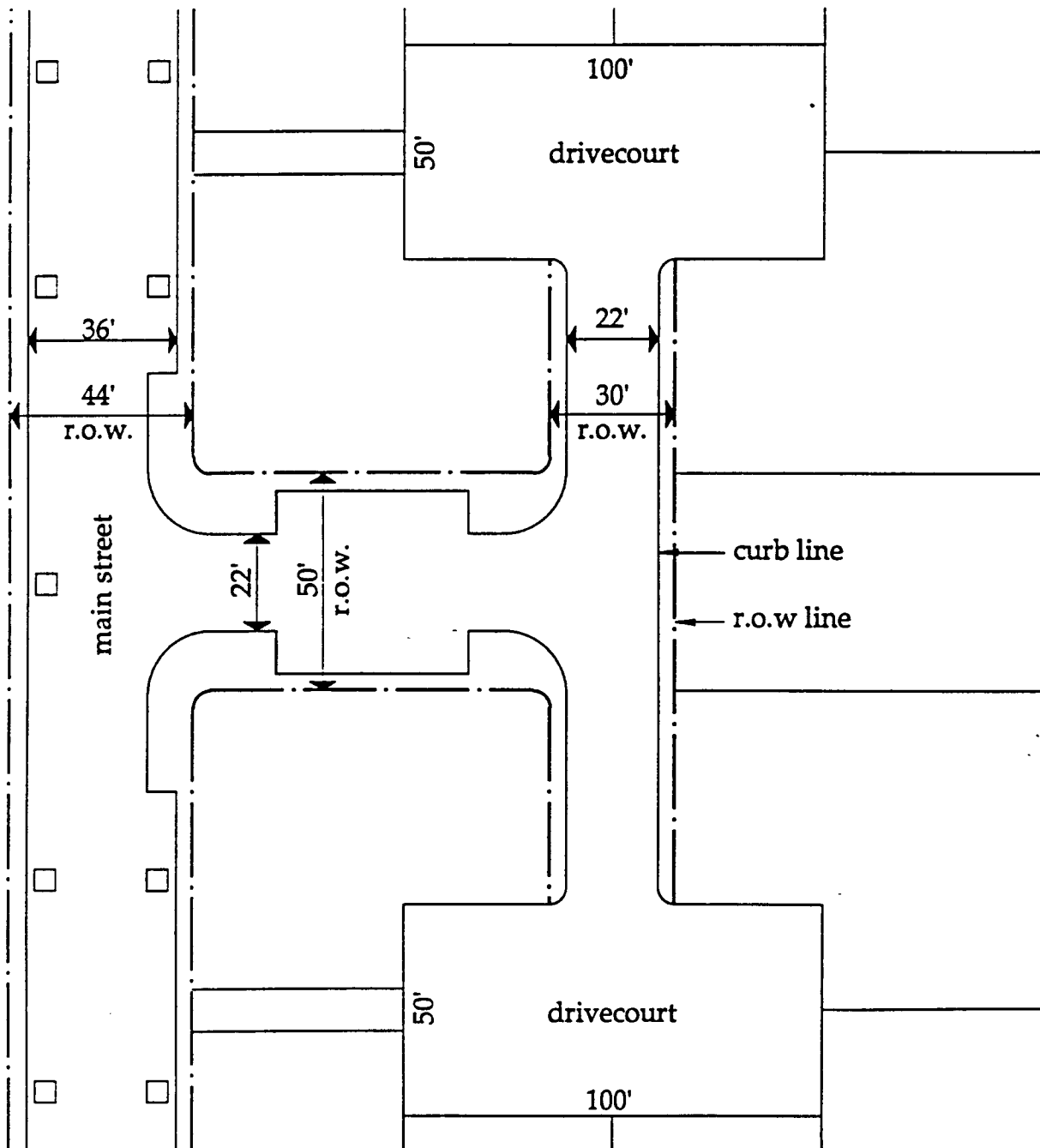
The applicant request the right-of-ways be reduced as illustrated below:



*Exhibit 13: Reduced Road R.O.W.
Variance Request No. 3 - Subdivision Code*

Request:

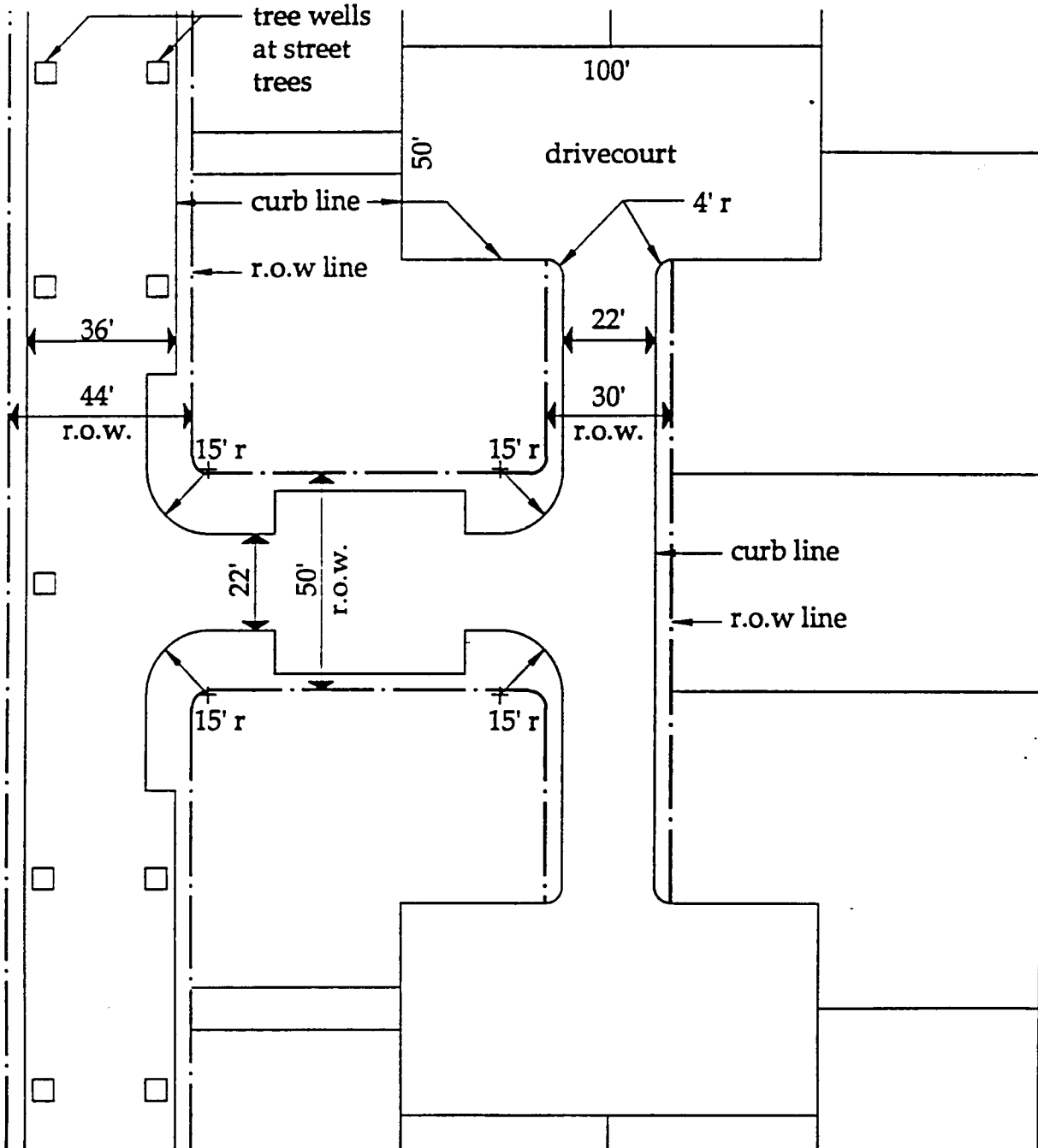
The applicant request the right-of-ways be reduced as illustrated below:



*Exhibit 14: Corner Radius
Variance Request No. 4 - Subdivision Code*

Request:

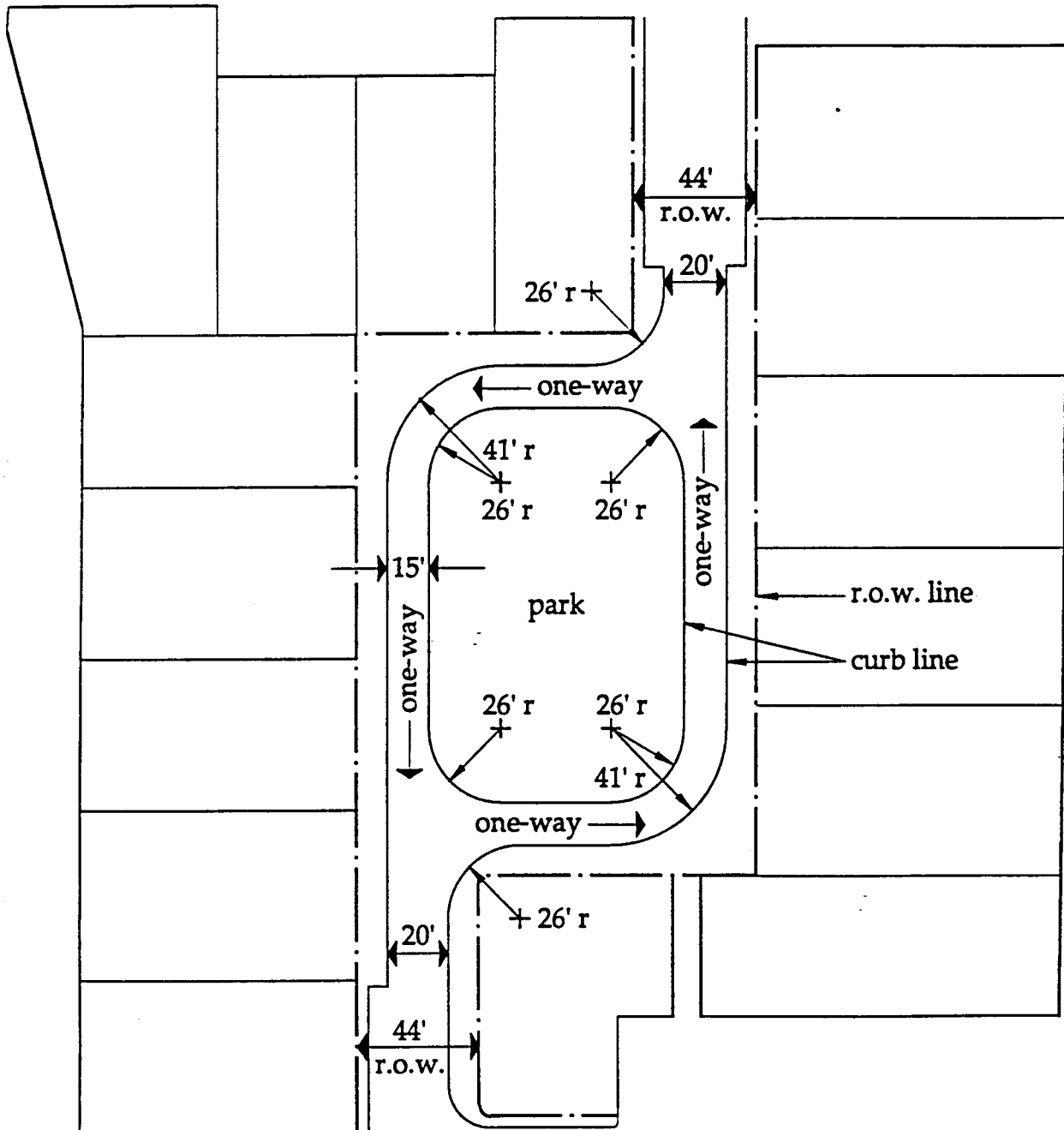
The applicant request the corner radius be reduced as illustrated below:



*Exhibit 15: Corner Radius
Variance Request No. 3 - Subdivision Code*

Request:

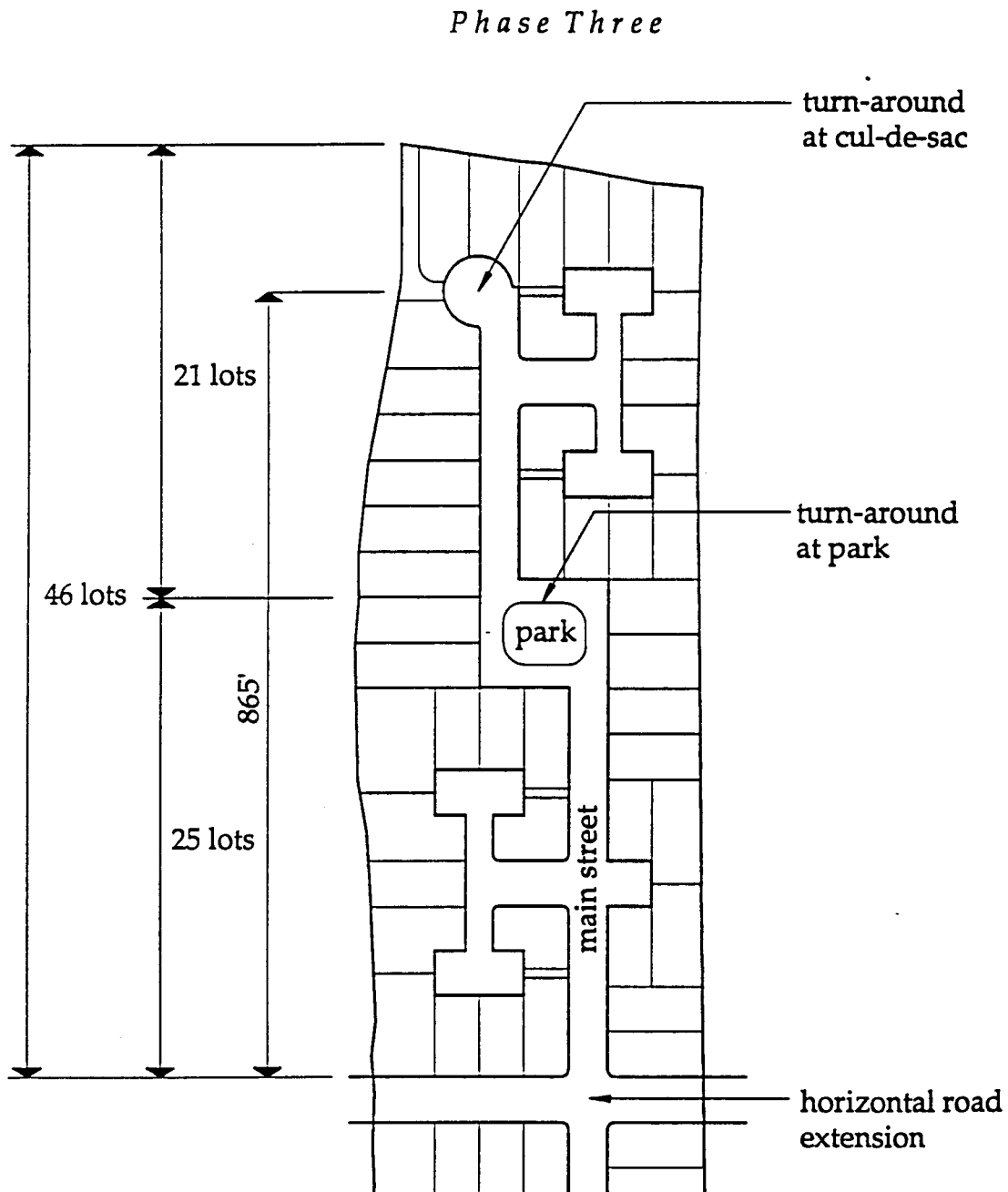
The applicant request the corner radius be reduced as illustrated below:



*Exhibit 16: Cul-De-Sac
Variance Request No. 5 - Subdivision Code*

Request:

The applicant request the cul-de-sac be allowed as illustrated below:



*Exhibit 17: Street Lights
Variance Request No. 7 - Subdivision Code*

Request:

The applicant request street lights be of a custom design and meet the County's outdoor lighting code. The light standards will be similar as showned below:

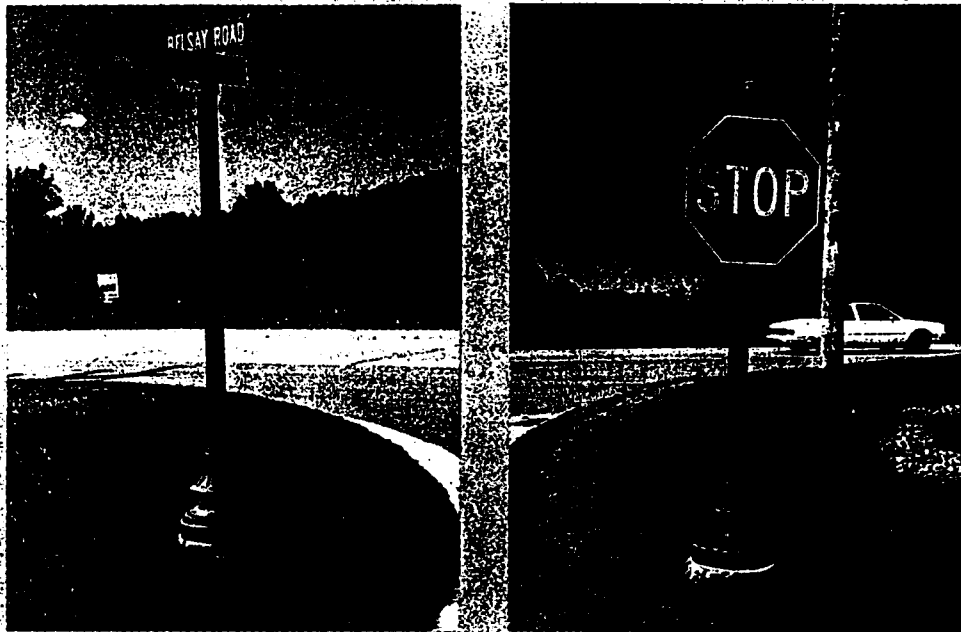


1910 ACORN/RICHMOND

Exhibit 18: Street Signage
Variance Request No. 8 - Subdivision Code

Request:

The applicant request street signage be of a custom design. The street signage will be similar as showned below:



*Exhibit 19: R. O. W. Improvement
Variance Request No. 9 - Subdivision Code*

Request:

The applicant request the right-of-way be improved as illustrated below:

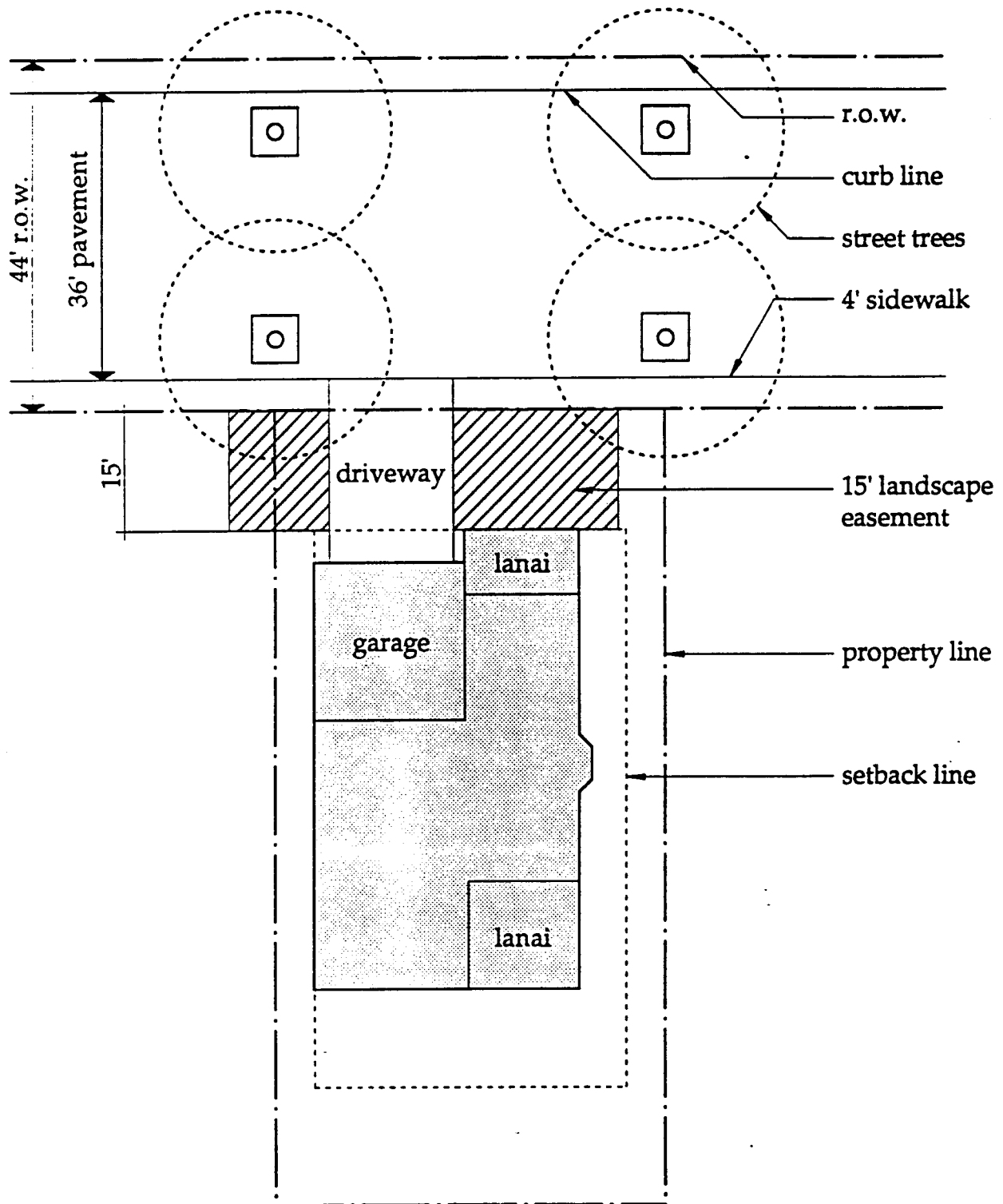


Exhibit 20: Side Yards

Variance Request No. 1 - Housing Code

Request:

The applicant request all the L - Shaped lots have yard setbacks as illustrated below. These lots are L - Shaped to define the drivecourts. Model "B" is designed especially for this lot. This home design defines the edges of the drivecourts and creates a sense of entry into the drivecourt space.

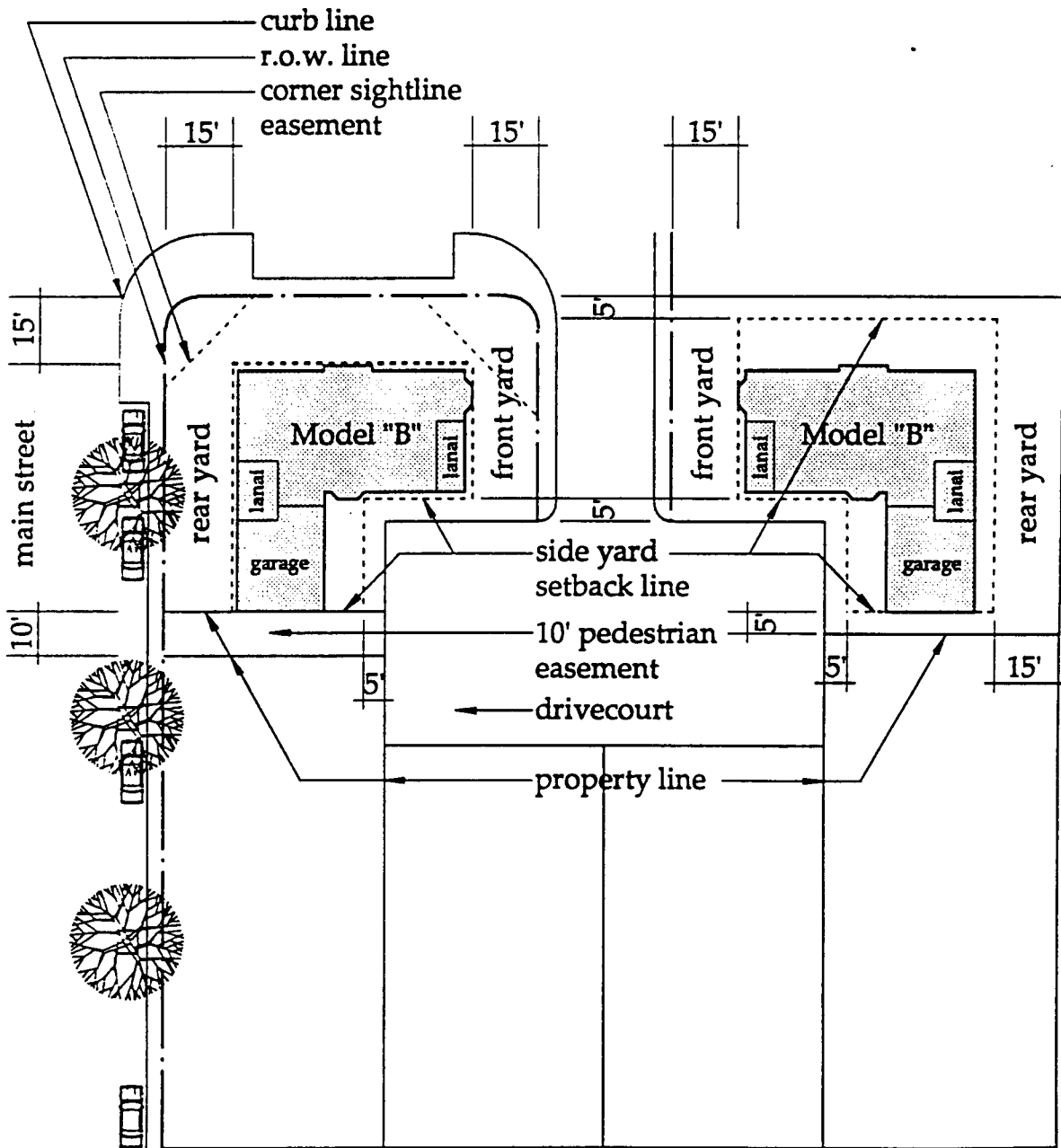
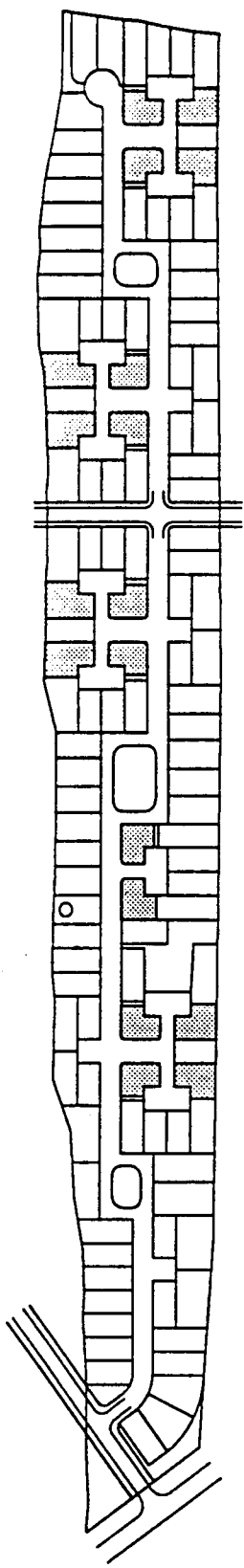
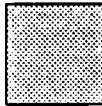
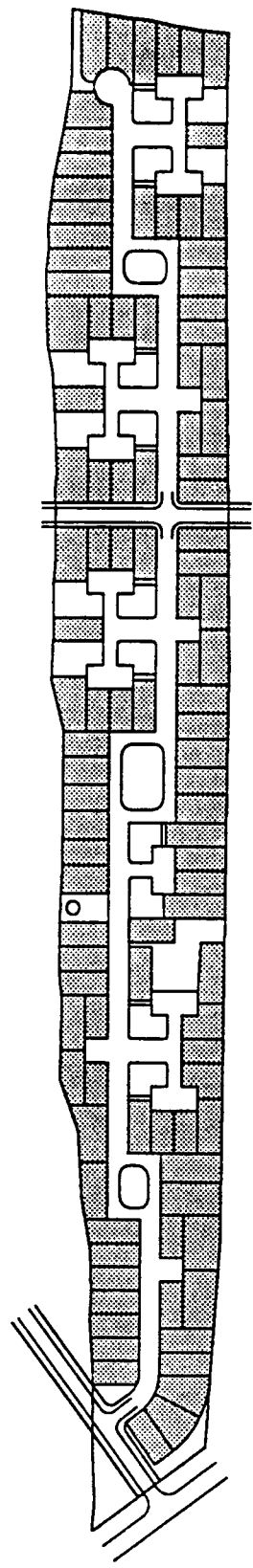


Exhibit 21: Side Yards
Variance Request No. 1 - Housing Code



 Lots with
Request No. 1
Housing Code

*Exhibit 22: Side Yards
Variance Request No. 1 - Housing Code*



■ Lots with
Request No. 1
Housing Code