

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

August 25, 2005

Mr. Michael Riehm
Riehm Owensby Planners Architects
P.O. Box 390747
Kailua-Kona, HI 96739

Dear Mr. Riehm:

PLANNED UNIT DEVELOPMENT APPLICATION (PUD 2004-000003)

Project Name:	Lehua Lani
Applicant & Consultant:	Riehm Owensby Planners Architects
Landowner:	Lehua Lani, LLC
Tax Map Key:	7-5-020: 071 & 72

After reviewing the information submitted with the Planned Unit Development Application, the Planning Director hereby approves Planned Unit Development (PUD) No. 2004-000003 to allow the development of a 58-lot single family residential subdivision and related improvements within the Single-Family Residential (RS-7.5) zoned district. Approval of PUD No. 2004-000003 includes the granting of Variances from various roadway standards of the Subdivision Code, Chapter 23 and minimum lot size, average width, and various yard setback requirements of the Zoning Code, Chapter 25, Hawaii County Code. The subject property is located makai of Kahakai Estates Subdivision at Puapua 'a 2nd, North Kona, Hawai 'i.

FINDINGS

1. Authorized Agent. Lehua Lani, LLP has authorized Riehm Owensby Planners Architects as its authorized representative to apply, execute and process any and all applications and to participate in proceedings related to this application.
2. Project Description. The project is a single family residential subdivision that will be "neighborhood friendly" and be designed to promote social interaction and encourage outdoor activities. The project will consist of 58 single family residential lots, landscaped common open spaces, and streetscape with trees, traffic calming measures, and other pedestrian-friendly design features (see Exhibit A).

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AUG 29 2005

3. Permitted Use and Density; Consistency with General Plan. In accordance with Section 25-5-32 of the Zoning Code, the proposed single-family residential lots is a permitted use under the existing Single-Family Residential (RS-7.5) zoning of the property. The total land area of this PUD is 10.142 acres. The maximum density on this project site for a single-family lot development is 58 units. With an allowance of 20% for roadways, the number of developable lots is about 47 lots. However, because this property is sandwiched between Alii Drive and the proposed Alii Highway, and will be required to dedicate a portion of the property to widen Alii Drive and may be required to dedicate additional right of way for Alii Highway or at least provide a buffer along Alii Highway, the owner is partially compensated through the issuance of this PUD by preserving the maximum number of lots permitted by its zoning designation that is typically encumbered by internal roadways. Proposed lot sizes range from approximately 4,000 square feet to 9,300 square feet. The proposed use is consistent with the General Plan LUPAG designation of Medium Density Urban, which allows for village and neighborhood commercial and single family and multiple family residential and related functions (multiple family residential -- up to 35 units per acre" (General Plan, February 2005, reformatted as §14.1.1).
4. Reasonable Project Time Period. Developer plans to start construction immediately upon receipt of final subdivision approval, with all house lots prepared to accommodate future homes within 3 years.
5. Compatibility with Neighboring Uses. The proposed single family residential project is consistent with uses within the general proximity of the project site. There are single family residential subdivisions within the area such as Kahakai Estates Subdivision to the east (mauka) and multiple family residential uses (Kona by the Sea condos on the opposite side of Alii Drive (makai)) and the Alii Lani townhomes to the north.
6. Access. Access to the property is from Alii Drive, a County-maintained roadway. No access will be permitted onto the proposed Alii Highway.
7. Previous Permits.
 - a. SMA Use Permit No. 441 issued on December 30, 2003, approved the proposed 58-lot subdivision within the County's Special Management Area, subject to conditions of approval similar to the change of zone ordinance noted below.
 - b. Ordinance No. 04-56, approved on May 27, 2004, rezoned the subject property from A-5a to RS-7.5, subject to conditions of approval. Some of the more notable conditions include (in summary):
 - Condition D – 5-foot no access planting screen along Alii Drive lots.
 - Condition E – 10-foot wide future road widening along Alii Drive.
 - Condition F – provide paved shoulder along Alii Drive frontage.
 - Condition G – extend two-way left turn lane within Alii Drive to service project site.

- Condition H – provide additional right-of-way at no cost to the County to accommodate Alii Highway alignment.
Condition P – conduct archaeological survey
Condition Q – provide landscape/open space buffer adjoining Alii Highway to preserve archaeological site.

VARIANCES APPROVED

The master plan proposes a harmonious, integrated whole that justifies the following exceptions to the normal requirements of the Zoning and Subdivision Codes, subject to the conditions set forth at the end of this letter:

Zoning Code Variances:

1. Flag Lots (§25-4-14) (Variance Request #1). The site plan provided by the Applicant shows only one proposed flag lot. This variance request will allow for a flag lot below the minimum building site area of 7,500 square feet as well as allow for minimum yard setbacks (all side yards) that will be less than that required in an RS-7.5 zoned district. No variance is granted for the minimum width of the pole (15' minimum).
2. Yard Requirements §25-5-7 (Minimum Yards-RS), §25-4-40 (permitted projections into yards and open spaces), §25-4-42 (corner building sites) (Variance Requests #10, 5, 7). The minimum yards in the RS-7.5 district are: 15' from the front and rear property boundaries and 8' from the side property boundaries. The master plan offsets the footprint of the homes to one side of the lot so that the distance between the homes is substantially equivalent (no less than 15 feet) to the 16' feet that would result from the code requirements. The main house structure will maintain a minimum 15' setback from the front and rear property boundaries, as required by the zoning code. However, the detached garage structure will be situated at least 7' from its front property line, providing a clearspace from its roof eaves of 4'. The garages are oriented with the side facing the street. There will be an adequate driveway apron fronting the entry to the garage to provide for onsite parking outside the garage without the parked cars encroaching into the right-of-way. The other site plan is for the garage to be located at the rear of the lot and accessed by a lane. The approved yards shall be as shown on the attached Exhibit C.
3. Perimeter Fences or Walls and Accessory Structures (§25-4-43) (Variance Request #6). The zoning code requires any opaque perimeter fence or wall over 6' in height to meet setback requirements. This code requirement applies only to free-standing walls and not retaining walls; retaining walls can be whatever height required for its retaining function. This variance is granted for the entry walls. The permitted projection of other accessory structures into the front, rear, or side yards shall be as permitted through the CCR's, provided such CCR's clearly absolve the County from any disputes between neighbors relating to such structures.

4. Minimum Building Site Average Width-RS-zone (§25-5-6) (Variance Request #9). The minimum building site average width in the RS-7.5 district for a 7,500 s.f. lot is 60'. The proposed lot sizes range from 4,000 to 9,300 s.f. Given that the master plan coordinates the setbacks through the siting of each house pad, a minimum lot size of 4,000 s.f. is acceptable, which is 53% of the 7,500 code-required minimum lot size. A proportionate reduction in the minimum lot width for a 4,000 s.f. lot compared with the 60' required for a 7,500 s.f. lot is 32'; therefore, the proposed minimum 40' for a 4,000 s.f. lot is acceptable.

Subdivision Code Variances

1. Through Lots (§23-36) (Variance Request #16). The master site plan shows the use of alleys that provide a back-loaded access so that the main access roadways within the development can be designed with an enhanced streetscape and reduced number of driveway entrances.
2. Minimum Right-of-Way and Pavement Widths (§23-41) (Variance Request #18). The Subdivision Code requires minor streets have a minimum right-of-way width of 50' with 20' pavement width (without curb/gutter/sidewalks) or 32' (with curb/gutter/sidewalk). The proposed street layout consists of minor roads. The design objective of the proposed street section is to reduce traffic speed and create a more intimate neighborhood through a narrower right-of-way with street trees, traffic calming islands, and special courtyard appearance at certain intersections. Acknowledging the relatively low traffic volume (not a subdivision with through roads) in this project and that the roads will remain privately owned and maintained, a variance is approved for a minimum 40' wide right-of-way with 20' pavement and 10' wide grass shoulders (no curbs, gutter, or sidewalk) for the main roads in accordance with Exhibit B. The alleys will be permitted to have a minimum 20' right-of-way with 20' pavement since its primary function is to provide a back-loaded entry onto the lots and not as the primary access road or pedestrian way. Because of the relatively low traffic volume and reduced speed, pedestrians will share the roadway with the vehicles. These streets shall be private nondedicable streets.
3. Corner radius (§23-45) (Variance Request # 20). The Subdivision Code requires a minimum corner radius of 20' at the right-of-way lines for right angle intersections. The proposed corner radii at the pavement edge are as small as 10' for the drivecourts from the main access road, 15' for the alleys from the main access road, and 20' at turns within the main access road. These smaller corner radii are intended to slow the speed of turning vehicles and reduce the crossing distance for pedestrians. Given the reduced traffic volume, overall design to reduce speed, and that fire trucks are able to accommodate the turning curves by swinging out to the opposing lane or even onto the curbless shoulders, this variance is approved for the corner radii at the specific locations mentioned above.

4. Street lights (§23-93) (Variance Request #28). The Subdivision Code requires the installation of street lights within the subdivision that meet County specifications. Since the roads will be private, a variance is approved to allow custom street lights. However, if the Department of Public Works requires a street light at the project's Alii Drive intersection at the time of subdivision, this street light shall meet County specifications.
5. Street Name and Traffic Signs (§23-94) (Variance Request #29). The Subdivision Code requires street and traffic signs to meet County specifications. Since the roads will be private, this variance approves custom street and traffic signs within the subdivision. Street name signs shall be erected at each intersection.
6. Right-of-Way Improvement (§23-95) (Variance Request #30). The Subdivision Code requires the entire right-of-way to be improved. This variance allows the right-of-ways to be developed as shown on Exhibit B.

