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County of Hawaii

PLANNING DEPARTMENT

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May 10, 2006

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

Dear Mr. Rhiem:

PLANNED UNIT DEVELOPMENT PERMIT NO. 05-000004 (PUD 05-000004)
Applicant: Riehm Owensby Planners Architects, Michael J. Riehm, A.I.A.
Landowner: Classic Pacific Kona LLC, John Patterson, CEO
Project: "Hualalai Gardens" – a 27-lot subdivision
Location: TMK: 7-4-006: 012; Honokohau 1st, North Kona, Hawai'i

After reviewing the information submitted with the Planned Unit Development Application, the Planning Director hereby approves the requested amendments to allow the development of a master planned community on land consisting of approximately 29.337 acres. This PUD addresses variances for minimum building site area and widths, roadways improvements, minimum yard setbacks, and lot configuration.

BACKGROUND

Project Location

The subject property (TMK: 7-4-006: 012), hereinafter referred to as "Property", consisting of approximately 29.337 acres, is located within the district of North Kona, adjacent to the south of Palani Road Junction and straddled by both Palani Road and the old Mamalahoa Highway. The Property is situated approximately 3 miles mauka (east) of the town of Kailua-Kona at an elevation of approximately 1,180 to 1,380 feet and a 16% slope. The Property will be accessed off of the old Mamalahoa Highway, with the exception of Lot 1 (Hawaiian Gardens nursery) that will still utilize its existing driveway connection to the old Mamalahoa Highway.

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Land Use Designations

The Property is situated within the State Land Use Agricultural District and currently designated for Urban Expansion by the County General Plan, Land Use Pattern Allocation Guide (LUPAG) Map. The County zoning designation for the entire property, which was established in 1967 by the adoption of the North Kona District Zone Map, is Agricultural-1 acre (A-1a). Based on the simple application of a required one (1) acre minimum lot size across the 29.337-acre project site, approximately 29 agricultural lots could be accommodated within the subject property. However, anticipating that roughly 20 percent of the subject property must be dedicated to supporting roadway and drainage systems, a more realistic lot count is probably in the neighborhood of 23 agricultural lots. Through this PUD application, the Applicant is proposing a total of 27 lots to be accomplished by the applications of the requested variances. However, each proposed lot will maintain the required minimum lot size of one acre. The Project, with the approval of this PUD, will be consistent with the requirements of the Zoning Code and the land use policies of the General Plan.

Compatibility with Neighboring Uses

The Property is situated within an area primarily designated for Agricultural uses by both the State Land Use Commission and the County. Lands immediately adjacent to the Property is zoned for A-1a, with only one parcel to the south designated for Residential-Agricultural (RA) uses. The Project, with lot sizes of one acre and maintaining a rural agricultural character, is typical of lots within the mauka portions of Kailua-Kona.

Related Applications and Approvals

June 17, 1988 – Robert Greenwell submits a subdivision application (SUB 88-000077) to subdivide the Property into 3 bulk lots, ranging in size from 2.927 to 15.916 acres. Tentative Approval issued on July 28, 1988, with no further action taken by Mr. Greenwell. Given the time that has lapsed, the Tentative Approval is declared null and void. Future submittal of a subdivision application to accommodate the Project will require that this pending application be withdrawn from further consideration.

April 28, 1990 – Robert Greenwell submits a subdivision application (SUB 90-000079) to subdivide the Property into 3 bulk lots, ranging in size from 3.449 to 16.113 acres. Tentative Approval of this proposed subdivision was issued in 1991, with no further action by Mr. Greenwell. Given the time that has lapsed, the Tentative Approval is declared null and void. Future submittal of a subdivision application to accommodate the Project will require that this pending application be withdrawn from further consideration.

October 29, 1992 – Planning Commission approves Special Permit No. 825 to allow the establishment of a gardening supply store on approximately 3.3 acres of land situated within a portion of the Property closest to the Palani Road Junction (Sheet A-1) on proposed Lot 1. The garden supply store has since been established and is known as Hawaiian Gardens.

PROJECT OBJECTIVES AND DESCRIPTION

The objectives for Hualalai Gardens (“Project”) include the following:

- Maintain the rural-agricultural character of the Property consistent with surrounding properties by achieving a more comprehensive site design and promoting a more diverse agricultural use;
- Reduce the level of roadway improvements to minimize the suburban character associated with wide, paved road cross sections.

The Project will be developed in a single phase consisting of 27 lots, each of which will maintain a minimum lot size of one (1) acre, consistent with its current zoning designation of A-1a, but which is inclusive of the road easement and inconsistent with existing department policy. All proposed lots within the Project will be subject to covenants, conditions and restrictions (CC&Rs) that will maintain the rural-agricultural character and will not restrict agricultural uses or activities on the proposed lots.

The Applicant’s project schedule anticipates site work to be completed within 8 months from the date of approval of this PUD application and issuance of Tentative Subdivision Approval.

The proposed subdivision roadways include a minimum 36-foot wide access easement having a pavement width of 20 feet with 8-foot wide grassed shoulders, in lieu of the minimum 50-foot wide right-of-way required by the Subdivision Code (Figure 14) and specified by Department of Public Works Standard Detail R-39. The Applicant is also requesting that a 10-foot wide landscaped median be installed at the subdivision entrance with 15-foot wide travel lanes and 9-foot wide grassed shoulders within a 58-foot wide access easement.

The Project reflects a 10-foot wide future road widening easement to be applied to both the Property’s frontages with Palani Road and the old Mamalahoa Highway.

AGENCIES' REVIEW

Department of Public Works: Memorandum dated September 13, 2005

The Department of Public Works had no objections to the proposed variances from the Subdivision Code provided the subdivision streets will remain private and with the following exceptions:

- Section 23-36. - The proposed through lots are essential to provide separation from arterial streets and overcome specific disadvantages of topography and orientation. There is no need for a variance.
- Section 23-51 - There are very tight curves and precipitous drop-offs along the Mamalahoa Highway frontage. DPW request that they maintain the authority to require the applicant to flatten the curves and widen the street roadside to provide the minimum clear zone and/or install shoulders and vehicular guardrails. At a minimum, recommends that the applicant provide additional road widening setback and sight distance easements on the side of curves with any planting buffers along both Palani Road and the old Mamalahoa Highway to be provided by the applicant and not be placed in the road widening setback except as approved by DPW.
- Section 23-94 - Recommends compliant street signs for uniformity and allow for recognition and understanding, especially for regulatory type signs (stop, speed limit). For safety reasons signs should have breakaway bases.

Other comments provided by DPW include:

- Buildings shall conform to all requirements of code and statutes pertaining to building construction.
- A building permit may be required for change of use. Different code sections and standards on building construction may apply.
- All development generated runoff shall be disposed of on-site and shall not be directed towards any adjacent properties.
- The applicant shall be informed that if they include drywells in the subject development, an Underground Injection Control (UIC) permit may be required from the Department of Health.
- A drainage study shall be prepared, and the recommended drainage system shall be constructed meeting with the approval of the DPW.
- All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.

- The applicant shall comply with Chapter 11-55, Water Pollution Control, Hawaii Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activities.
- A portion of the Hawaii Belt Hawaii, fronting the subject property, is under jurisdiction of the Hawaii Department of Transportation. Comments and requirements concerning this road should be obtained from that agency.
- All connections to County roads shall conform to Chapter 22, Street and Sidewalks, of the Hawaii County Code. Sight distances shall meet with the AASHTO Policy on Geometric Design of Highways and Streets.
- Any vehicular security gates shall be set back a minimum of 60 feet from the County right-of-way property line with a turn around on the County side of the gate.
- Except for Lot 1, vehicular access to the individual lots shall not be from any major collector or arterial roadway.
- Mamalahoa Highway, a County road serving the property, is a secondary arterial road. It has an 18 to 20 foot wide pavement within a variable right-of-way width. Mamalahoa Highway shall be improved to a 60-foot wide right-of-way according to the County's General Plan. The applicant shall provide full improvements to the entire frontage along Mamalahoa Highway consisting of, but not limited to, pavement widening with shoulders, drainage improvements, and any relocation of utilities, meeting with the approval of DPW. Install street lights, signs and markings meeting with the approval of the DPW, Traffic Division. The applicant shall construct all improvements and dedicate it to the County.
- All roadways shall follow the guidelines incorporated in the Hawaii Statewide Uniform Design Manual for Streets and Highways or the applicable AASHTO design guide for the appropriate design speed.
- Any utility poles in the road right-of-way shall be installed as shown on DPW Standard Detail R-35 (revised). The applicant shall provide any necessary easements for installation of such utilities.

Fire Department: Memorandum dated August 29, 2005

Fire Department recommends that fire apparatus access roads comply with Uniform Fire Code (UFC) Section 10.207 and that water supply conform to UFC Section 10.301(c).

Department of Environmental Management: Memorandum dated August 15, 2005

DEM confirms that area not serviced by a sewer system. Recommends the following regarding solid waste:

- Commercial operations may not use transfer stations for disposal.
- Aggregates and any other construction/demolition waste should be responsibly reused to its fullest extent and its disposal is prohibited from all transfer stations.
- Ample room should be provided for implementation of a recycling program.
- Greenwaste may be transported to the greenwaste sites located at the Kailua or Hilo transfer stations or other suitable diversion programs.
- Submit solid waste management plan.

Department of Water Supply: Memorandum dated September 14, 2005

DWS confirms that water to support the proposed 27-lot subdivision is available from an existing 16-inch waterline along the Mamalahoa Highway, subject to the submittal of the required water commitment fees.

APPROVED VARIANCES

The following variances are hereby approved:

Variations to the Zoning Code

- **Minimum Street Frontage** (Hawaii County Code §25-4-30). According to the Applicant's site plan, it appears that all of the proposed lots will be able to meet this requirement of 60 feet of roadway frontage, except for flag lots and lots accessed by easements. However, we have no objections to the granting this variance should our calculations be incorrect provided that a minimum street frontage of at least 50 feet be provided, which should provide more than adequate to accommodate any unforeseen design circumstances while ensuring that sufficient frontages are available for practical concerns, such as driveway accesses.
- **Minimum Building Site Area** (Hawaii County Code §25-4-32). While each proposed lot will maintain a minimum building site area of one (1) acre, it will not be exclusive of the land area to be encumbered by the road easement servicing each of the proposed lots. We have no objection to the granting this variance from current department policy that requires minimum lot sizes exclusive of the land area within any roadway easement.

- **General Requirements for Yards and Open Spaces** (Hawaii County Code §25-4-40). Applicant is requesting flexibility in the designation of yards fronting roadways and access easements, as detailed within Exhibits 2 through 11. The orientation and configuration of the proposed lots and the designation of yards and its setbacks will take advantage of the Property's physical attributes while minimizing grading.
- **Corner Building Sites** (Hawaii County Code §25-4-42). The Applicant's site plans and exhibits fail to show where the proposed lots will fail to meet this requirement, but we do not have an object to the granting of this variance under the condition that the application of yards and setbacks, as provided by the PUD, is limited to the configurations shown on Exhibits 2 through 11.
- **Fences and Accessory Structures** (Hawaii County Code §25-4-43). Applicant incorrectly makes reference to retaining walls being limited to 6 feet in height. Maximum height of fences and walls are applied to boundary walls, not retaining walls. The Applicant also wishes to allow for free-standing entry wall features over 6 feet in height into the minimum front yard setback. We have no objection to this requirement, provided it is limited to free-standing entry wall features only as depicted on Exhibit 12 and will not apply to accessory structures, boundary walls or fences.
- **Minimum Building Site Area** (Hawaii County Code §25-5-74). Approval of this variance will allow the proposed lots, consisting of a minimum building site area of one (1) acre, to include that land area situated within the road easements.
- **Minimum Building Site Average Width** (Hawaii County Code §25-5-75). The Zoning Code specifies that Agricultural-zoned parcels maintain a minimum building site average width of 200 feet, but which applies to lots having a minimum building site area of 5 acres. This variance is granted to allow for a minimum building site average width of no less than 120 feet, which is consistent with lots required to have a minimum lot size of one acre, like parcels zoned Family Agricultural-1 acre (FA-1a). Measurements taken using the Applicant's site plan do not reflect any lots that are unable to meet a minimum 120-foot building site average width.
- **Minimum Yards** (Hawaii County Code §25-5-76). The minimum yards in the Agricultural district are 30 feet from the front and rear property boundaries and 20 feet from the side property boundaries. Exhibits 2 through 11 reflect the various application of minimum yards, no less than 15 feet, from either existing road rights-of-way or from the interior subdivision roadway easements. Typically, a minimum front yard setback of 30 feet will be applied to all lots fronting both Palani Road or the old Mamalahoa Highway, consistent with Zoning Code requirements. For lots within the subdivision itself, minimum front yards of 15 feet from the edge of the roadway easement will be applied.

Variances to the Subdivision Code

- **Block sizes** (Hawaii County Code §23-29). The Subdivision Code limits the lengths of blocks to 1,300 feet, but with a length no less than 400 feet. With only a single access point onto the old Mamalahoa Highway, a strict interpretation of the Subdivision Code would suggest that the Project does conform to this requirement since Palani Road Junction is located approximately 800 feet away, meeting the minimum 400-foot minimum block length, but not exceeding the 1,300-foot maximum length. Looking at the site plan, one would conclude that another access point onto the old Mamalahoa Highway at the southern-end of the project should be considered, since the subdivision access road is located approximately 1,800 feet from the Property's southern property line, exceeding the maximum block length of 1,300 feet. However, topographic constraints of the Property limits the flexibility in laying out a possible second connection to the old Mamalahoa Highway. This request is approved pursuant to §23-9(a)(2), which allows consideration of topographic factors.
- **Lot Side Lines** (Hawaii County Code §23-35). Topographic constraints and the proposed roadway alignments will make it difficult to have side property boundaries always hit the road easements at a right angle. While orienting property boundaries at right angles with a roadway makes greater sense on smaller residential-sized lots to ensure proper siting opportunities for structures and driveway location. The Project will consist of one (1) acre sized lots, more than sufficient land area to allow for siting flexibility that will not be compromised by a property line that does not approach the road easement at a right angle.
- **Minimum Right-of-Way and Pavement Widths** (Hawaii County Code §23-41(a)). The Applicant is requesting a variance from the minimum rights-of-way widths for its internal, minor-type agricultural roadway. The requested variances are related to right-of-way widths, the use of medians and traffic calming features within the right-of-way, and shoulder/swale details.
 - **Minor Street (36' wide roadway easement in lieu of 50' ROW-Exhibit 18)**. The proposed standards for the 36-foot wide minor street-type roadway easement will deviate from the minimum 50-foot wide ROW specified by DPW Standard Detail R-39. The Applicant is proposing a pavement width of 20 feet with 8-foot wide grassed shoulders on each side. The lower volume and speed of vehicles typically carried by these minor streets affords the opportunity to reduce the pavement width and manage speeds. The proposed 20-foot wide pavement, which does meet County standards, will provide opportunities for a landscaped shoulder/drainage swale while still accommodating two-way traffic.
 - **Landscaped Median (58-foot wide roadway easement with 15-foot wide travel lanes and 9-foot wide grassed shoulders-Exhibit 14)**. We approve of the Applicant's request to install a 10-foot wide landscaped median at the subdivision entrance with 15-foot wide travel lanes and 9-foot wide grassed shoulders within a 58-foot wide access easement.

The location of the median must meet with the approval of the Department of Public Works to ensure that its location does not inhibit larger vehicles like buses or fire trucks.

- **Corner radius** (Hawaii County Code §23-45(b)). Applicant requests that intersections within the private roadway easements have a maximum radius of 20 feet, subject to sight distance requirements at the pavement line. This variance is approved on the basis that reduction of a corner radius will permit a shorter walking distance between the edge of the roadway. The reduced corner radius combined with traffic calming measures result in safer pedestrian environment, especially when a mail kiosk will be provided at the one and only intersection where this reduced corner radius will be applied. However, this variance is limited to the intersections of minor streets only. The intersections of minor streets and the old Mamalahoa Highway should have compliant corner radiuses to accommodate larger vehicles, such as buses.
- **Grades and curves** (Hawaii County Code §23-50). Applicant requested a variance from the minimum requirements for vertical and horizontal curves. This variance is approved on the basis of topography to minimize the grading requirements and to retain as much of the natural terrain as practical. *In those instances where the vertical or horizontal curves do not meet the minimum requirements, the Applicant shall present alternate standards at the time of construction plan review, as provided for in §23-50(b), with lower design speeds assigned in order to meet the roadway safety standards as specified within the AASHTO Policy on Geometric Design of Highways and Streets, 2001.* While the requested variance only applies to interior subdivision roadways, the DPW has expressed their desire to require the applicant to flatten the curves and widen the street roadside to provide the minimum clear zone and/or install shoulders and vehicular guardrails. At a minimum, DPW recommends that the applicant provide additional road widening setback and sight distance easements on the side of curves with any planting buffers along both Palani Road and the old Mamalahoa Highway to be provided by the applicant and not be placed in the road widening setback except as approved by DPW. However, until further site planning and engineering is accomplished, the best practical solution may not be evident. Therefore, a condition of approval will be included to require consultation with DPW regarding available options to improve sight distance and curves along this section of the old Mamalahoa Highway.
- **Street lights** (Hawaii County Code §23-93). Applicant requested design flexibility in the placement and type of street lights permitted within the internal subdivision roadway easement. The Applicant proposes the use of custom street lighting fixtures along the minor-type roadway. Due to the limited number and large size of lots to be serviced by the internal subdivision roadway, a reduction in the number of lights would help to impart a more rural feel to the neighborhood while having sufficient lighting primarily at critical points for traffic safety considerations. *This variance is approved subject to the condition that a licensed engineer certify the safety of the lighting plan for the minor streets.* Lighting along all

streets, including the landscaped "islands", shall comply with the requirements of the County outdoor lighting code.

- **Street names & traffic signs** (Hawaii County Code §23-94). Approved to allow use of custom street name and traffic signs that will reinforce the desired character of the neighborhood and its design goals. While this variance will allow these signs to deviate from standard specifications, it must still meet ASHTO specifications.
- **Right of way Improvement** (Hawaii County Code §23-95). While this variance approval would allow for deviation from the County's standard detail regarding the improvement of the entire road right-of-way, such improvements of the right-of-way will be in conformance with the improved right-of-way detail for the approved PUD roadway as shown on Exhibit 14.

DENIED VARIANCES

- **Through Lots; Planting Screen Easements** (Hawaii County Code §23-36). Through lots may be permitted, at the discretion of the director, due to topographic constraints, which exist on the Property. A planting screen easement is a mechanism that is appropriate to ensure that direct access from lots adjoining arterials like Palani Road and the old Mamalahoa Highway are prohibited. The Applicant does not sufficiently explain why such relief from this possible requirement is appropriate.
- **Cul de sacs (drivecourt) greater than 600' in length and serving more than 18 lots** (Hawaii County Code §23-48). The Project and its proposed roadway system do not reflect the construction of any cul-de-sacs, which are defined as dead-end streets. The proposed street layout is better defined as a loop.

PUBLIC COMMENTS

Malachi Prince, an owner of land situated immediately to the south of the proposed project site, has submitted testimony dated October 3, 2005 in objection to the proposed application and project.

"I am protesting the development at TMK: 3-7-4-*6-12, HUALALAI GARDENS.

As I understand they are applying for a PUD form (sic) that would allow them to build closer to our property lines (15 feet rather than 20 feet).

I have lived on the Big Island for 25 years and have lived on y land for five years. My land is slated for agricultural use and I have an organic farm that I am expanding. My house is 850 square feet that sits on a quarter of an acre and was built 20 years by chance, right next to the property line. I think it would be highly unfair if the developer is allowed to simply build and sell homes slated specifically for agricultural

use that close to my humble farm. I have already witnessed illegal land grading without the permits they are supposed to get before they start.

I am also opposing the road they intend to put in. The road can easily go another way instead of right in front of my house where car lights will shine in my house. There will also be a huge issue on traffic in the area with such a huge development.

If they are saying they are making an agricultural 'planned' development and providing a diverse agricultural use, and want to maintain a more rural character of the site and surrounding area, then I am wondering who will be making sure of this?

It concerns me in a big way because these people have stated that they plan to sell the land at such a high price (\$600,000 an acre), no person who will farm anything but turf could afford buy it. Including myself, who has offered to buy a buffer zone from the owner to make way for their development. They have already excessively cut down many of the trees and all of the trees that were giving the land rural character we so much appreciate in Holualoa.

I even offered to sell Mr. John Patterson of Classic Development (a mainland company) a buffer zone with a clause for no development of structures, just planting of native Hawaiian trees to create a sanctuary/park for private use of its members of the subdivision. He led me to think that he would and now obviously intends to do quite the opposite.

If they do intend to sell me anything the proposed road by no means needs to go that route. Please don't let them build houses right next to my beautiful farm and house.

I am requesting that you not approve this development without addressing the concerns of myself and my neighbors."

In response to the concerns of Mr. Prince, we provide the following:

- The proposed PUD will permit a minimum yard setback of 30 feet from the project site's southern property boundary adjacent to Mr. Prince's property, consistent with current minimum yard setbacks for the Agricultural-zoned district. Mr. Prince incorrectly cited the PUD as permitted a reduced 15-foot wide minimum yard setback.
- Mr. Prince is concerned that the proposed homes will be built so close to his home. As previously mentioned, the proposed PUD designates setbacks from Mr. Prince's property that is consistent with current code requirements, so the proposed homes will not be built closer than what current codes allow. Mr. Prince, himself, indicates that his home is built right next to his property boundary. We don't know exactly where his home is located, but it should maintain a minimum 20-foot side yard setback from this common property boundary.
- This PUD does not determine the location of the internal roadway system, which is defined by the proposed lot configuration and compliance with engineering standards. The proposed road can be constructed along its proposed alignment with or without the approval of this PUD.

- Other points raised by Mr. Prince involves the preservation of the rural character and its enforcement. The Planning Department does not “enforce” a rural character through the issuance of a PUD Permit. But we do encourage it through the issuance of this PUD by allowing for narrower street sections and grassed shoulders instead of the 32 feet of pavement normally required by the County Code. The owners of these proposed lots must comply with the existing Agricultural zoning of the property for all uses and structures to be established within this proposed subdivision.
- Alleged improper grading or grubbing of the property is enforced through the Department of Public Works and is not a criterion for review of a PUD. Furthermore, as an Agricultural-zoned property, agricultural activities does not preclude the clearing of land for agricultural and its related purposes. Mr. Prince has an organic farm on his property that may, or has already required, the clearing of land to accommodate such use. Such is the nature of farming or its related activities.
- The Planning Department is not insensitive to the concerns of Mr. Prince regarding an agricultural subdivision that will establish itself next to his home. But this proposed subdivision, in some similar form, can be established on the property with or without the issuance this PUD, which is an attempt to implement some design concepts that will encourage a subdivision that is more consistent with the rural character of the surrounding area.

FINDINGS

The following findings are made in accordance with Section 25-6-10 (Criteria for granting a PUD):

- 1) The construction of 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 is ready to start development as soon as approvals are issued, with infrastructural improvements and basic grading done to accommodate home construction within 8 months from the approval of infrastructural construction drawings. The Applicant anticipates that sales for the entire development will be completed within 2 years after the lots are made available, subject to market conditions.

- 2) The proposed development substantially conforms to the General Plan.**

The proposed agricultural lots are consistent with the General Plan LUPAG Map designation for the Property of Urban Expansion, which allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas

where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. The proposed rural-agricultural lots are consistent with the General Plan Land Use and Housing goals and policies by providing a diversity of housing choices to meet a range of housing needs and designing in accordance with the environment.

- 3) **The proposed 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 proposed 27-lot agricultural subdivision will provide a density that is less than the density permitted by zoning, which is calculated at 29 lots. Due to the roughly 16 percent slope of the subject property, the Applicant has worked to align the subdivision roadway to follow the existing grades and minimize grading while providing lots that provide sufficient land area to maintain the rural-agricultural character of the surrounding area. While approval of this PUD will allow the roadway easement to encumber a portion of these lots, thereby reducing the effective building site area, this only represents an 18-foot wide strip of land along the frontage of these proposed lots for the road easement, within which there will physically be only 10 feet of pavement. Given the limited amount of intrusion into the properties by the roadway easement, approval of this PUD will not compromise the rural-agricultural character of the surrounding area while preserving the basic open space character normally associated with larger lot subdivisions. The Applicant has managed the minimum yard setbacks for each lot, as reflected on Exhibits 2 through 11, to ensure that sighting of structures and maximized and that the streetscape and its rural character are not compromised.

- 4) **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 steep grades within the project site justify the variances to the minimum building site average width, and minimum yards, among other variances from lot configuration requirements. The street design variances result in the desire to preserve the rural-agricultural character of the surrounding area. While the actual pavement width of 20 feet is consistent with code requirements, it is only the improved right-of-way that will be reduced from 50 feet to 36 feet. This is reasonable since as an agricultural lot subdivision, the need

for a greater right-of-way to accommodate such urban activities such as on-street parking, sidewalks, extensive drainage systems are much reduced or non-existent. Therefore, the need for extensive shoulder width and improvements are not seen as crucial to the maintenance and support of this agricultural subdivision. Drainage along and from the roadway can be more easily accommodated within the larger agricultural-sized lots. As a private roadway, the community association will assume maintenance responsibility of the landscaped areas, street signs and street lighting fixtures located within the right-of-way.

CONDITIONS OF APPROVAL

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

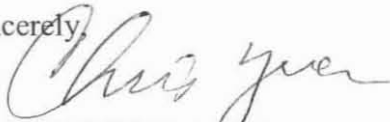
1. *Permit Runs with the Land.* The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. *Indemnification.* The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for 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.
3. *Master Plan and Street Layout.* The proposed Planned Unit Development shall be developed in a manner as substantially represented within exhibits attached to this Planned Unit Development Permit.
4. *Improvements within the old Mamalahoa Highway.* The Applicant shall consult with the Department of Public Works regarding the need to flatten the curves and widen the street roadside along the old Mamalahoa Highway to provide the minimum clear zone and/or the need to install shoulders and vehicular guardrails. At a minimum, DPW recommends that the applicant provide additional road widening setback and sight distance easements on the side of curves with any planting buffers along both Palani Road and the old Mamalahoa Highway to be provided by the applicant and not be placed in the road widening setback except as approved by DPW. The Applicant shall provide details and, as necessary, show on the subdivision preliminary plat map, the results of consultation with the DPW regarding the best combination of improvements along the Project's old Mamalahoa Highway frontage to address its tight curves, drop-offs and limited sight distance. Improvements within the old Mamalahoa Highway fronting the Property may also consist of, but not limited to, pavement widening with shoulders, drainage improvements, and any relocation of utilities, meeting with the approval of DPW. Install street lights, signs and markings meeting with the approval of the DPW, Traffic Division. The applicant shall construct all improvements and dedicate it to the County.

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5. Roadway design guidelines. All roadways shall follow the guidelines incorporated in the Hawaii Statewide Uniform Design Manual for Streets and Highways or the applicable AASHTO design guide for the appropriate design speed.
6. Construction Plan Review by Fire Department. The Applicant shall consult with the Fire Department to ensure that its conformance with the minimum requirements of the Fire Code. Besides the Department of Public Works and Department of Water Supply, construction plans shall also be submitted to the Fire Department for review.
7. No Additional Farm Dwellings. Restrictive covenants in the deeds of all proposed agricultural lots within the Planned Unit Development shall give notice that the terms of this Planned Unit Development Permit shall prohibit the construction of a second dwelling unit (additional farm dwelling) on each lot. A copy of the proposed covenants to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
8. Compliance with other rules and conditions. The applicant shall comply with all other applicable rules, regulations and requirements. Other applicable conditions set forth under the "Approved Variances" section of this letter are incorporated herein as conditions of approval.
9. Annual Report. 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/or the Planning Director acknowledges that further reports are not required.
10. Time Extension. 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).