Although the petitioner requested the following variances, they are not necessary for the reasons given below:

- Minimum Street Frontage (§25-4-30) (Variance Request #2). The minimum building site average width in the RS-7.5 district is 60' (§25-5-7). The applicable minimum street frontage is 50% of the 60', which is 30' for this project, except for lots at the end of cul de sacs or flag lots, which is a minimum of 15'. Based on the master plan, there is only one flag lot which has an access pole about 20 feet wide. The flag lot conforms to code.
- Minimum Building Site Area (§25-4-31), Minimum Average Width (§25-4-32) (Variance Request #3). This provision applies to subdivisions that are designed to comply with the requirements of the Zoning Code without exceptions through a variance, Planned Unit Development or Cluster Plan Development permits.
- Reduction of Building Site Below Minimum Area (§25-4-32) (Variance Request #4). This provision of the Zoning Code applies only to existing lots.
- Triangular or Irregular Building Sites (§25-4-41) (Variance Request #6). This provision applies to subdivisions that are designed to comply with the requirements of the Zoning Code without exceptions through a variance, Planned Unit Development or Cluster Plan Development permits.
- Other Regulations (§25-5-8) (Variance Request #11). Relief from this provision is inappropriate since it applies to uses not being proposed by this PUD application and implies a request for wholesale relief from certain requirements of the Zoning Code.
- Block Sizes (§23-29); Lot Size and Shape (§23-32); Minimum Lot Size (§23-33); Lot Side Lines (§23-35); Street Location (§23-40); Future Extension of Streets (§23-44); Cul-de-sacs (§23-48);

Grades and Curves (§23-50); Protection from Arterial Streets (§23-51); Private Streets (§23-53); Private Dead-end street (§23-88); Sidewalks (§23-89); Curbs and Gutters (§23-91); (Variance Request #12, 13, 14, 15, 17, 19, 21, 22, 23, 24, 25, 26, 27). These variance requests involved improvements or situations that were either not reflected within the PUD application or shown on the master site plan. Many of these variance requests pertain to general standards applied to subdivision review and do not specifically apply to the proposed PUD, or relief was applied by variances of other applicable sections of the code. For example, relief was requested from standards regarding cul-de-sacs and dead-end streets, but none of these types of streets exist within the development. These variance requests were not considered since they are either redundant or are not applicable to the proposed project.

CONDITIONS

The Planning Director approves the Planned Unit Development subject to the following conditions:

- A. Approval and Conditions Run with the Land. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.
- B. Indemnification. 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. Subdivision Approval. Subdivision approval shall be subject to the following conditions:
 1. Conformance with Master Plan. The final plat map shall show the lot layouts, building footprints, and setbacks as substantially represented in the master plan attached as Exhibit A, and include a certification by the applicant, surveyor, or architect on the final plat map of such conformance with this PUD.
 2. No Vehicular Access. The final plat shall show no vehicular access along the Alii Drive and Alii Highway street frontages.
 3. Alii Drive and Alii Highway Improvements. As required by Ordinance No. 04-56, the final plat shall show a 10' wide future road widening road lot along Alii Drive that the County may require dedication, and additional right-of-way to be dedicated to the County for Alii Highway (as required by the Department of Public Works); construction drawings shall include extending the two-way left turn lane within Alii Drive to access the project site as well as providing a paved shoulder along the Alii Drive frontage.
 4. Non-Dedicable Private Streets. The approved street sections (Exhibit B) shall be private, non-dedicable streets. The preliminary plat or final subdivision approval submittal shall include a

recordable document similar to that required for nondedicable resort streets that includes the provisions set forth in section 23-70(4).

5. Street Name, Traffic Signs and Markings, and Other Intersection Improvements. All streets within the proposed subdivision shall be named. The street name sign at the intersection of Alii Drive, and any other improvements at this intersection including a street light if required, shall meet the requirements of the Department of Public Works.
 6. Construction Plan Review by Fire Department. Besides the Department of Public Works and Department of Water Supply, the construction plans shall also be submitted to the Fire Department for review.
 7. Water Use Calculations. The subdivision application shall include water use calculations, as requested by the Department of Water Supply's comments to this PUD application, in order for the tentative approval conditions to clearly set forth the Department of Water Supply's requirements for final subdivision approval. The calculations shall include all proposed water uses, such as domestic, landscaping, swimming pools, water features, and other uses.
- D. Building Permits Approval. Building permits shall be subject to the following conditions:
1. The siting of the residences and garages shall substantially conform to the master plan attached as Exhibit A.
 2. Building Code requirements for setbacks or distances between structures shall supersede any yard variances granted by this PUD.
- E. Compliance with Approvals. The applicant shall comply with all requirements of Change of Zone Ordinance No. 04-56 and SMA Use Permit No. 441 as well as this PUD Permit.
- F. Conditional Annual Report. If full buildout is not completed within three years from the date of this PUD approval, an annual progress report shall be submitted to the Planning Director prior to the fourth 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 full buildout.
- G. Time Extension. The Zoning Code requires permit approvals to be used within two years (§25-2-7). This PUD shall be deemed "used" upon final subdivision approval. If the applicant should require an extension of time, the applicant may request for time extension pursuant to Section 25-6-14 (Time extensions and amendments).