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

DSA:da

P:\PUD Permits\2005\PUD05-04(HualalaiGardens)\PUD05-04HualalaiGardensPUD.doc

Attachments: Sheet A-1, Exhibits 2 thru 12, 14 thru 18; Figures 11 thru 13 & 15

Exhibit 2: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lot 1.

(See Exhibit No. 1, page 8-27, for lot location in project)

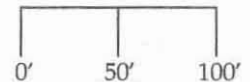
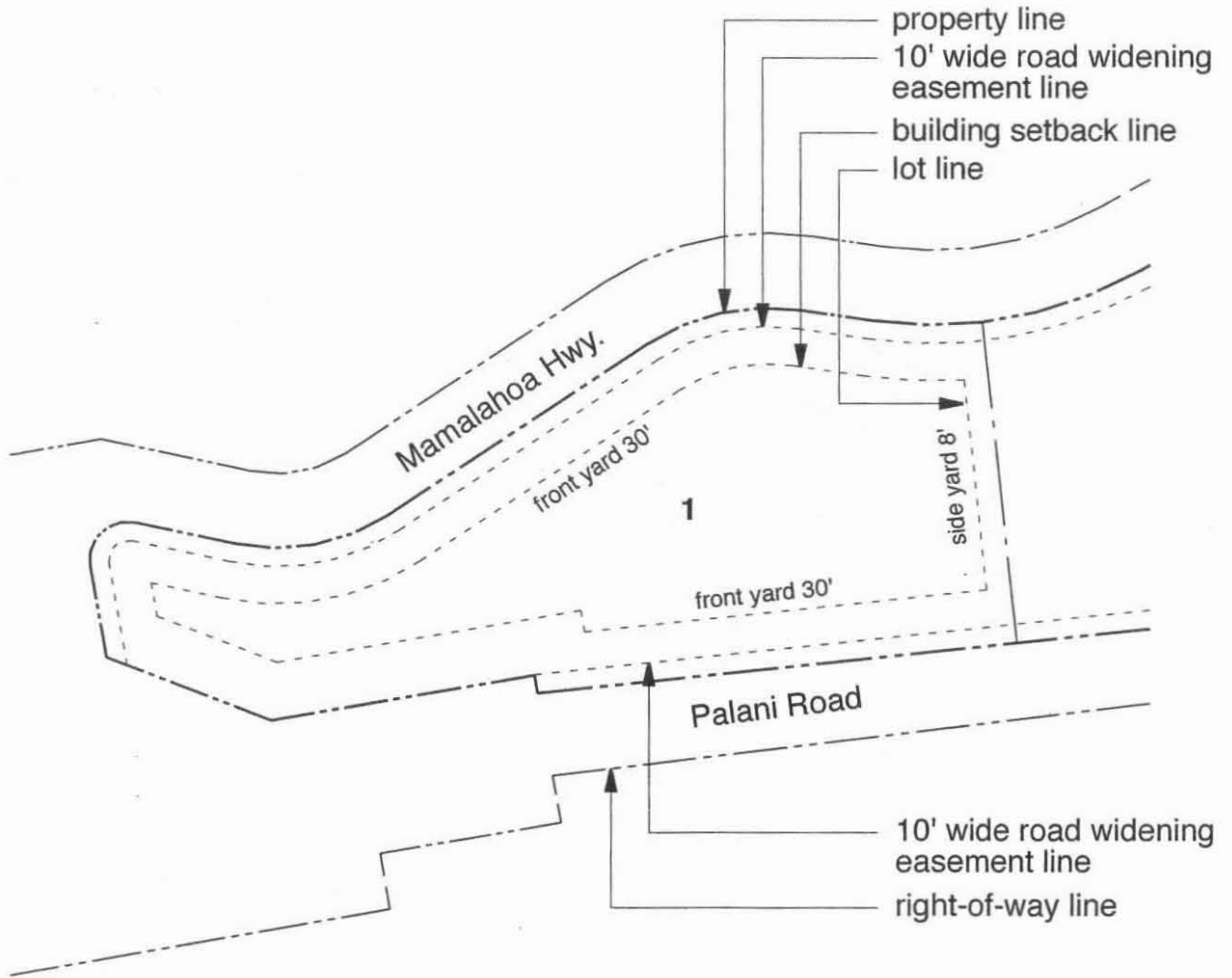


Exhibit 3: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 2 to 4.

(See Exhibit No. 1, page 8-27, for lot location in project)

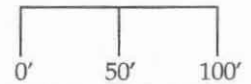
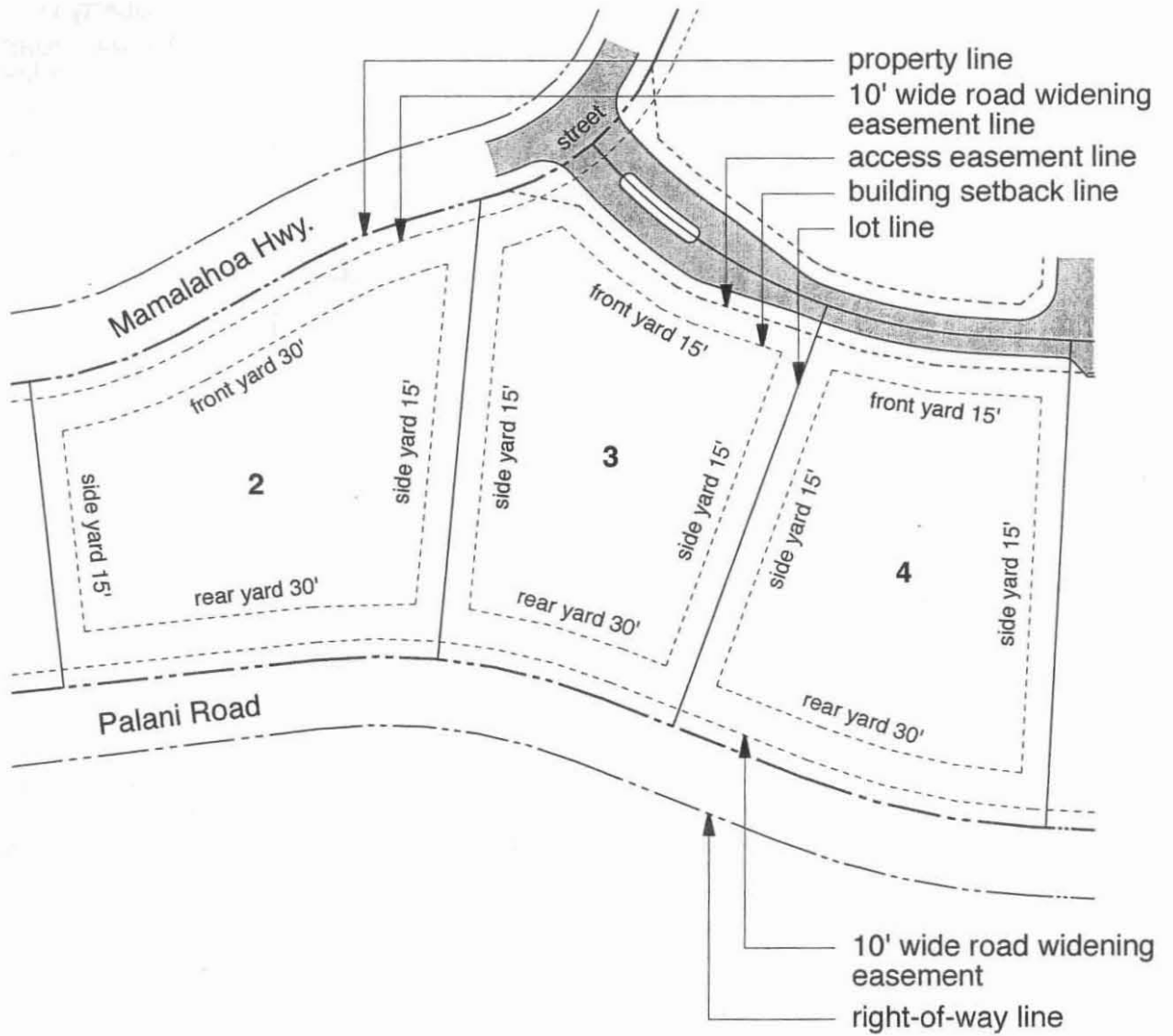


Exhibit 4: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 5 to 7.

(See Exhibit No. 1, page 8-27, for lot location in project)

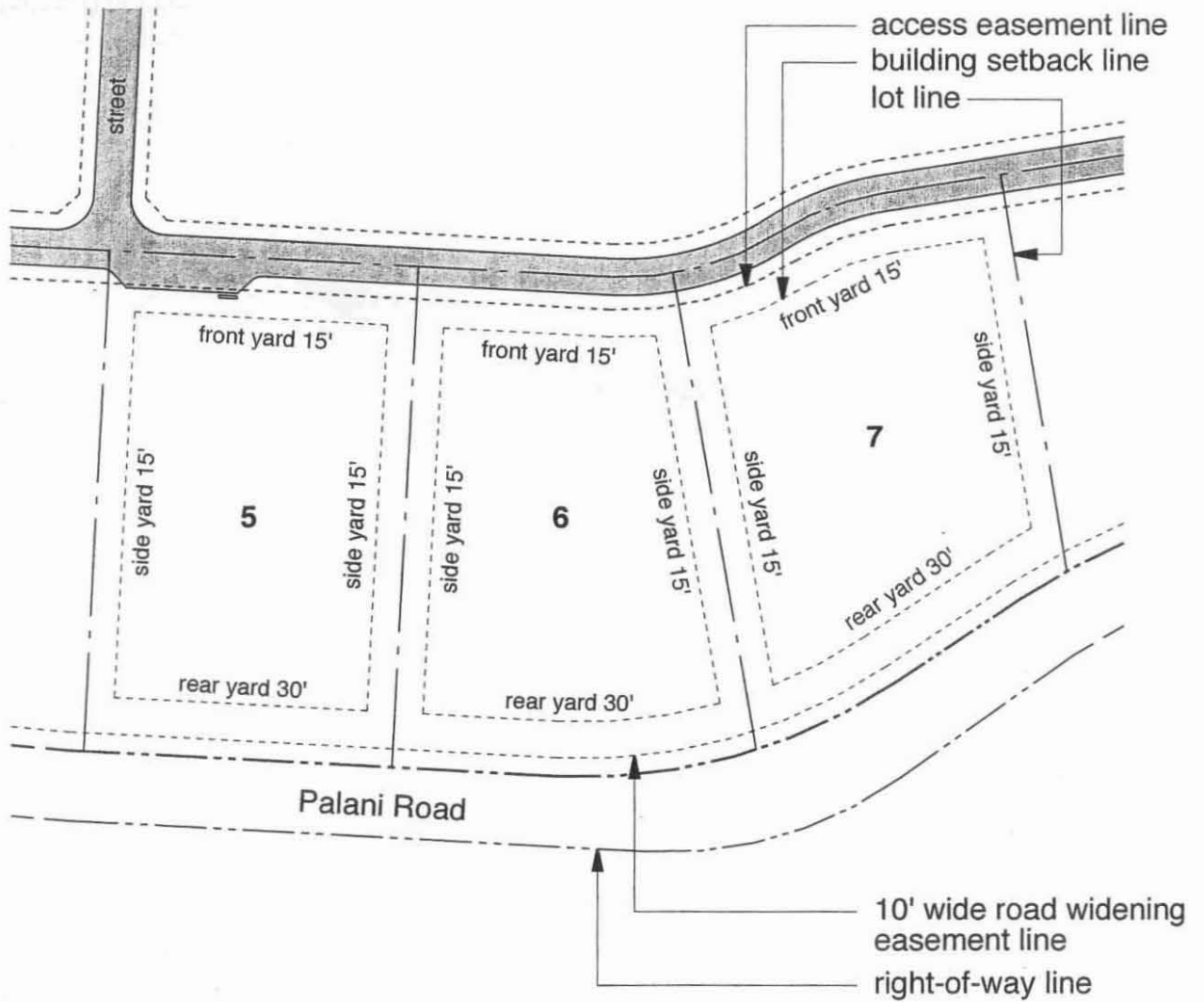


Exhibit 5: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 8 to 9.

(See Exhibit No. 1, page 8-27, for lot location in project)

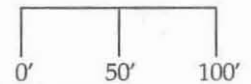
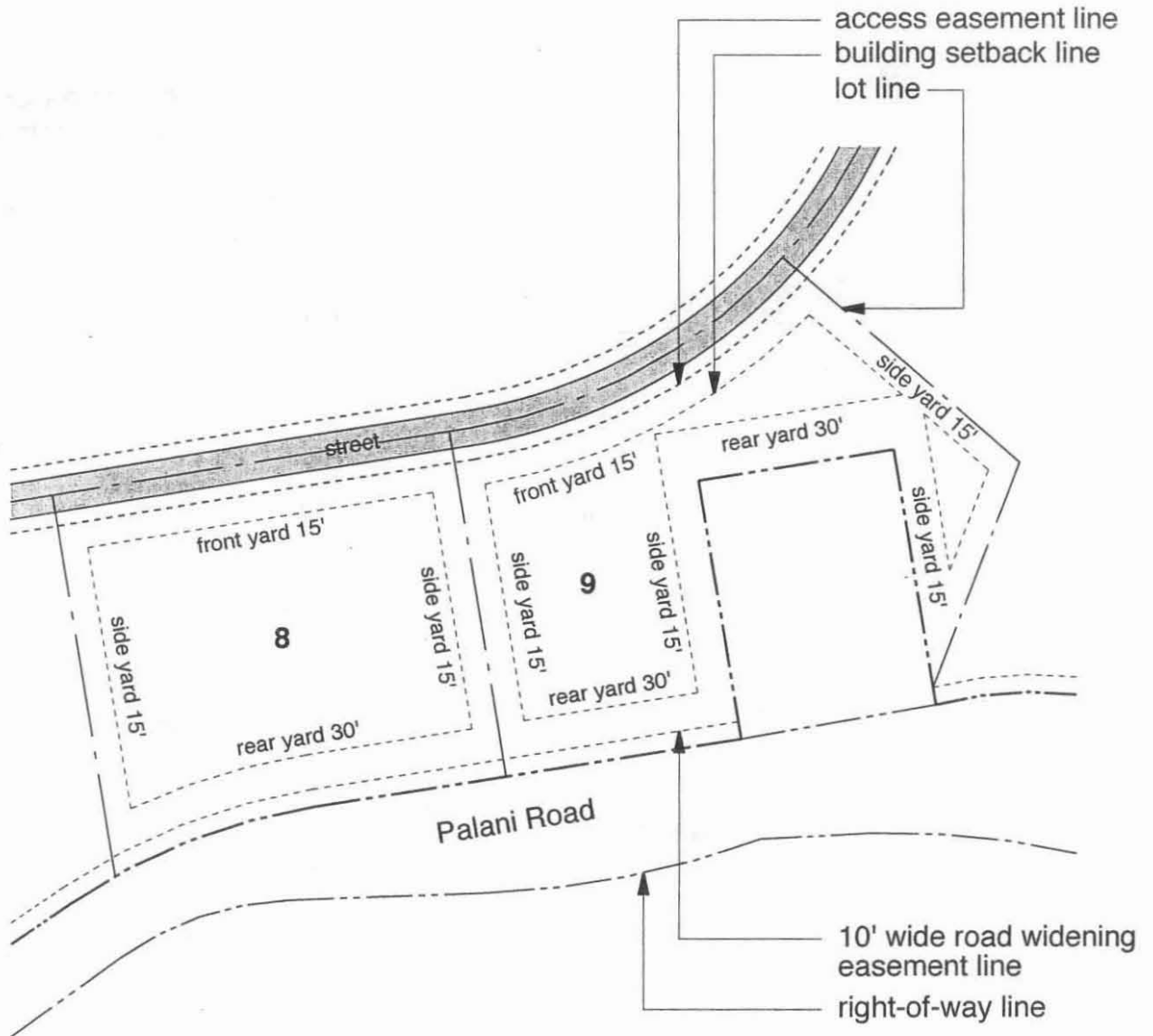


Exhibit 6: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lot 10.

(See Exhibit No. 1, page 8-27, for lot location in project)

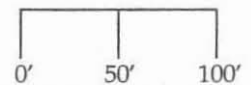
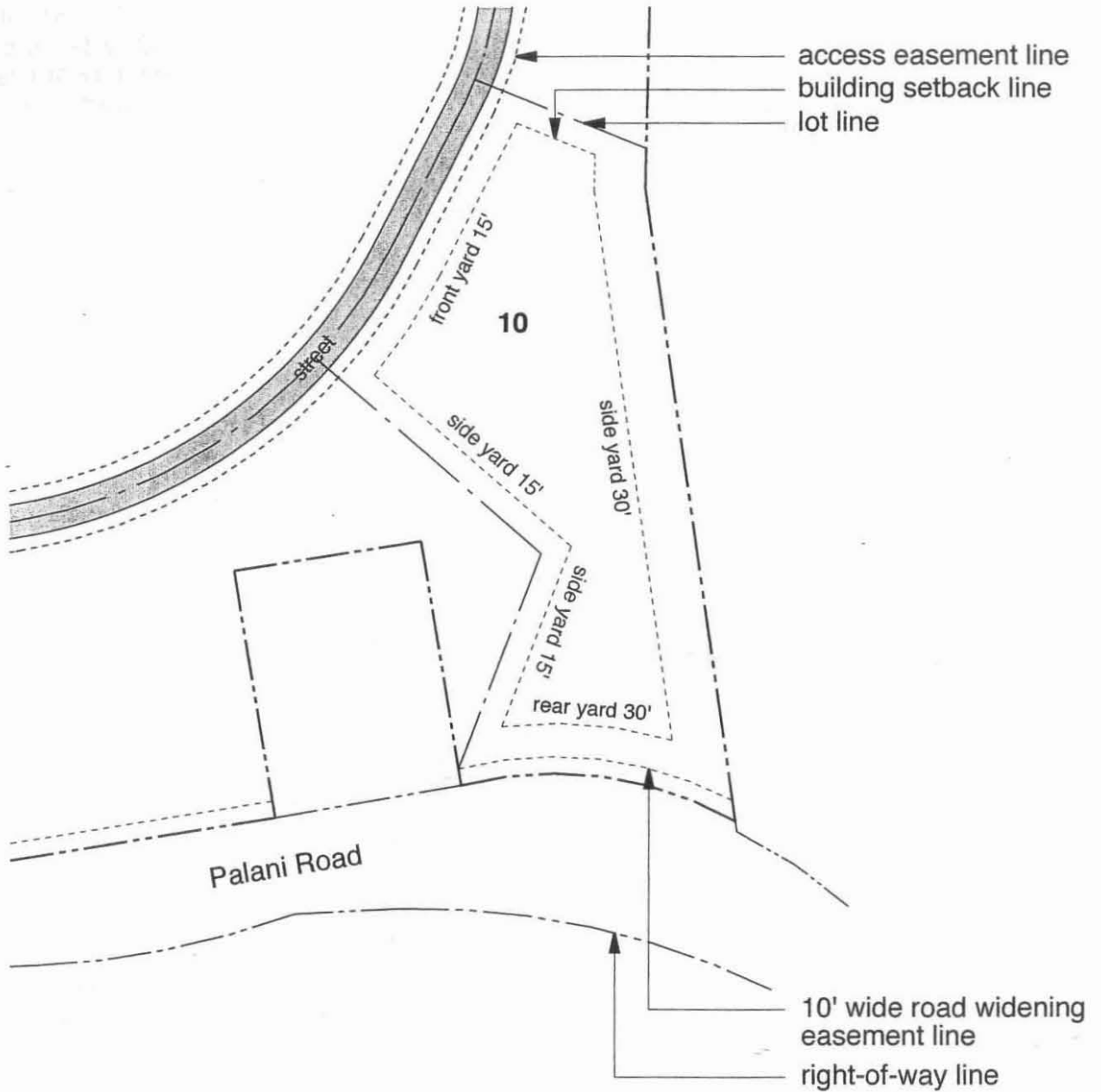


Exhibit 7: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 11 to 13.

(See Exhibit No. 1, page 8-27, for lot location in project)

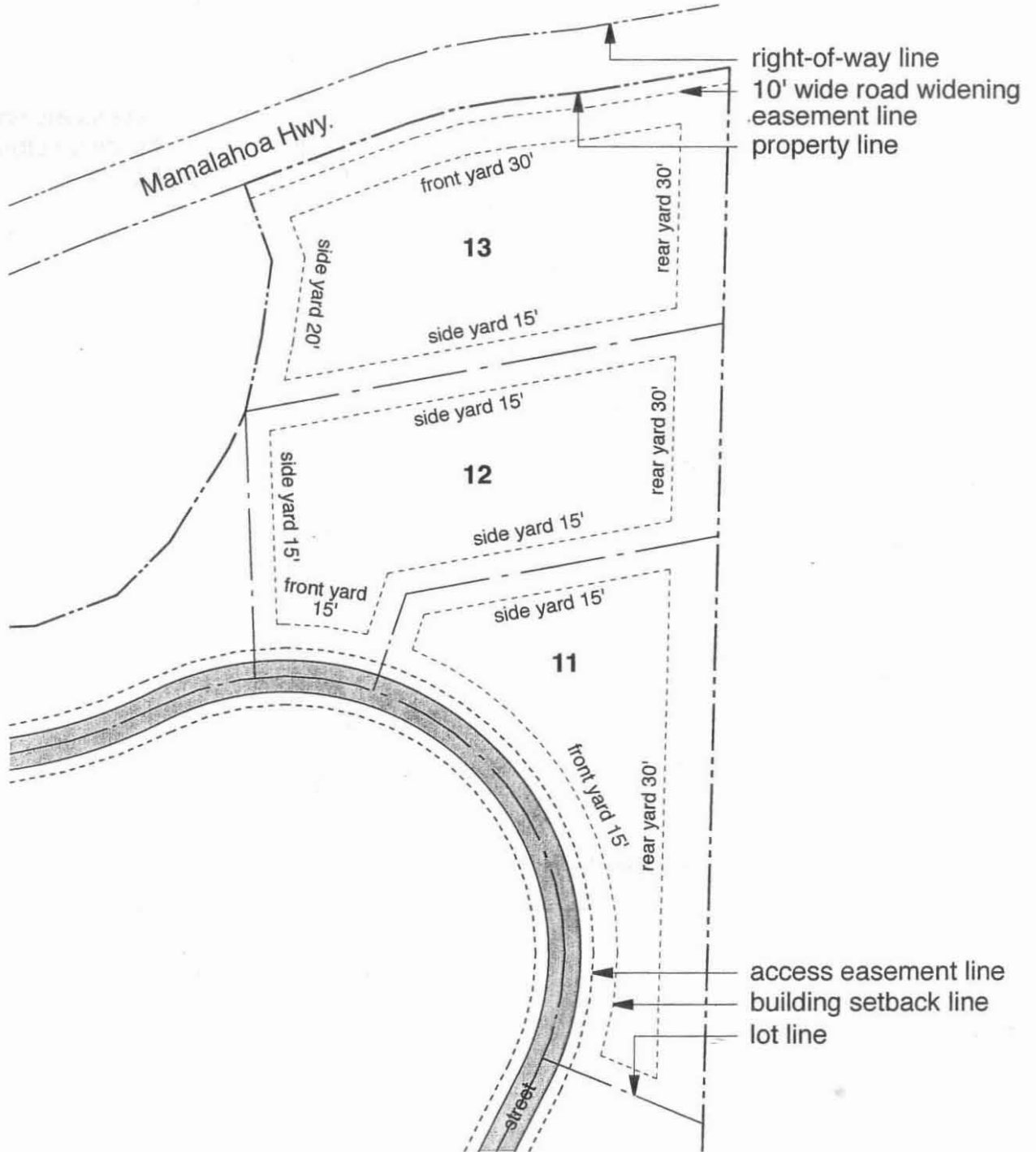


Exhibit 8: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lot 14.

(See Exhibit No. 1, page 8-27, for lot location in project)

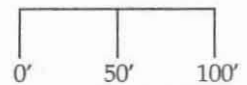
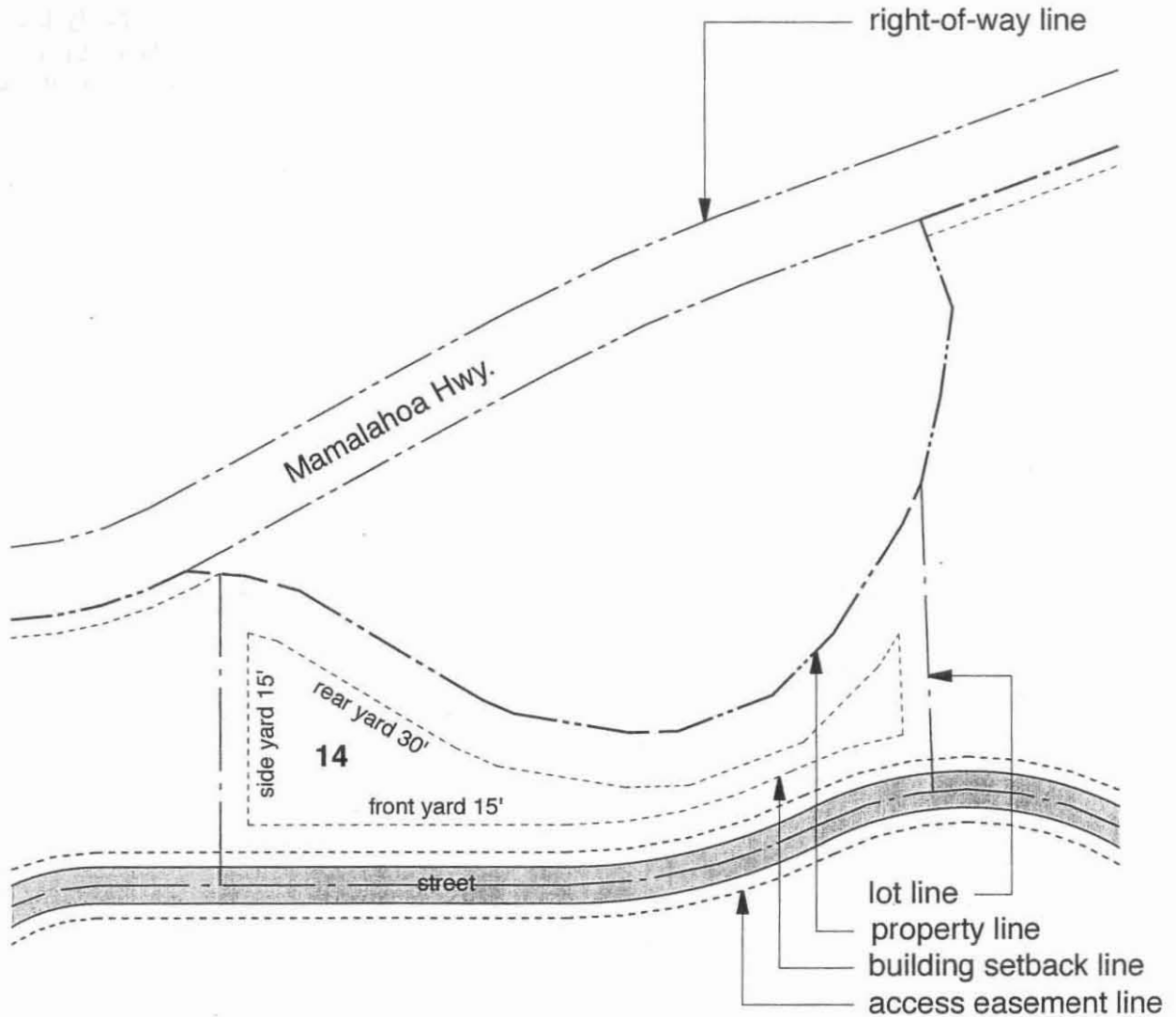


Exhibit 9: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 15 to 17.