Mr. Michael Riehm
Riehm Owensby Planners Architects
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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,



CHRISTOPHER J. YUEN
Planning Director

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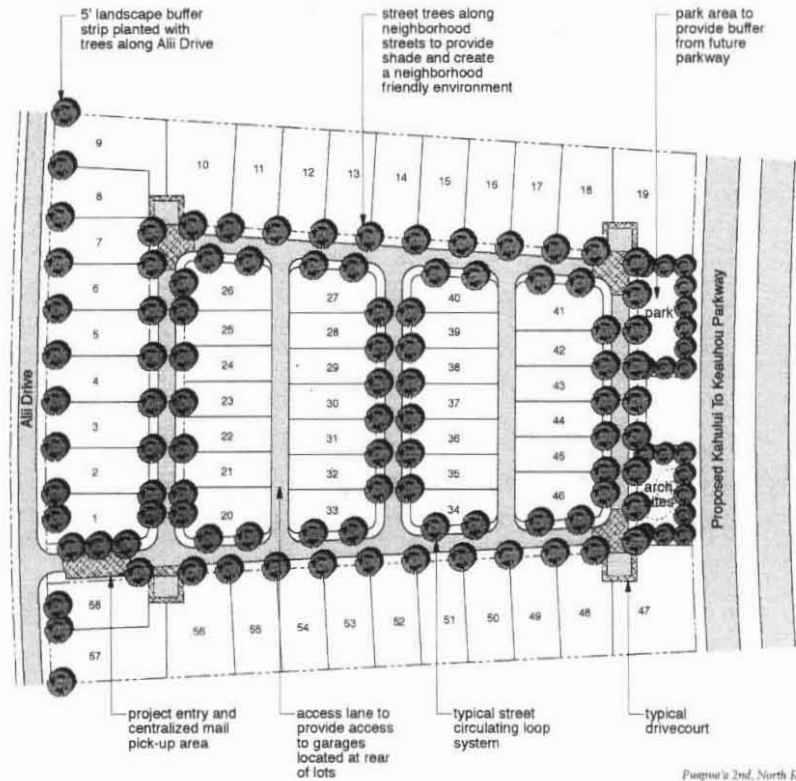
xc: Department of Public Works, Building Division
Department of Public Works, Engineering (Hilo and Kona)
Department of Water Supply
West Hawaii Planning Office
Ordinance No. 04-56 (REZ 1039)
SMA Use Permit No. 441

Attached Exhibits:

Exhibit A: Master Plan
Exhibit B: Approved Yard Setbacks
Exhibit C: Approved Street Sections

Exhibit A: Master Plan

MASTER PLAN SC: 1" = 100'



PROJECT INFORMATION	
Project TMK	TMK: (3) 7-5-20: 71 & 72
Land Area	10.142 Acres
State Land Use	Urban
County Zoning	RS-7.5
Number of Lots	58 Lots
Density	5.71 Units Per Acre

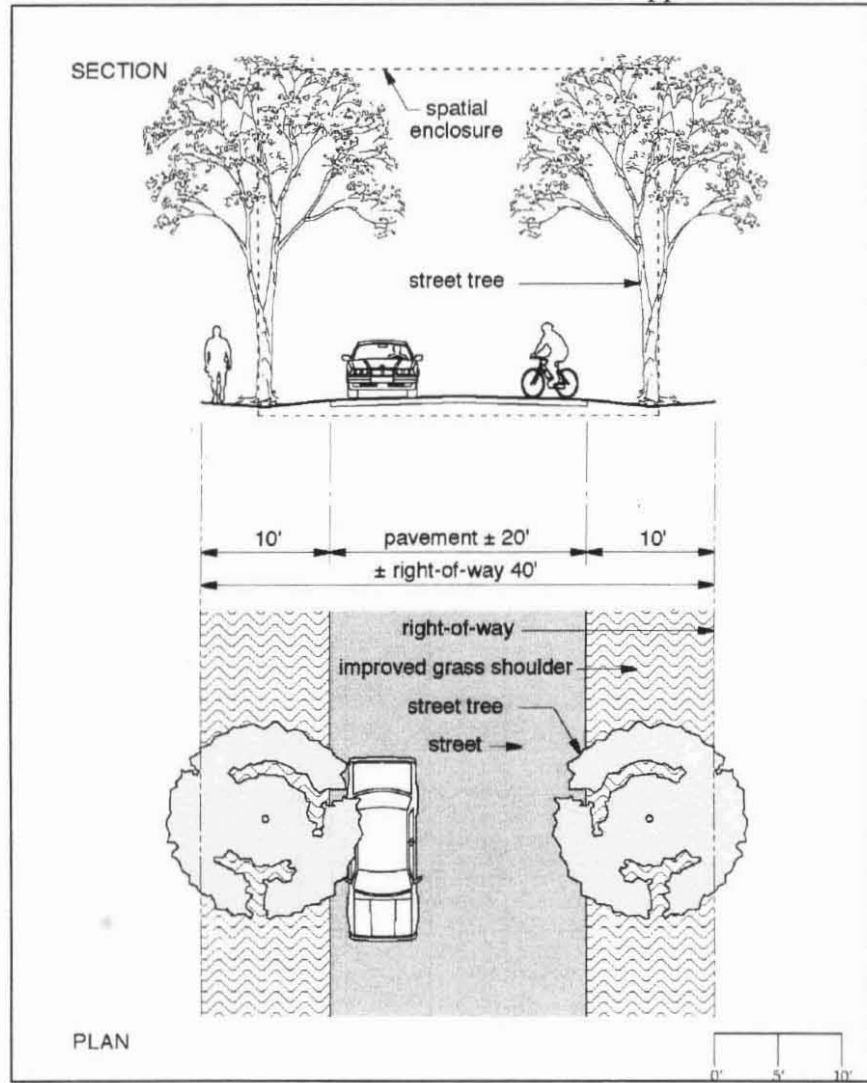
Riehm Owensby
 PLANNERS
 ARCHITECTS

LEHUA LANI - A PLANNED UNIT DEVELOPMENT

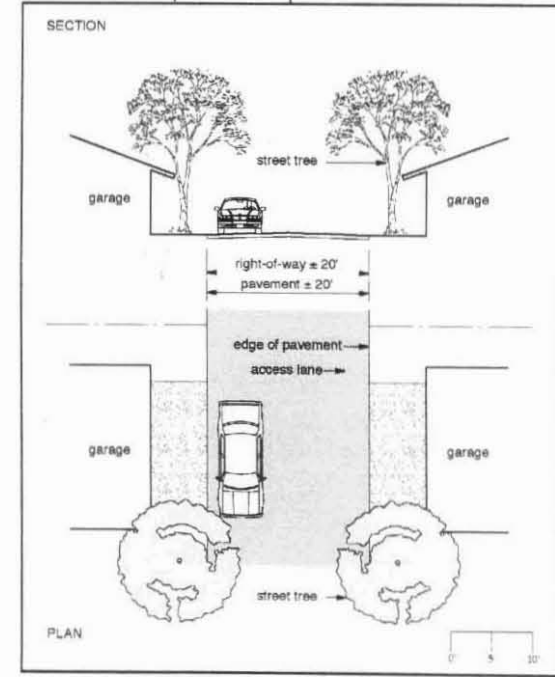
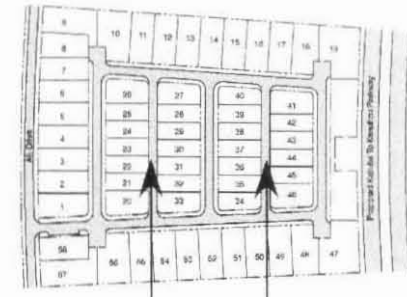
Puupea's 2nd, North Kona, Hawaii TMK: (3) 7-5-20: 71 & 72
 Lehua Lani, LLC
 2140 Ahtood Drive, Anchorage, Alaska 99517

Date: 7.1.04
 Sheet No: A-1.1

Exhibit B: Approved Street Sections (Private, Non-Dedicable)



LOCAL STREET



ACCESS LANE

Exhibit C: Approved Yard Setbacks

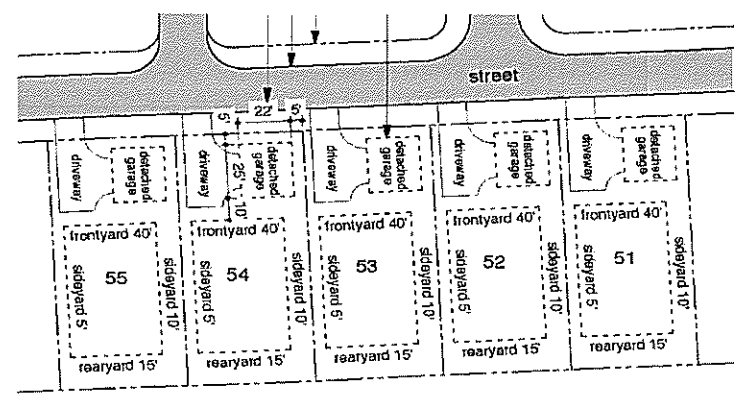
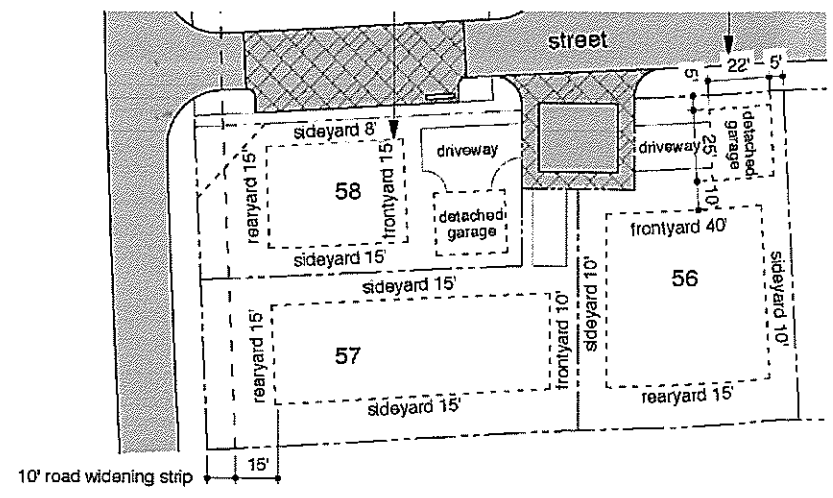
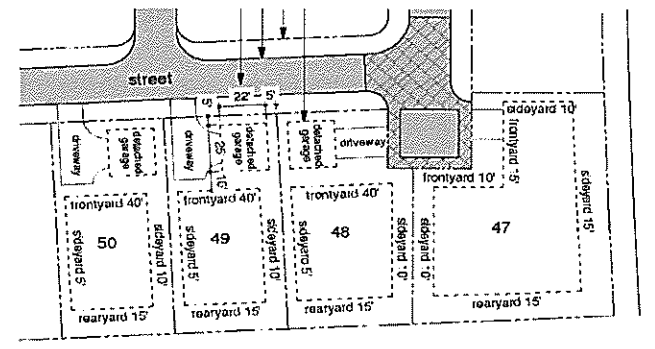
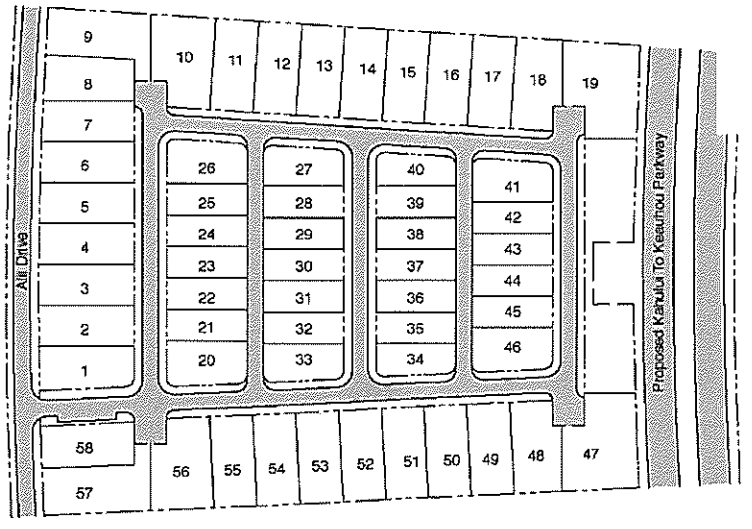
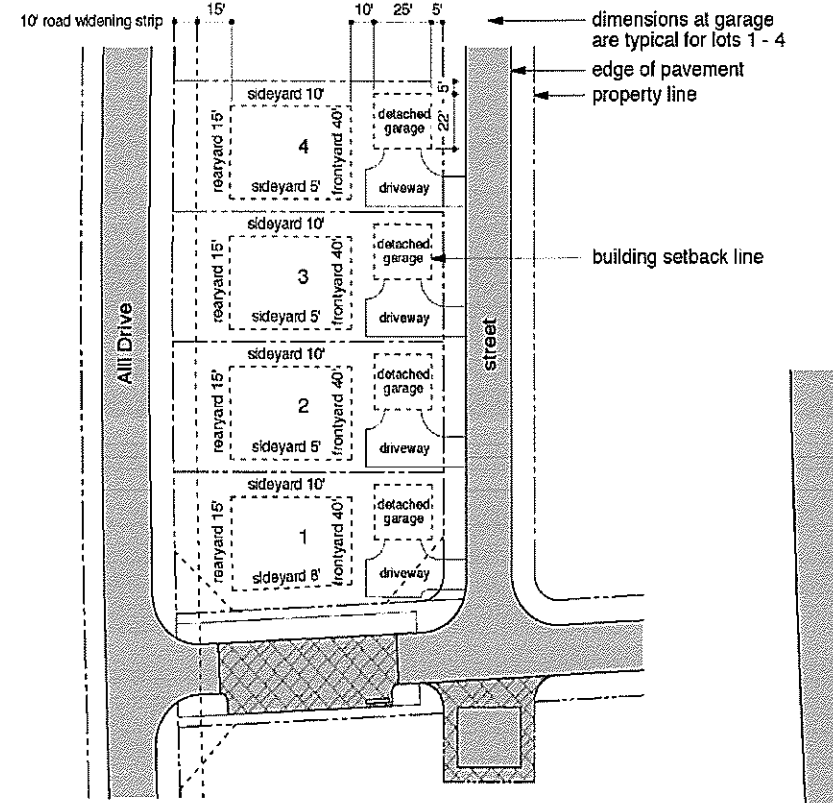
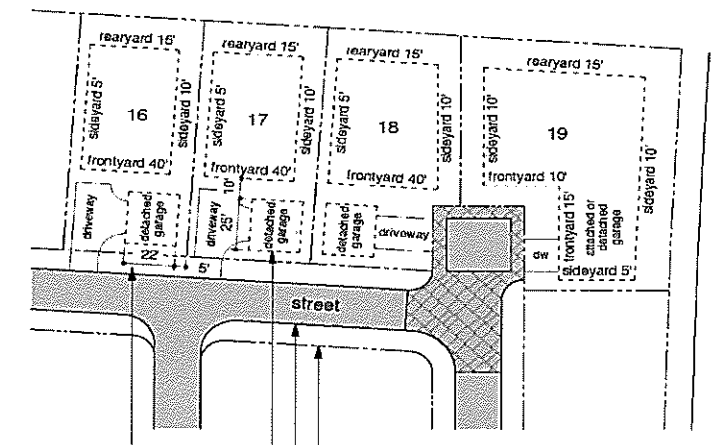
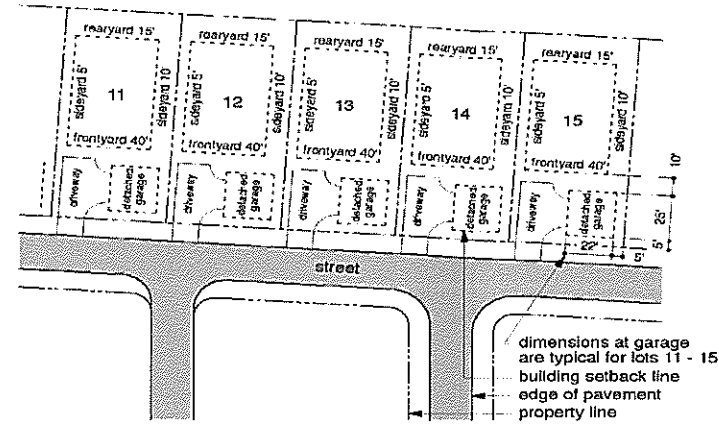
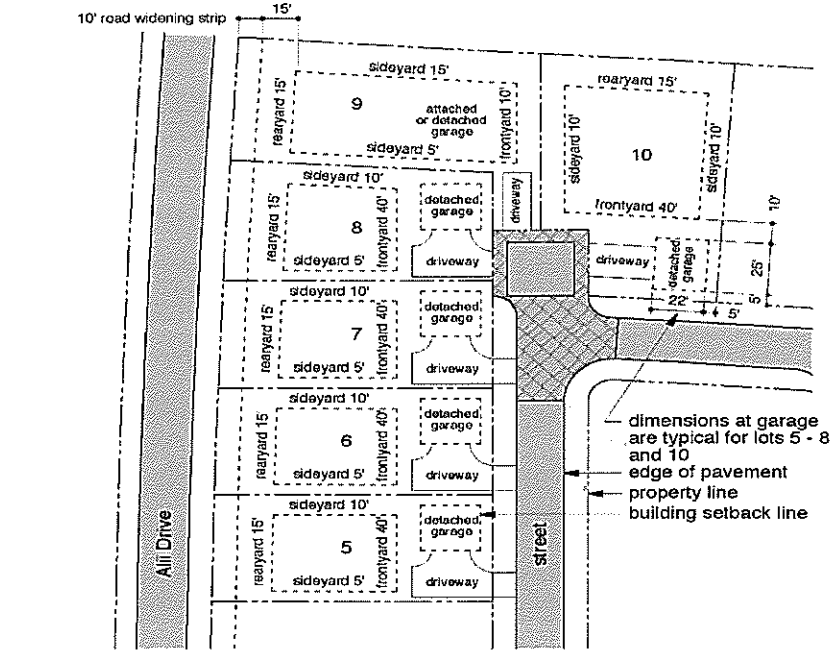
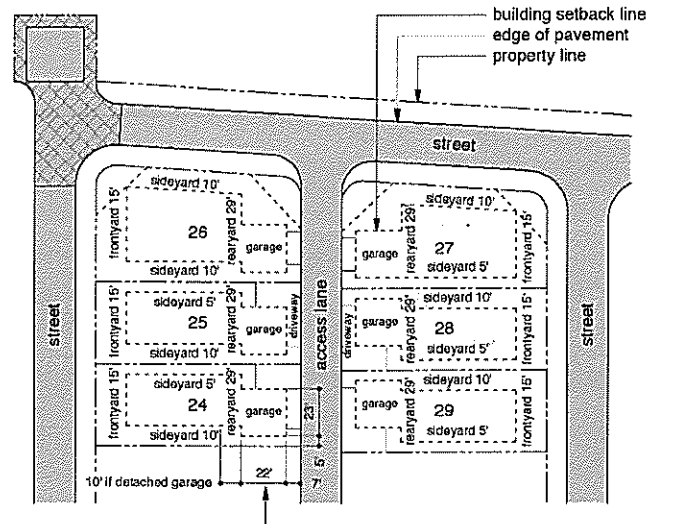
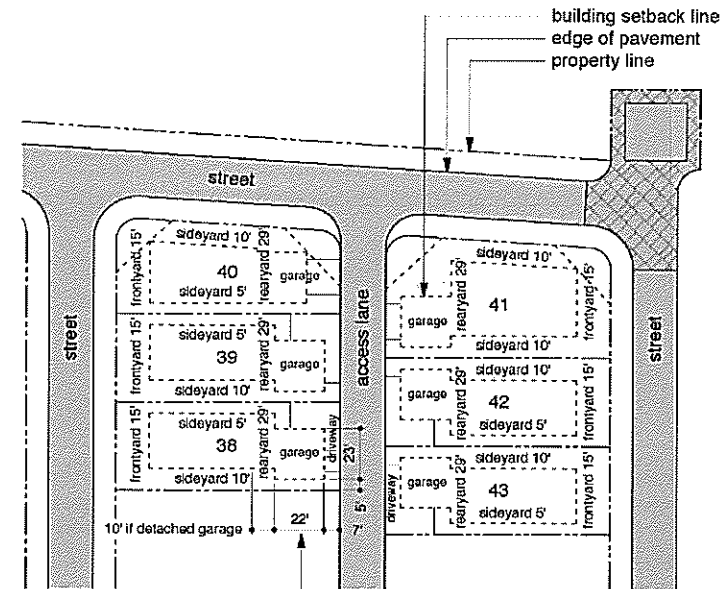


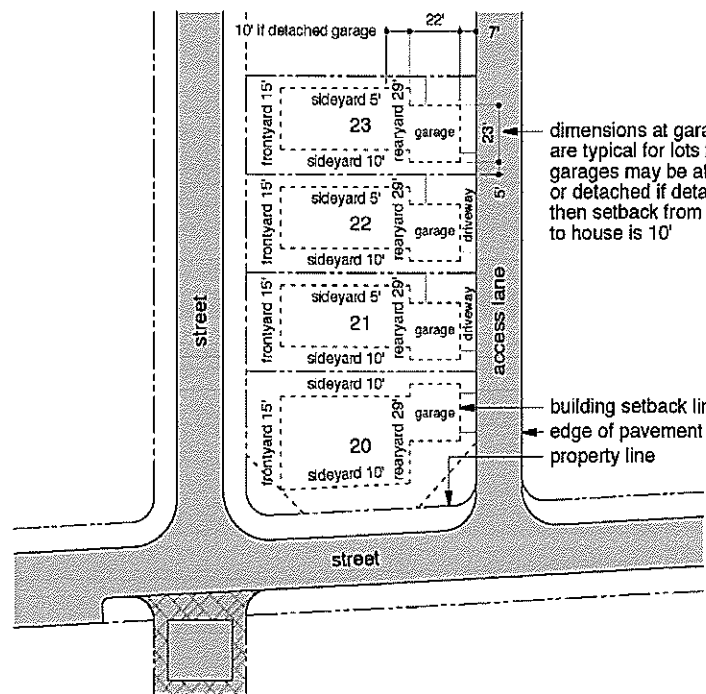
Exhibit C: Approved Yard Setbacks (cont.)



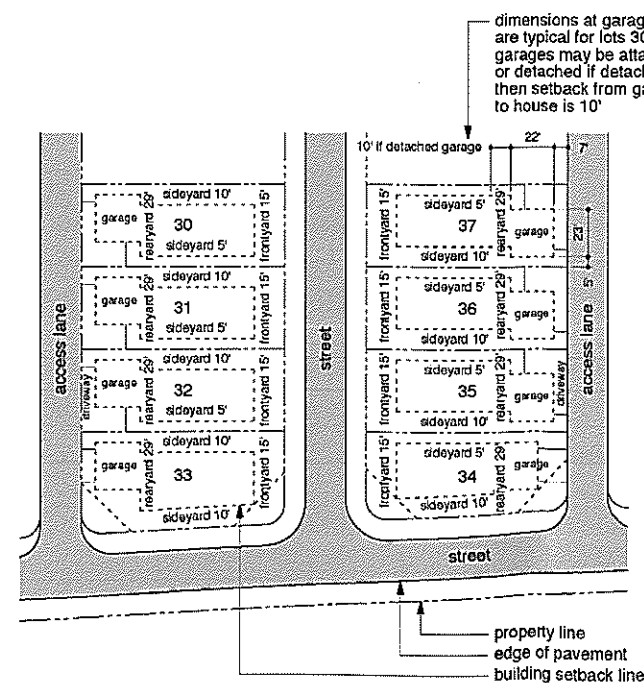
dimensions at garage are typical for lots 24 - 29
 garages may be attached or detached if detached then setback from garage to house is 10'



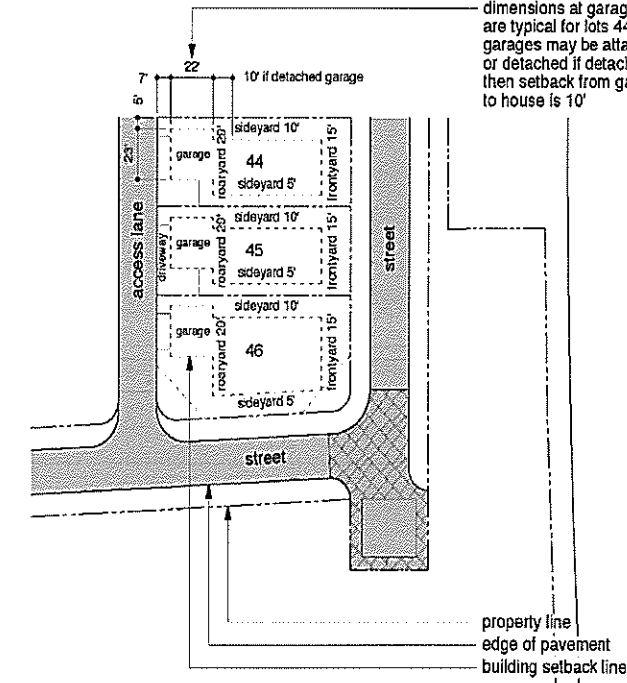
dimensions at garage are typical for lots 37 - 43
 garages may be attached or detached if detached then setback from garage to house is 10'



dimensions at garage are typical for lots 20 - 23
 garages may be attached or detached if detached then setback from garage to house is 10'



dimensions at garage are typical for lots 30 - 37
 garages may be attached or detached if detached then setback from garage to house is 10'



dimensions at garage are typical for lots 44 - 46
 garages may be attached or detached if detached then setback from garage to house is 10'