(See Exhibit No. 1, page 8-27, for lot location in project)

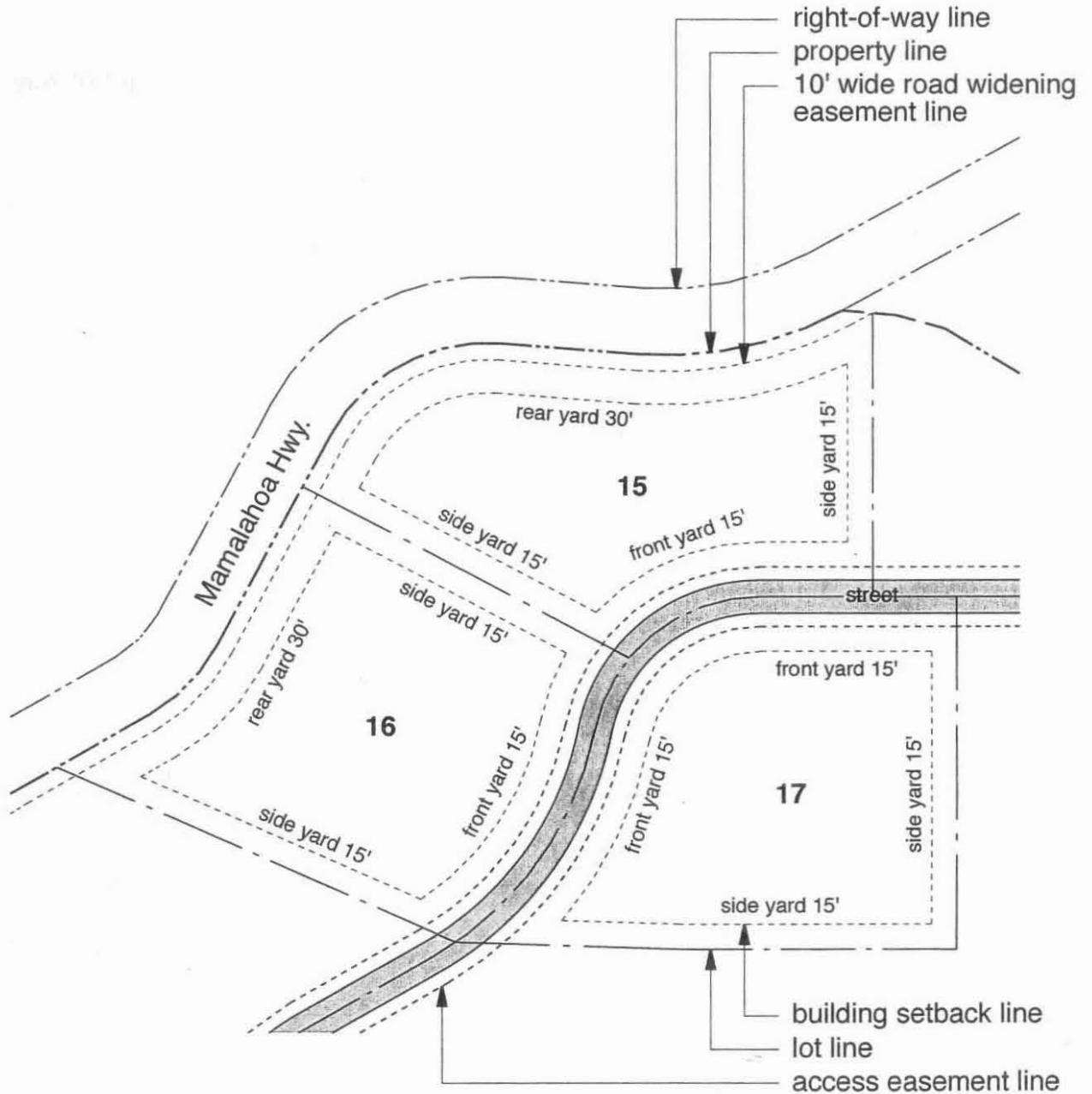


Exhibit 10: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 18 to 22.

(See Exhibit No. 1, page 8-27, for lot location in project)

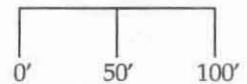
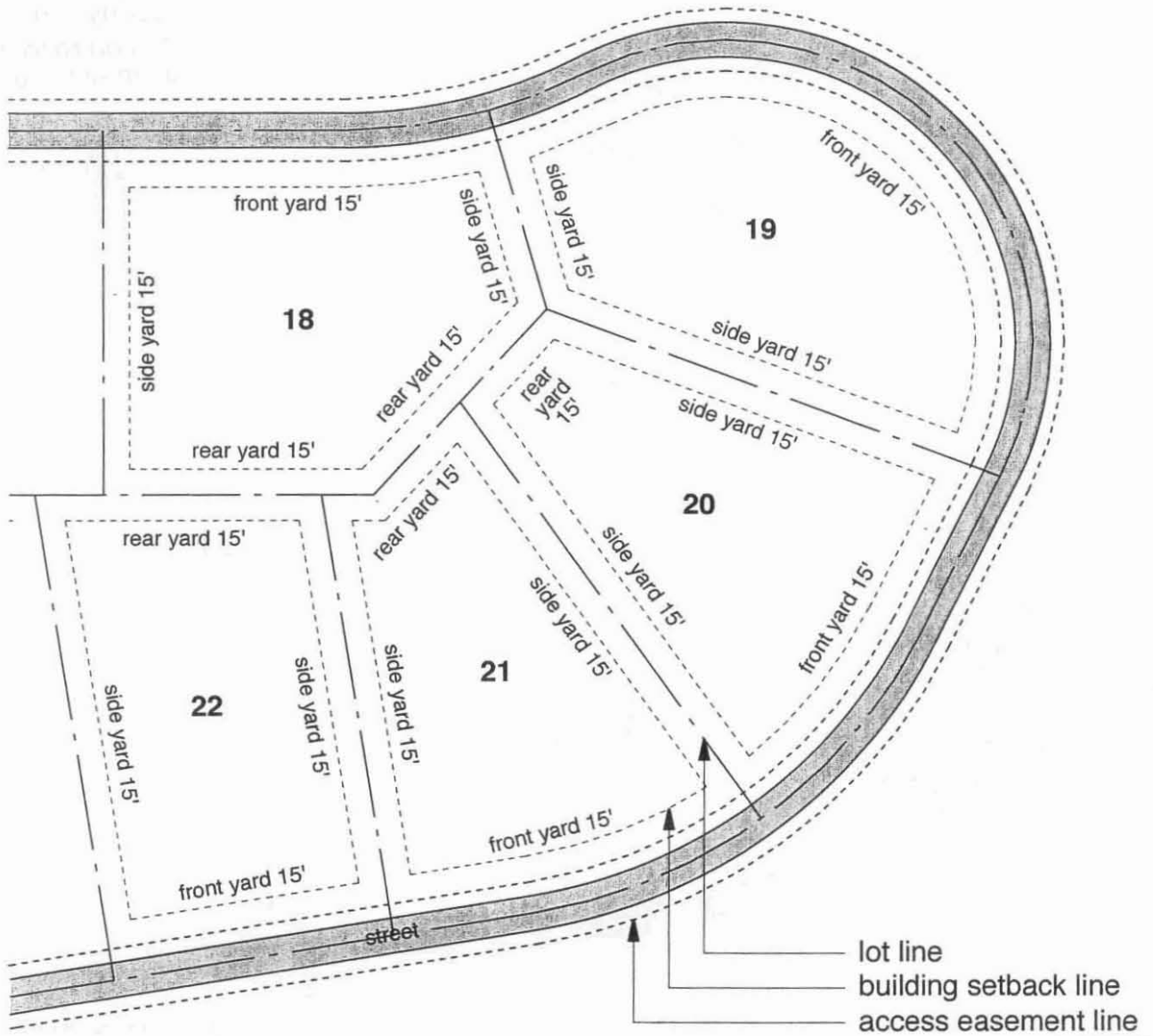


Exhibit 11: Yard Designation

Variance Request - Zoning Code

Request:

The Petitioner request the front, rear, and side yards be designated as indicated below for lots 24 to 27.

(See Exhibit No. 1, page 8-27, for lot location in project)

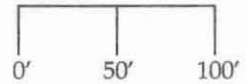
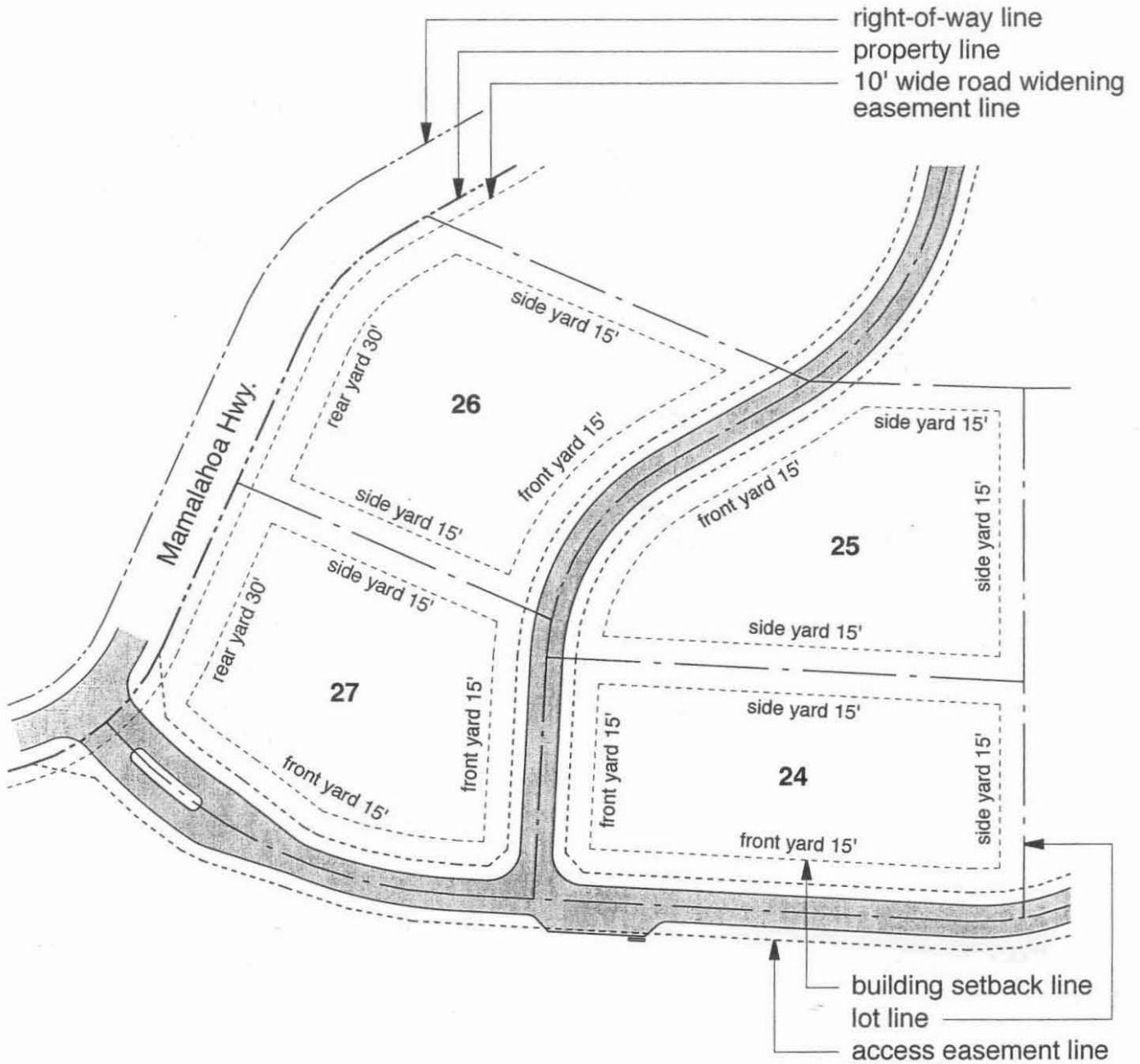


Exhibit 12: Fences and Accessory Structures

Variance Request - Zoning Code

Request:

The Petitioner request the allowance of any accessory structure, architectural feature, wall, fence, or any other free standing architectural feature over six feet in height to extend into any required front, side, or rear yard. Below is an example of how this variance would apply:

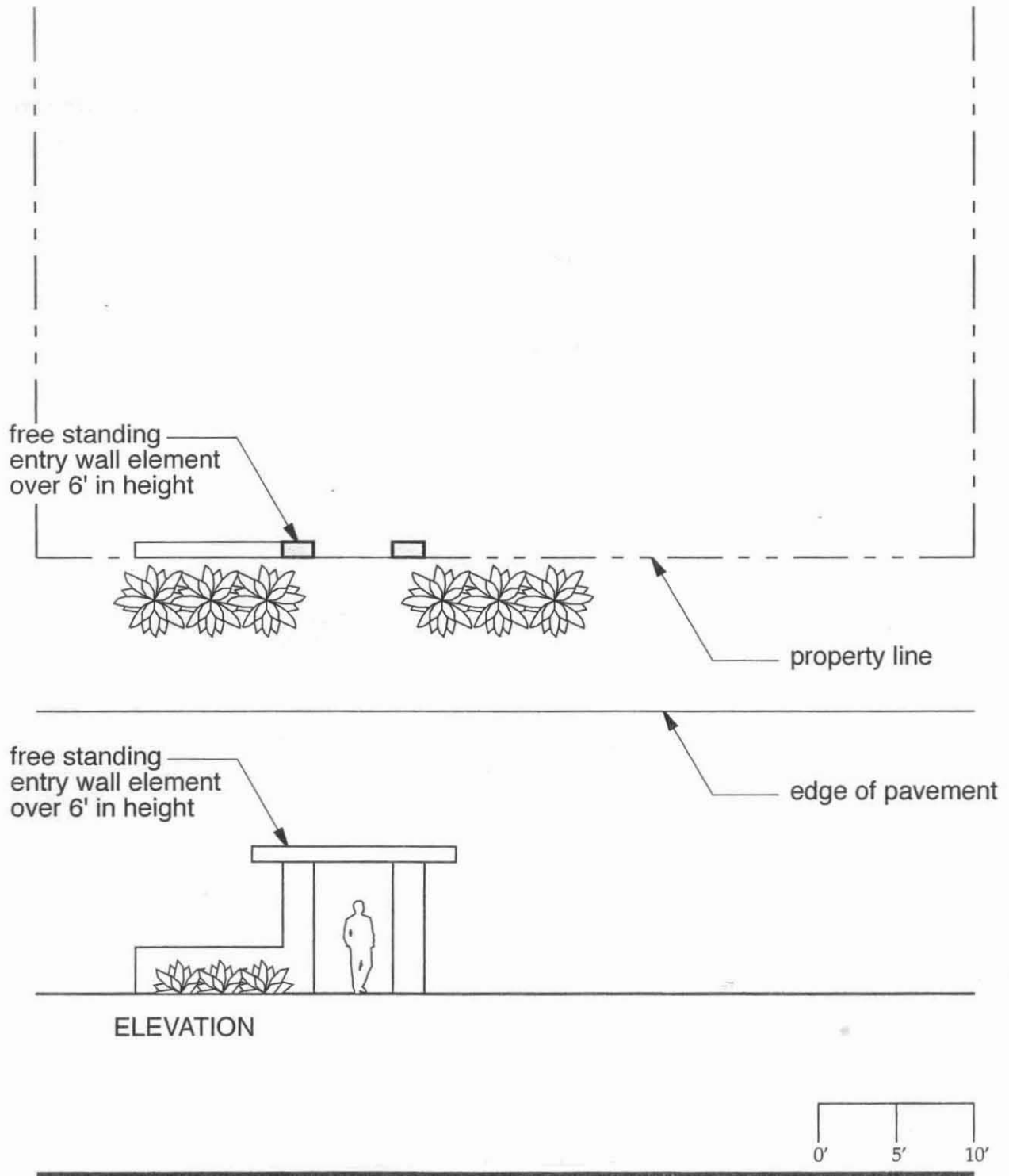


Exhibit 14: Street Intersection Angles and Radius

Variance Request - Subdivision Code

Request:

The Petitioner request the corner radius be permitted to be approximately in the range as indicated below:

(See Exhibit No. 13, page 8-39 for intersection location in project)

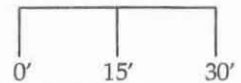
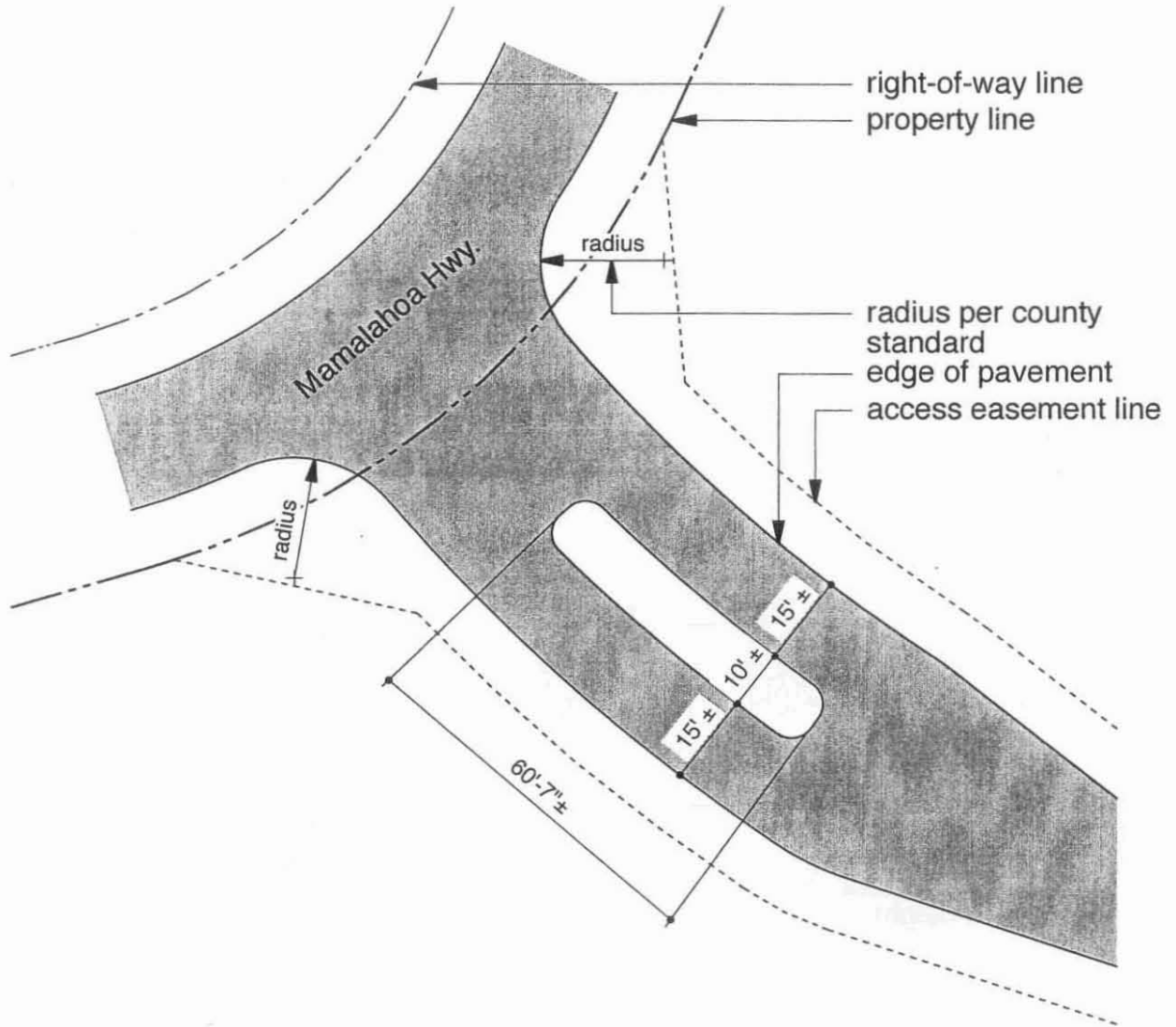


Exhibit 15: Street Intersection Angles and Radius

Variance Request - Subdivision Code

Request:

The Petitioner request the corner radius be permitted to be approximately in the range as indicated below:

(See Exhibit No. 13, page 8-39 for intersection location in project)

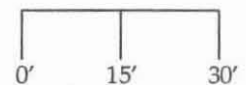
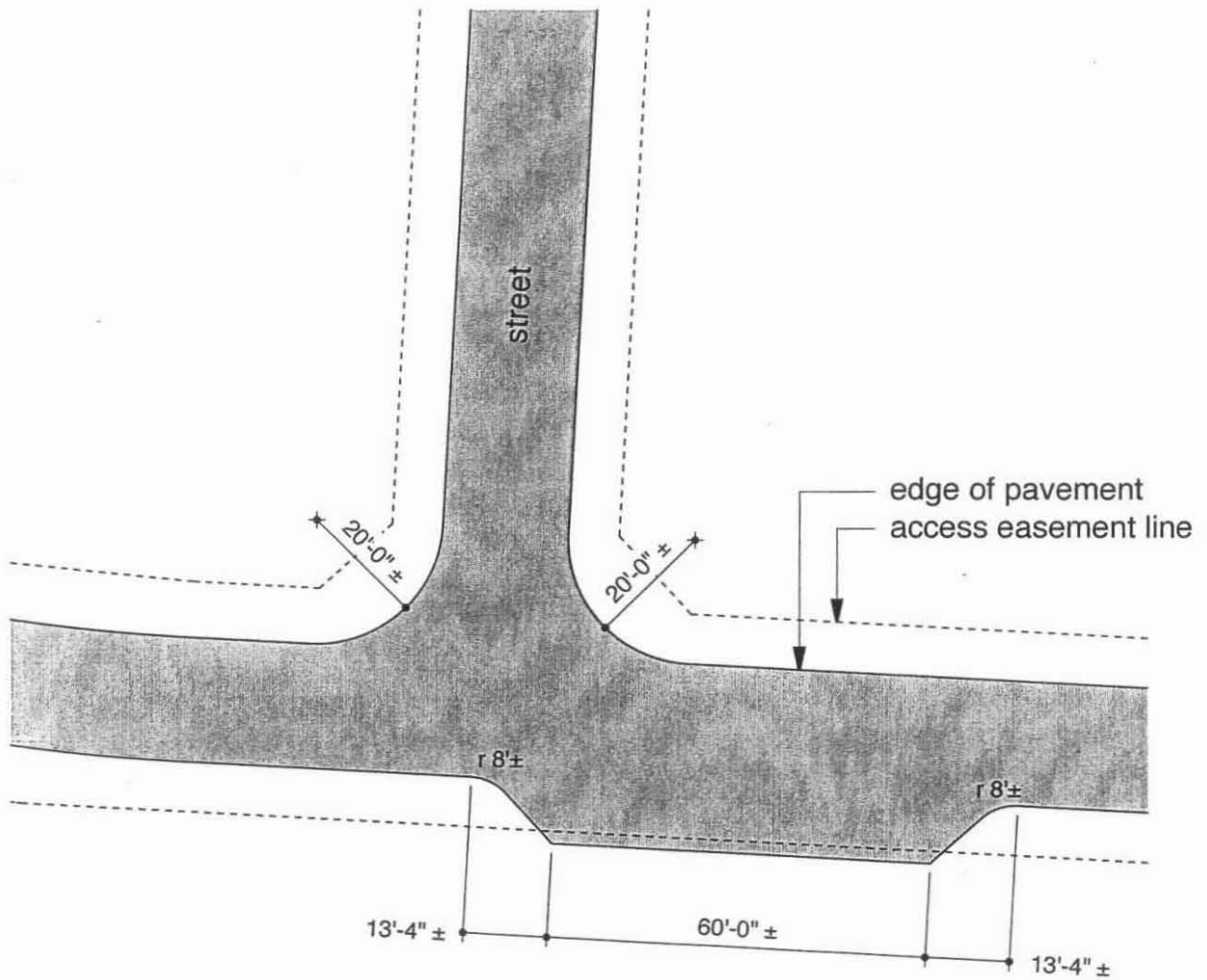
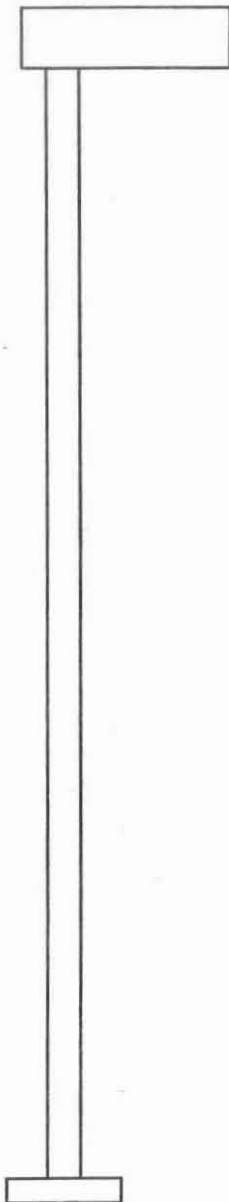


Exhibit 16: Street Lights

Variance Request - Subdivision Code

Request:

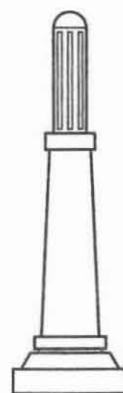
The Petitioner request that the requirements of Section 23-93 be waived in lieu of a custom street light fixture, allowing flexibility in color and housing type selection. Pole type lighting fixtures may be used at street intersections while bollard type lighting fixtures may be used to aid pedestrians. Typical examples of custom light fixtures that might be used in the project are as indicated below:



Pole Lighting Fixture
Contemporary



Pole Lighting Fixture
Traditional



Bollard Lighting Fixture
Traditional

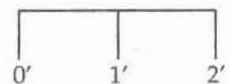


Exhibit 17: Street Signs

Variance Request - Subdivision Code

Request:

The Petitioner request that the requirements of Section 23-94 be waived in lieu of custom street name and traffic sign fixtures, which are more in keeping with the design goals of the project. Typical examples of custom fixtures that might be used in the project are as indicated below:

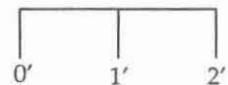
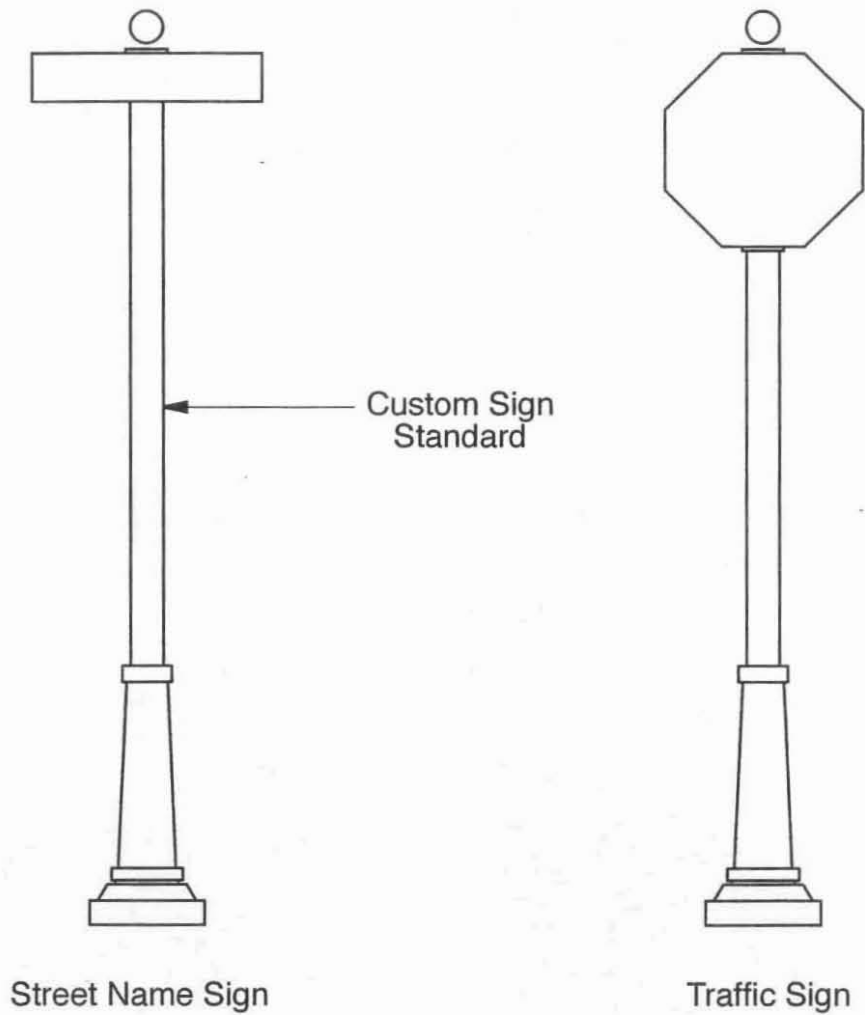


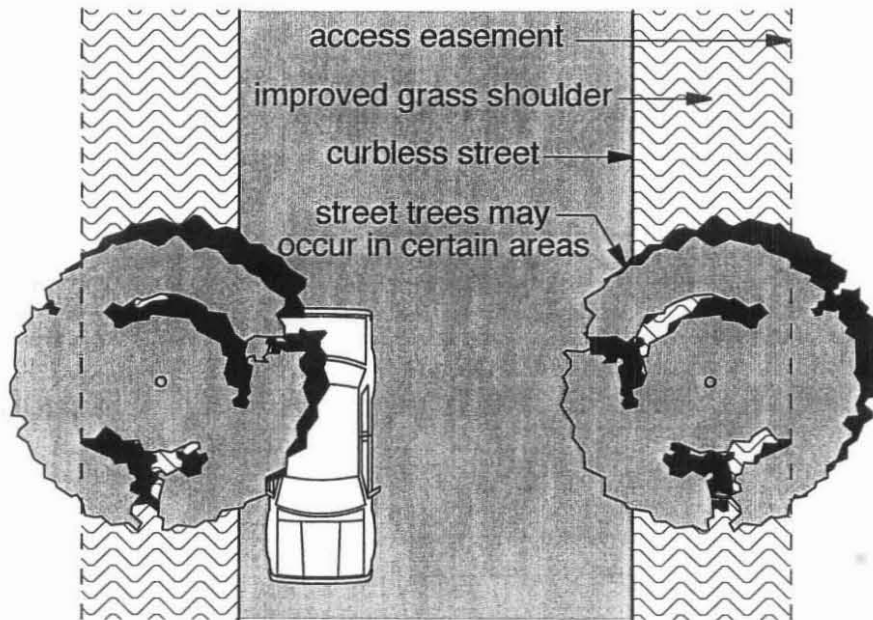
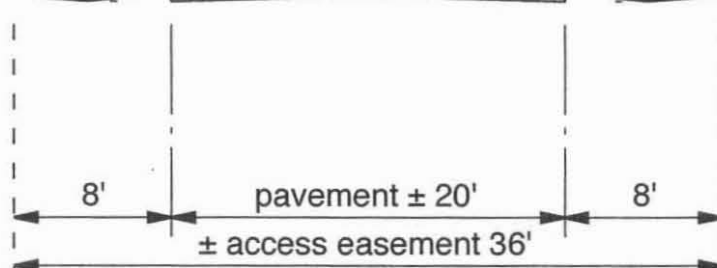
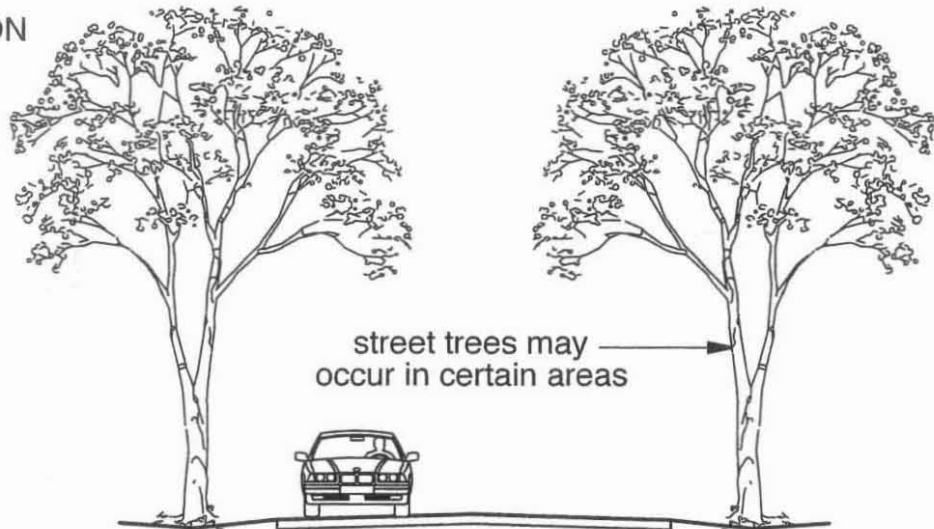
Exhibit 18: Right of Way Improvement

Variance Request - Subdivision Code

Request:

The Petitioner request that the requirements of Section 23-95 be waived to allow design flexibility in the treatment of the right of way areas as indicated below:

SECTION



PLAN

Typical Street

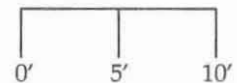


Figure 11: Access Easement

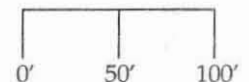
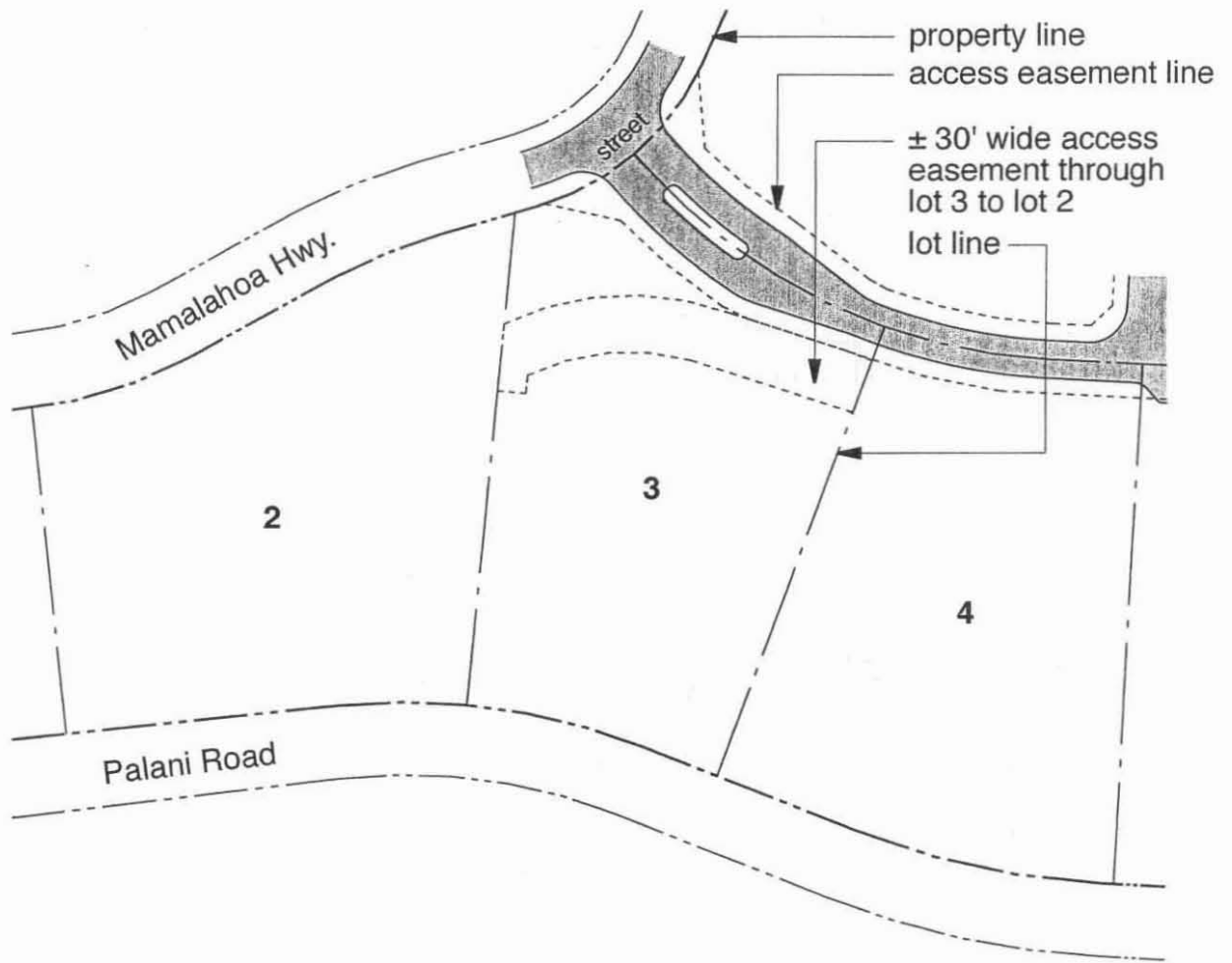


Figure 12: Access Easement

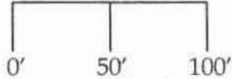
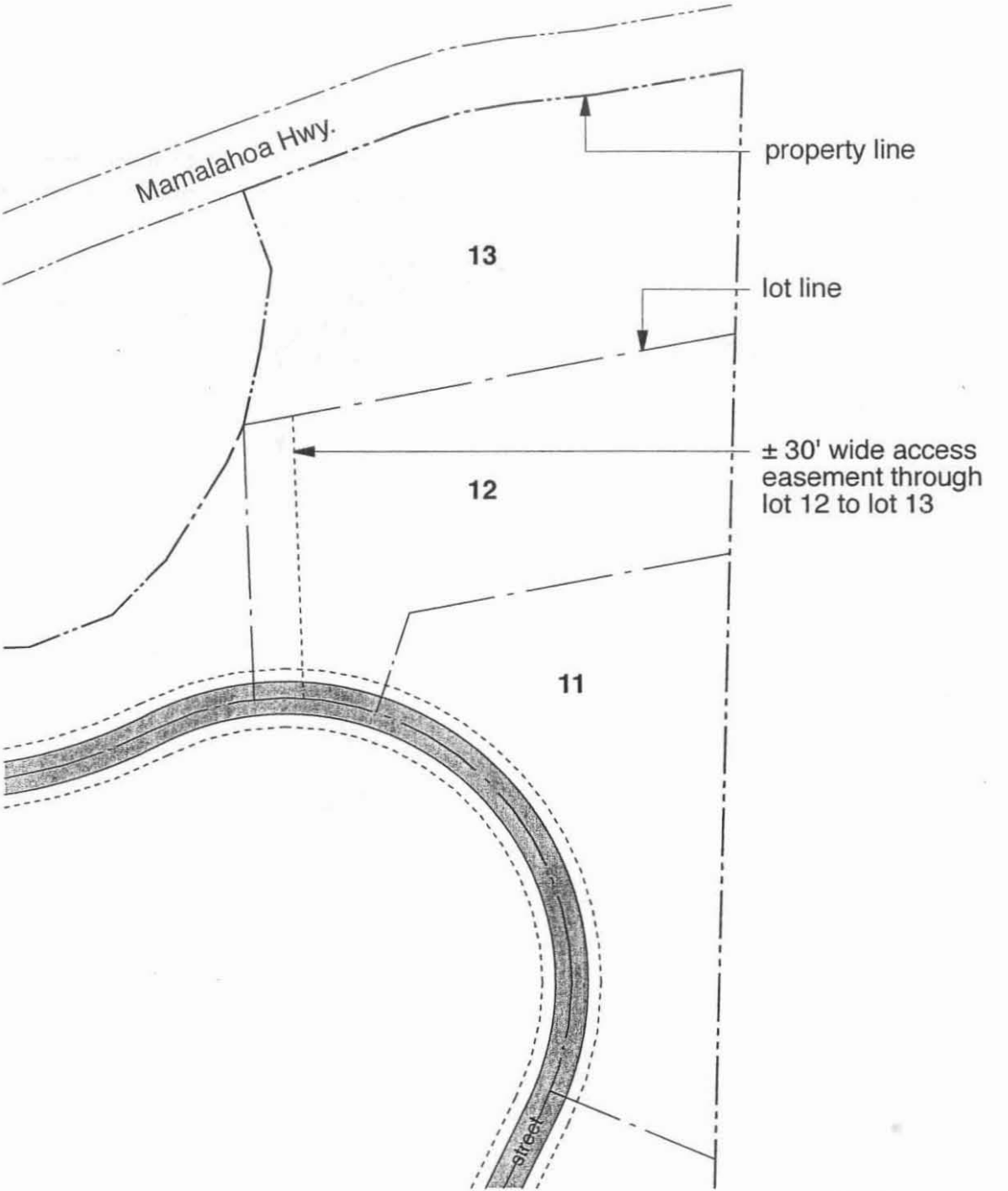


Figure 13: Project Entrance

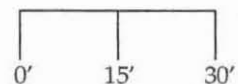
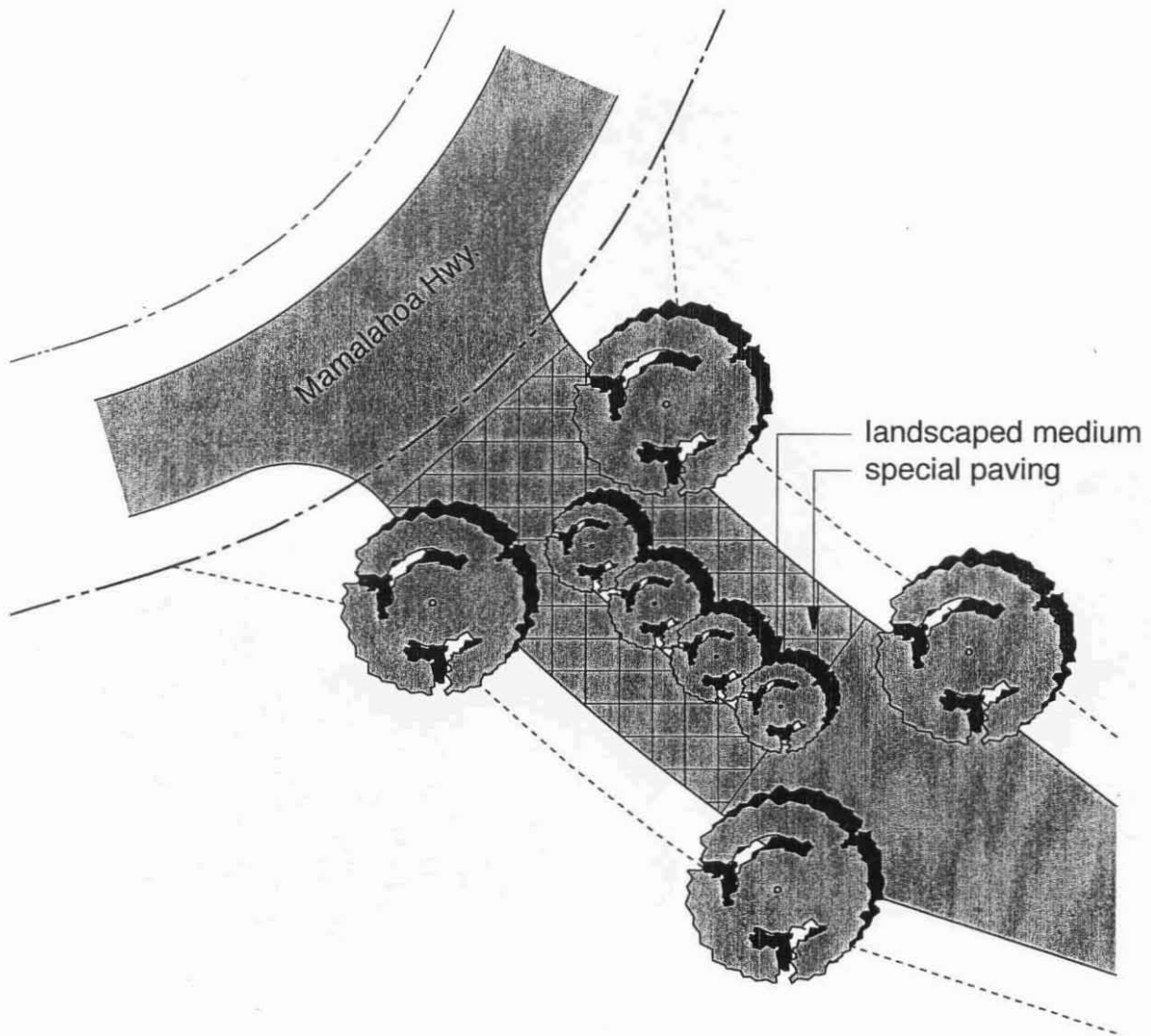
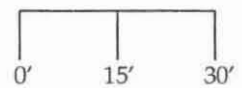
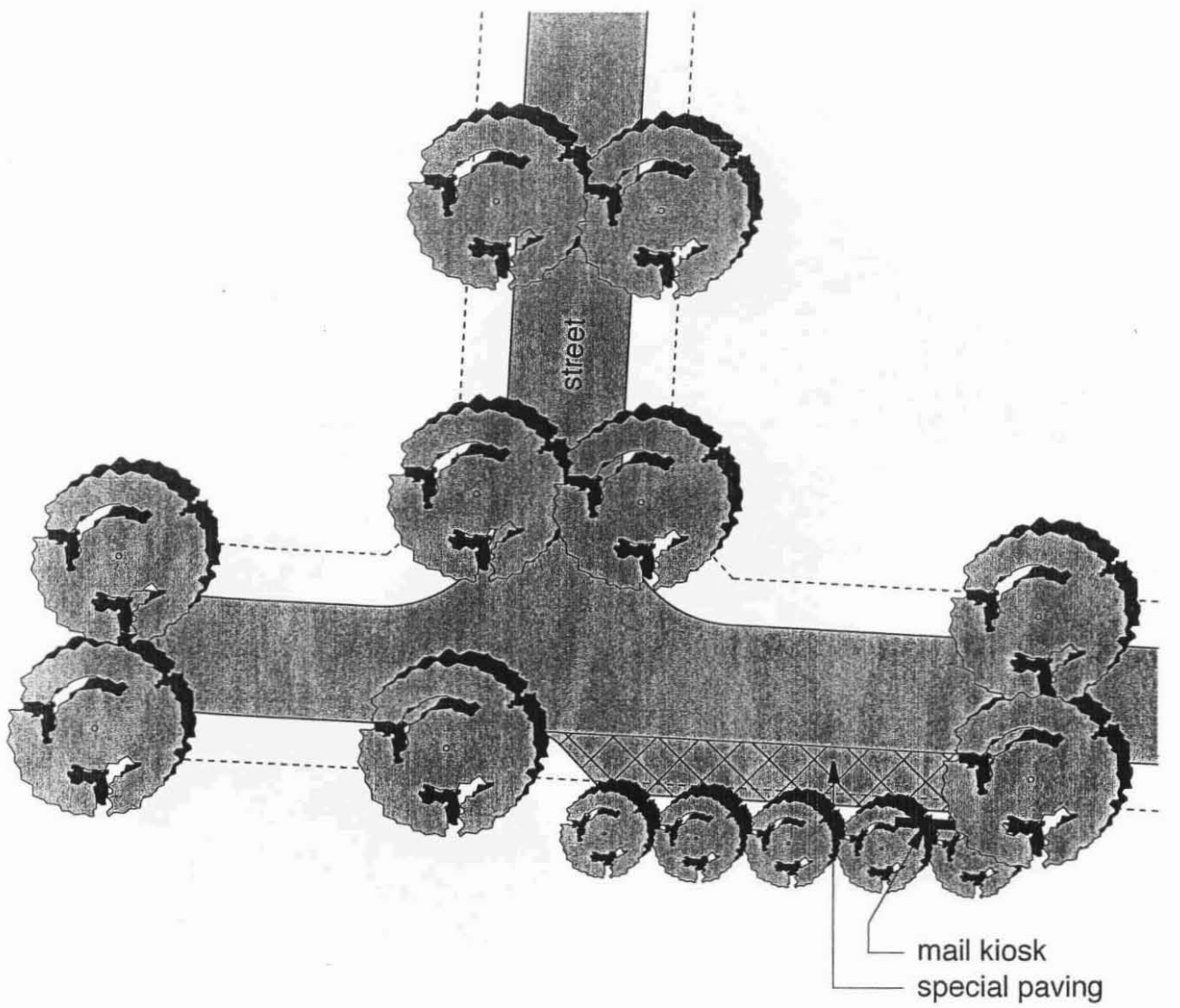
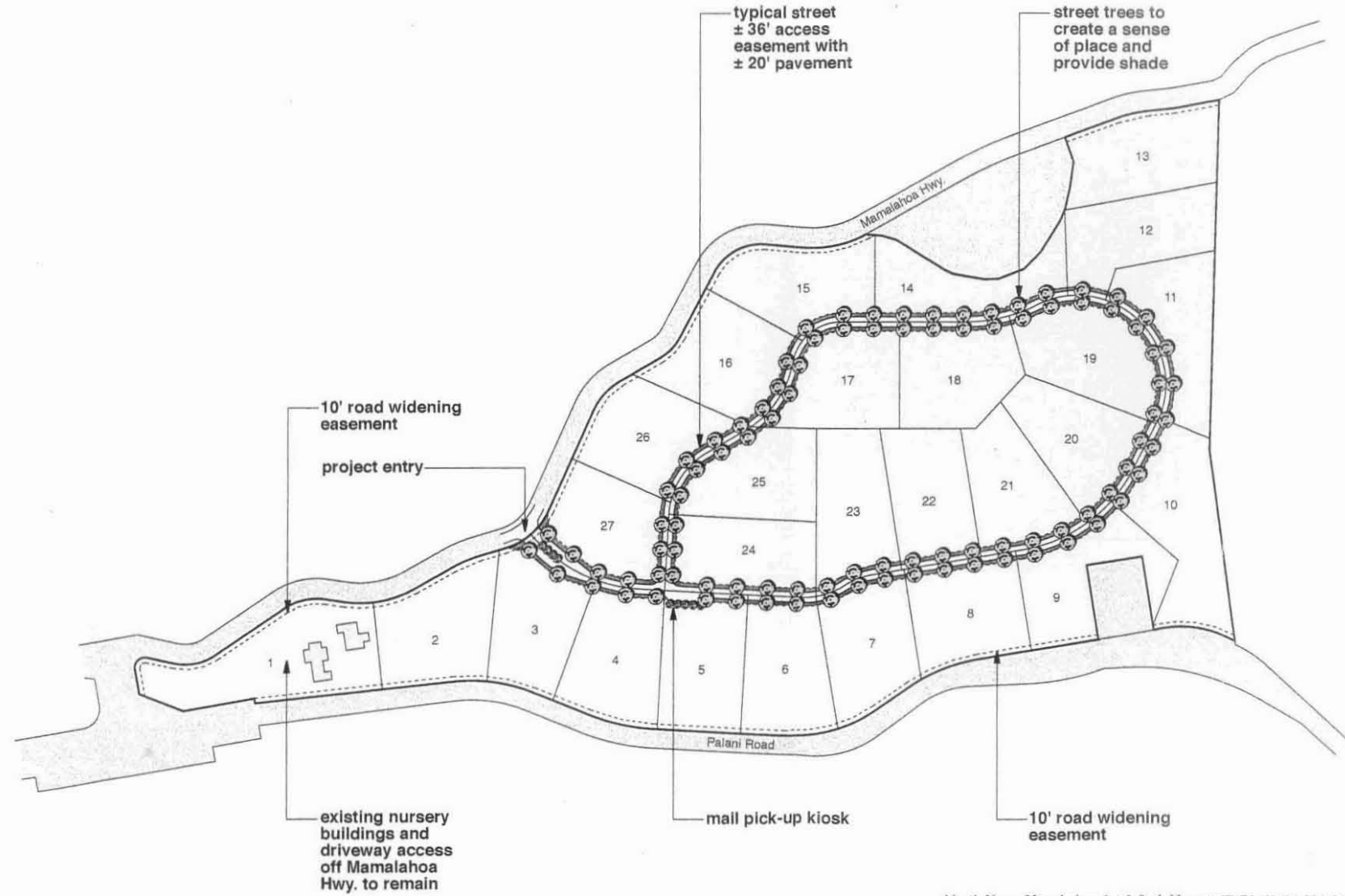


figure 15: Mail Kiosk



MASTER PLAN SC: 1"= 200'



PROJECT INFORMATION

Project TMK	(3) 7-4-008: 012
Land Area	29.337 Acres
State Land Use	Agricultural
County Zoning	AG-1a
Number of Lots	27 lots

AREA OF LOTS

LOT 1	1.17 ACRES
LOT 2	1.00 ACRES
LOT 3	1.00 ACRES
LOT 4	1.071 ACRES
LOT 5	1.053 ACRES
LOT 6	1.050 ACRES
LOT 7	1.052 ACRES
LOT 8	1.057 ACRES
LOT 9	1.040 ACRES
LOT 10	1.324 ACRES
LOT 11	1.033 ACRES
LOT 12	1.009 ACRES
LOT 13	1.088 ACRES
LOT 14	1.000 ACRES
LOT 15	1.085 ACRES
LOT 16	1.108 ACRES
LOT 17	1.087 ACRES
LOT 18	1.079 ACRES
LOT 19	1.185 ACRES
LOT 20	1.040 ACRES
LOT 21	1.001 ACRES
LOT 22	1.003 ACRES
LOT 23	1.044 ACRES
LOT 24	1.047 ACRES
LOT 25	1.022 ACRES
LOT 26	1.082 ACRES
LOT 27	1.00 ACRES

note: all lot sizes are approx.

Riehm Owensby
PLANNERS
ARCHITECTS



Hualalai Gardens . . . An Agricultural Planned Unit Development

North Kona, Honokohau 1st & 2nd, Hawaii, TMK: (3) 7-4-006: 012
Classic Pacific Kona LLC
3197 Airport Loop Drive, Building "B", Costa Mesa, California, 92626

Date: 3.1.05
Sheet No: