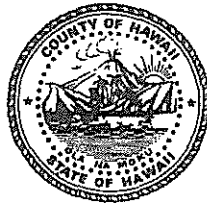


Harry Kim  
Mayor



Christopher J. Yuen  
Director  
Brad Kurokawa, ASLA, LEED™ AP  
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

January 30, 2007

Mr. Keith Kato  
Hawaii Island Community Development Corporation  
100 Pauahi Street, Suite No. 204  
Hilo, HI 96720

Dear Mr. Kato:

#### **PLANNED UNIT DEVELOPMENT APPLICATION (PUD 2006-000005)**

**Project Name:** Kumakua Affordable Housing Project  
**Applicant & Landowner:** Hawaii Island Community Development Corporation  
**Tax Map Key:** 5-5-008: 046 (portion); Pahoa, North Kohala, Hawaii

After reviewing the information submitted with the above-described Planned Unit Development Application, the Planning Director hereby approves Planned Unit Development (PUD) No. 06-000005 to allow the development of a 65-lot affordable single family residential subdivision and related improvements on 15 acres of land within the Single Family Residential-7,500 square feet (RS-7.5) zoned district pursuant to Hawaii County Code Chapter 25 (Zoning Code), Article 6, Division 1 (Planned Unit Development). Approval of PUD No. 06-000005 includes the granting of variances from various roadway standards of the Subdivision Code, Chapter 23 and variances from the minimum lot size, lot configuration, and yard setback requirements of the Zoning Code, Chapter 25, Hawaii County Code. The subject property is located at Pahoa in North Kohala, approximately 600 feet west of the Kohala High and Elementary School complex.

#### **FINDINGS**

**Project Description.** The proposed affordable single family residential subdivision project will occupy 15 acres of land within the larger, 31.21-acre parcel. The proposed lot sizes will range from no less than 5,000 square feet to approximately 7,500 square feet. According to information submitted as part of the change of zone of the 15-acre project site secured in May 2006, this affordable housing project would consist of: 48 self-help single family dwelling units and 32 senior housing rental units with a minimum of 51% of these units to be marketed to

*Hawai'i County is an Equal Opportunity Provider and Employer*

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families earning less than 80% of the median family income and a portion of the units will be marketed to families earning between 80% and 140% of the median family income. Please note that this PUD will not address the proposed multiple family component to accommodate the senior housing rental units. The applicant must secure the appropriate land use approvals from the County in order to allow multiple family units on Single Family Residential (RS) zoned lands.

**Purpose and Objectives:** According to the Applicant, *“The primary objective in developing an affordable housing project is to minimize cost to provide an opportunity for those families in the low and moderate income categories to purchase a home. At the same time, the applicant is attempting to develop livable communities that the residents will not only be able to afford but enjoy as well. This is a daunting task to say the least and requires the maximum flexibility to allow cost effective and efficient measures to be utilized. The applicant is requesting the County’s assistance in promoting a spirit of cooperation to ensure that the project will be successful in achieving our mutual goal of providing much needed housing to those families that could not otherwise afford it. More specifically, the County’s contribution to the successful completion of the Kumakua Affordable Housing project may be in the form of accepting maintenance responsibility for roadway sections that do not meet current code requirements and granting variances from other code requirements that do not compromise public health and safety concerns.”*

**Permitted Use and Density; Consistency with General Plan.**

- a. **State Land Use Districts.** The 15-acre project site is situated within the State Land Use Urban district. The Applicant was able to secure a State Land Use Boundary Amendment from the County Council through the adoption of Ordinance No. 06-68.
- b. **General Plan.** The proposed single family residential subdivision is consistent with the General Plan LUPAG designation of Low Density Urban, which allows for residential, with ancillary community and public uses, and neighborhood convenience-type uses with an overall permitted residential density up to six units per acre. The Applicant is proposing to develop an affordable housing project with self-help single family dwellings and senior housing rental units, which will address the demand for affordable housing in the West Hawaii area. This request for a PUD will facilitate the development of a concentration of urban activities occurring in an orderly manner commensurate with the provision of necessary infrastructure for this area. Therefore, it is determined that this request is consistent with the urban form depicted on the LUPAG Map for this area of North Kohala. We also find that approval of the PUD will be consistent with the following goals, policies and standards of the General Plan:

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
  - Zone urban- and rural-types of uses in areas with ease of access to community services and employment centers and with adequate public utilities and facilities.
  - Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.
  - The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
  - Zoning requests shall be reviewed with respect to General Plan designation, district goals, regional plans, State Land Use District, compatibility with adjacent zoned uses, availability of public services and utilities, access, and public need.
- c. North Kohala Community Development Plan: Adopted on November 3, 1986 by Hawaii County Council Resolution No. 291 86, the North Kohala Community Development Plan designates the area for small scale agricultural uses and existing residential uses.
- d. Zoning Code. The project area of this PUD is 15 acres. The maximum density permitted on this 15-acre project site is a maximum of 87 units. Pursuant to Hawaii County Code Section 25-5-8(e), "Exceptions to the regulations for the RS district regarding heights, building site areas, building site average widths and yards, may be approved by the director within a planned unit development."
- e. SMA. The property is located approximately one mile from the shoreline and is not situated within the Special Management Area (SMA). The SMA is a part of the Coastal Zone Management Program regulated by the County.

**Reasonable Project Time Period**. According to the PUD application, the Applicant plans to start construction in 2007 with the entire project to be completed within 5 years thereafter, or by 2012.

**Compatibility with Neighboring Uses**. Lands to the north and south are larger agricultural lands zoned A-20a and A-5a, which consist mainly of agricultural uses with scattered dwellings. To the west is a property zoned A-20a and approximately 900 feet further west are properties zoned RS-15 and CV-10 in nearby Hawi town. To the east are properties zoned A-20a and RS-15. The Kohala Elementary and High Schools are located 600 feet to the east in a RS-15

zoned property. With the nearby town of Hawi, this proposed single family residential project will be compatible with adjoining uses within this particular section of Hawi. The Applicant mailed a notice of this PUD application to property owners within 500' of the subject property. One letter dated October 17, 2006 was received from Nancine Lloyd of Hawi, objecting to the application on the basis of insufficient resources to support the proposed project and its anticipated impact upon traffic, the over-crowded schools, pollution, crime and "*....all of the negative things that come with progress.*" She also had questions on whether this project will contain multiple family residential units and whether the design flexibility that the Applicant seeks would lead to the use of inferior materials or "scaled-down" homes. She recommends that if standard county requirements cannot be met, then this PUD should not be approved. By letter dated November 2, 2006, the Applicant responded to each question or concern raised by Mrs. Lloyd. The Applicant clarified the intended market for this project for groups classified as "low-income", "moderate-income" and those in the "gap-group". The Applicant also clarified that the elderly housing rental units could be ones-story, multiple family structures similar to the nearby Ainakea Elderly Housing project. As an example of the types of self-help housing that the Applicant constructs, Mrs. Lloyd was referred to the construction of 21 self-help homes in Hawi to the west of the project site, which were constructed of new materials and meeting all applicable code requirements. Finally, the Applicant clarified that the major deviations from code being sought was from the County's roadway standards. To date, we have not received any additional correspondences or comments from Mrs. Lloyd.

**Access.** Access to the proposed development would be from the Hawi-Niulii Road, which is a State highway that has a 22-foot pavement with paved shoulders within an 80-foot right-of-way.

**Previous Land Use reclassifications.**

Effective May 22, 2006, the Hawaii County Council adopted Ordinance No. 06-68 to amend the State Land Use District classification of the 15-acre project site from the Agricultural to the Urban District. With the same effective date, the Council also approved Ordinance No. 06-69, which rezoned the project site from an Agricultural (A-20a) to a Single Family Residential (RS-7.5) zoned district, subject to the following conditions of approval:

- A. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- B. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" prior to final subdivision approval. The applicant shall make any improvements required by the Department of Water Supply.

- C. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- D. Access to Hawi-Niulii Road, including the provision of adequate sight distances, shall meet with the approval of the State Department of Transportation.
- E. Install streetlights, signs and markings meeting with the approval of the State Department of Transportation.
- F. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy or final subdivision approval.
- G. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.
- H. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- I. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resource – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- J. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the unit counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval or within five years from the effective date of this change of zone ordinance, whichever occurs first. The fair share contribution for each unit shall be based on the number of units developed. The applicant shall be exempt from fair share requirements for all units sold or rented to households earning less than 80% of the median family income. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of \$9,991.21 per single family residential unit. The applicant shall be required to submit information regarding the amount of units sold or rented to households

earning more than 80% of the median family income to calculate the total amount of fair share contribution owed by the applicant.

The fair share contribution per single family residential unit shall be allocated as follows:

1. \$4,817.93 per single family residential unit to the County to support park and recreational improvements and facilities ;
2. \$232.42 per single family residential unit to the County to support police facilities;
3. \$459.06 per single family residential unit to the County to support fire facilities;
4. \$200.98 per single family residential unit to the County to support solid waste facilities; and
5. \$4,280.82 per single family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities and roads within the region impacted by the proposed development, subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council.

- K. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- L. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy, provided further that, because the applicant has represented that the project will predominately be for affordable housing, the applicant shall generate affordable housing credits on-site not less than one hundred percent (100%) of the units developed. Affordable housing credits in excess of the basic requirements of Chapter 11, Article 1, Hawaii County Code, Section 11-4 and 11-5 shall be credited to the applicant, its successors, or assigns, and be transferable under Section 11-15. The affordable housing plan shall be approved by the Administrator of the Office of Housing and Community Development prior to final subdivision approval.
- M. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. 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.

- O. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
  4. The time extension 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 up to one additional year).
  5. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.
- P. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

### **AGENCIES' REVIEW**

Department of Public Works: Memorandum dated November 1, 2006

#### **"DRAINAGE**

1. All development generated runoff shall be disposed of on-site and shall not be directed towards any adjacent properties.
2. 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, State of Hawaii.
3. A drainage study shall be prepared, and the recommended drainage system shall be constructed meeting with the approval of the Department of Public Works.

#### **EARTHWORK**

1. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.
2. 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.

#### ROADWAYS

1. The Akoni Pule Highway, fronting the subject property, is under the jurisdiction of the Hawaii Department of Transportation (HDOT). Comments and requirements concerning this road should be obtained from HDOT.
2. Vehicular access to the individual lots shall not be from Akoni Pule Highway or from the interior subdivision road between Akoni Pule Highway and the first interior street intersection.
3. The applicant should construct all roadways to county dedicable standards with concrete curbs, gutters and sidewalks. Install street lights, signs and markings meeting with the approval of the DPW, Traffic Division.
4. Roadway connections to adjoining parcels should be provided meeting with the approval of DPW. These roadways should be open to public traffic.
5. Any utility poles in a County 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.

#### VARIANCES

1. We oppose the variance from Section 25-4-42 as it causes a conflict with HCC Section 10-22.2(a), unless it can be demonstrated that a lesser unobstructed area is determined adequate under Section 22-2.2(b).
2. Section 23-41 Minimum Right of Way and Pavement Width. DPW prefers Exhibit 5 for the minor streets provided that the sidewalk width is increased to 5 feet minimum for total right-of-way width of 42 feet. This should provide minimum space for two-way traffic and parking on both sides. To meet ADA guidelines, the sidewalk must have 5 foot by 5 foot passing spaces at 200 feet on center. Adequate width must be provided, exclusive of the accessible route for traffic signs and streetlights. Five feet provides adequate width for pedestrian passing space and for 2 pedestrians walking abreast. Rolled curbs may be necessary to provide for a continuous accessible route at the driveway approaches. They are allowed for minor streets not exceeding a grade of 10%. The other cross sections are inadequate in pavement width unless parking is restricted and/or tributary lot count does not call for two-way traffic such as for the short cul-de-sacs. DPW does not support parking restricted subdivision roadways for undersized lots. DPW opposes exhibit 11 for County streets because of the additional expense and difficulty of maintaining grassed roadsides.
3. Section 23-48 Cul-de-sacs. The proposed drive court geometry does not allow adequate space for a standard passenger car to turn around. Turnarounds should be provided when cul-de-sac serves more than 2 lots. We defer to the Fire Department regarding emergency vehicle access.



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4. Grades and Curves. Design speed should be 5 mph over posted speed. For the proposed minor streets, provided there is no interconnectivity with other developments or streets, we have no objection to a 15mph posted and 20 mph design speed. We have no objection to conformance with AASHTO guidelines in lieu of the Subdivision Code. However, until street width, distance to the nearest obstruction and design speed are determined, it would be premature to approve a specific minimum horizontal curve radius for the streets.
5. Section 23-93 Street Lights. DPW Traffic Division opposes any variance from streetlight requirements on a County dedicable street.
6. Section 23-94 Street Name and Traffic Signs. DPW Traffic Division opposes any variance from signs and marking requirements on a County dedicable street. Traffic Division is not prepared to approve or maintain specialty signs and supports.”

Fire Department: Memorandum dated October 16, 2006

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).

Police Department: Memorandum dated October 12, 2006

“Staff maintains that until such time as adequate roads are built to support the ever-growing population, construction, and additional vehicles on our roadways, additional development must adhere to the County’s proposed policy on the principles of concurrency.

Staff notes that this development has been designed as a ‘one-way-in/one-way-out’ subdivision with apparent stubouts on the north border of the property. There are not provisions to connect with properties on the east or west borders. Designing with east and west stubouts will allow for secondary road construction as development continues within the District of North Kohala.”

Office of Housing and Community Development. Memorandum dated October 6, 2006

OHCD informs this office that the County’s affordable housing requirements, pursuant to Chapter 11 of the Hawaii County Code, are applicable to the proposed project.

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Department of Environmental Management: Memorandum dated September 29, 2006

DEM confirms that no County sewer system planned for this area. Recommends the submittal of a solid waste management plan. Informs that commercial operations not use transfer stations, as well as other solid waste disposal recommendations.

HELCO: Letter dated October 11, 2006

HELCO confirms that it will be able to provide electrical service to the proposed project. HELCO provided additional information relative to improvements required of the applicant in order to connect to the existing distribution system.

Department of Water Supply: Memorandum dated October 16, 2006

DWS confirms that water to support the proposed subdivision is available from an existing 8-inch waterline located along Akoni Pule Highway. Payment of the required water commitment fees is required of the Applicant. As part of the proposed subdivision, the Applicant will be required to install necessary water system improvements which will include water mains, service laterals, fire hydrants and other required improvements.

## PUBLIC COMMENTS

Nancine Lloyd: Letter dated October 17, 2006

"I was notified (letter enclosed) of a PUD Application filed by Hawaii Island Community Development Corporation for a variance request to develop an affordable housing project here in North Kohala. I read the notice and I have questions.

Do I understand the self help single family units will be marketed to 2 different groups according to their earnings?

The proposed affordable housing project will utilize smaller lot sizes. So the part that's left after sizing the smaller, does that lot become another lot that can be sold? Not good, or is this an introduction to 'multiple residential units' kind of what the senior rental units could fall under, yes?. How many units are we really talking about being built?

It also reads 'design flexibility to reduce production costs which would pass to the buyers'. Does this mean the houses get scaled down?. Inferior? Can they last 30 years? Are we creating city housing/slum/tenements (sic)?

Finally, it says, 'the primary target is the low and very low income households and to achieve affordability for this income level, the standard county requirements cannot be utilized. What does this mean? The county isn't sanctioning this project?. If the projects not in compliance with county ordinances, or policies, they should be denied their request for this variance.

I'm not for this project. The future looks crowded, will we have enough resources? Traffic will be so real, schools already over crowded, pollution, crime, all the negative things that come with progress."

Applicant's Response to Ms. Lloyd: Letter dated November 2, 2006

"The County's affordable housing income guidelines span a range of incomes based on a percentage of the median family income (established by the U.S. Department of Housing and Urban Development). We intend to market the single family units to a range of families including those earning less than 80% of the median family income as well as families earning between 80% to a 140% of the median family income. This range includes families considered to be 'low income' as well as those considered to be 'moderate income' and those in the 'gap group'.

The elderly housing may be multi-family in form. This would be single story construction similar to the Ainakea Elderly Housing project that has zoning similar to our proposed project.

Approximately 48 self-help single family units and 32 elderly housing rental units are proposed for 15 acres of our property.

The Hawaii Island Community Development Corporation has built 200 single family self-help units in various districts on the island including 21 homes in Hawi that are approximately 1,800 feet west or Hawi-side of your property. These 3-bedroom, 2-bath homes have 1,130 square feet of interior living area plus a two car carport. They were constructed with new materials met all building code requirements. These families take pride in the home that they have built and their neighborhoods are well cared for.

The major deviations being requested deal with roadway standards (right-of-way widths, curb-gutter sidewalk requirements, etc.) The PUD application is reviewed by all applicable County agencies to ensure that public health and safety is not compromised. All deviations approved through the PUD process will be sanctioned by the County of Hawaii.

We believe that there is a strong need for the proposed project and its is supported by many in the North Kohala District. An informational meeting held at the Kohala High School Cafeteria on November 2, 2005 attracted over 300 people who were interested in obtaining information on the proposed project and expressed their support.”

### 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. **Minimum Street Frontage (§25-4-30).** The minimum building site average width in the RS-7.5 zoned district is 60 feet (§25-5-6). The applicable minimum street frontage is 50% of the 60 feet, which is 30 feet for this project. The Applicant is requesting a minimum street frontage of 20 feet for those lots fronting the 40-foot wide drivecourt and a minimum street frontage of 25 feet for all remaining lots having a minimum building site average width of 50 feet (lots less than 7,500 square feet in size).
2. **Yard Requirements (§25-4-40) (general requirements for yards and open spaces), §25-4-40 (permitted projections into yards and open spaces), §25-4-42 (corner building sites), §25-5-7 (minimum yards in RS).** The minimum yards in the RS-7.5 zoned district are: 15 feet from front and rear property boundaries and 8 feet from the side property boundaries. The master plan offsets the footprint of the homes to one side of the lot so that the actual distance between the homes (15 feet) is substantially equivalent to the combined 16-foot structure separation that would result from the side yard setback requirements. One side yard will maintain a minimum 5-foot yard setback while the other side yard will maintain a 10-foot side yard setback. The proposed 15 foot front and rear yards are compliant with code requirements with the exception of a corner lot, which will designate one street frontage as a side yard with a 10-foot yard setback. The approved yards shall be as shown on the attached Exhibits 2 and 3.
3. **Corner Building Sites (§25-4-42).** On a corner building site, and for the purposes of defining the required minimum yard setback requirements, the code specifies two front boundaries along the road right-of-way with all interior lot lines being side property boundaries. The Applicant wishes to designate one of the front boundaries as a side yard. However, the Department of Public Works objects to the establishment of a 10-foot side yard setback along one of the front property boundaries as it would not permit proper intersection

sight distance as required by Section 22-2.2(a) of the Hawaii County Code, which states that *“To preserve adequate vehicular sight distance at intersections formed by two or more County streets, no object with a height between three feet and eight feet above the nearest surface of the County street shall be allowed within the area defined by the chord of an arc having a radius of thirty feet from the intersection of property lines or their extensions that form the intersection.”* The typical 15-foot front yard setback for corner lots would meet this minimum requirement. Nevertheless, we will approve this variance since Section 22-2.2(a) still remains in force and the Department of Public Works could disapprove any structure that does not comply with the intersection site distance requirements. This variance from this section of the Zoning Code does not provide the Applicant or lot owner with relief from the County Code relating to County Streets (Chapter 22).

4. **Minimum Building Site Area (§25-5-5); Minimum Average Width (§25-5-6).** The minimum building site area in the RS-7.5 zoned district is 7,500 s.f. The proposed lot sizes range from 5,200 to roughly 12,000 square feet. Given that the master plan coordinates the setbacks through the sitting and floor plan of each house, a minimum lot size of 5,000 square feet is acceptable. The minimum building site average width in the RS-7.5 zoned district is 60 feet. A proportionate reduction of the average width of a 5,000 square-foot lot compared to a 7,500 square foot lot would result in a minimum width of approximately 40 feet. Since all lots shown on the master plan exceed 40 feet, the requested minimum lot width of 50 feet is reasonable.

#### **Subdivision Code Variances**

1. **Lot side lines (§23-35).** The Subdivision Code requires that the side lines of a lot shall run at right angles to the street upon which the lot faces, or on a curved street they shall be radial to the curve, as far as practicable. The Applicant wishes to permit a maximum lot side line angle of 35 degrees in order to preserve the parallel side lot lines of each lot along a curved interior roadway. This would ensure a more efficient lot layout and to preserve a more-uniform lot shape. This is evident in Exhibit 4.
2. **Minimum Right-of-Way and Pavement Widths (§23-41).** The Subdivision Code requires minor or cul de sac streets to have a minimum right-of-way width of 50 feet with a 32-foot wide pavement width with curbs, gutters and sidewalks, which are typical of single family residential subdivisions with lot sizes of 7,500 square feet. The proposed street layout consists of a series of minor roads and cul de sacs (drivecourts as described by the Applicant). The design objective of the proposed street sections is primarily to reduce the cost of constructing dedicable roadways in order to preserve the affordable nature of this proposed project. The Applicant has submitted several variations of their request, with the final alternative to be selected primarily on a balance between the best quality product and its

affordability. Aside from the varying right-of-way and pavement widths, the major differences between these roadway alternatives are the provision of grass shoulders or implementing curb, gutter and sidewalk improvements. Adjustments were made to the Applicant's original request to accommodate a minimum 5-foot wide sidewalk as recommended by DPW. Acknowledging the anticipated low traffic volume in this project, variances are approved for the following roadway alternatives which can be applied exclusively or in combination with one another:

Approved Roadway type	Minimum Right-of-way width	Minimum Pavement width	Gutter width	Minimum Sidewalk width
Minor road w/ curb, gutter & sidewalks	42 feet	28 feet	2 feet	5 feet
Minor road w/ curb, gutter & sidewalks	38 feet	24 feet	2 feet	5 feet
Minor road w/ curb, gutter & sidewalks	34 feet	20 feet	2 feet	5 feet

Approved Roadway type	Minimum Right-of-way width	Minimum Pavement width	Grassed shoulder/swale
Minor road w/ grassed swale	44 feet	20 feet	12 feet
Cul-de-sac w/grassed swale	40 feet	20 feet	10 feet
Cul-de-sac w/grassed swale	30 feet	18 feet	6 feet

3. **Alignment (§23-43(a)).** The Subdivision Code states that “T” intersections shall be designed so that adjoining intersections are no less than 150 feet when measured along the centerline of the through street. The Master Plan submitted by the Applicant indicates that the minimum distance separating these intersections is roughly 100 feet. Acknowledging the anticipated low traffic volume in this project, a variance is approved to allow for a minimum distance of 100 feet between intersections when measured along the centerline of the through street.
4. **Corner radius (§23-45(b)).** The Subdivision Code also requires a minimum corner radius of 25 feet at the right-of-way lines of the acute angle for intersections that are not at right angles. The proposed corner radius at the right-of-way lines is 16 feet, which is 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 shoulders, this variance is approved at a minimum of 16 feet radius measured at the right-of-way line for all intersections within the proposed subdivision (Exhibit 8), except for the subdivision’s main entrance intersection with the Akoni Pule Highway, which should have compliant corner radiuses to accommodate larger vehicles, such as buses.
5. **Cul de sac turnaround (§23-48).** The Subdivision Code gives the director discretion to permit other than circular turnarounds if it meets the requirements of the situation. The master plan shows a square-shaped turnaround (drivecourt) that has a width of 40 feet in lieu of the required 45-foot radius circle for a circular turnaround. The cul-de-sac will have a maximum length of 150 feet, so larger vehicles like fire trucks could reverse out instead of having to turn around. Secondly, a width of 40 feet is sufficient for a typical car to turn around, although it will take some backing up maneuver instead of a single, uninterrupted motion permitted by a 45-foot radius circular turnaround. We don’t feel that having to maneuver once or twice to turnaround is a huge obstruction. Therefore, this drivecourt-type of turnaround is approved (Exhibit 10).
6. **Grades and Curves (§23-50).** Applicant requested a variance from the minimum requirements for horizontal curves of 300 feet. More specifically, the Applicant is requesting that a horizontal curve of no less than 100 feet be approved for that portion of the proposed roadways in close proximity to intersections. The Applicant states that as cars are approaching these intersections, they are already slowing down in anticipation of stopping. The Applicant cites an AASHTO design standard of 100 feet for horizontal curves for roads with a 20mph speed limit. This variance is approved on the basis of limiting these 100-foot horizontal curves for those portions of roadways in close proximity to intersections. *In those instances where the horizontal curves do not meet the minimum requirement of 300 feet, 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.* The Department of Public Works had no objection to the requested variance provided that a 15mph posted speed and a 20mph design speed is applied to those streets deviating from the standard minimum horizontal curve requirement of 300 feet and provided that these roadways do not have interconnectivity with other developments or streets beyond this project boundaries.

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

1. **Requirements for Dedicable Streets (§23-86).** The Planning Director is not able to administratively force the County Council, through this PUD, to accept the dedication of roadways that are not constructed to County-dedicable standards. However, through the issuance of this PUD, we do encourage the County Council to accept the dedication of this roadways that will be constructed to non-dedicable standards. This proposed subdivision will not be large enough to generate adequate funding to privately maintain these roadways. Keeping costs down for the homeowner also means not having to expend a lot of money for the maintenance of private roadways and all of the other costs associated with such private ownership, including possible liability insurance. Keeping these homes affordable simply means having the County take over ownership and maintenance of these roadways.
2. **Street lights (§23-93).** The Subdivision Code requires the installation of street lights within the subdivision that meet County specifications. The Applicant wishes to install street lights only at intersections. Since the roads are intended to be dedicated to the County, a variance from these minimum street lighting requirements is denied. The Applicant should work closely with the Department of Public Works during the engineering and design of the street lighting system to ensure the most effective and proper placement of these street lights. There are simply safety concerns that we cannot ignore simply for the sake of affordable housing. The applicant has requested minimum roadway widths that, for the smaller rights-of-way below 40 feet, will provide limited opportunity for on-street parking. Some of the road cross-sections will not have sidewalks as well. Therefore, street lighting at only intersections is not reasonable.
3. **Street Name and Traffic Signs (§23-94).** The Subdivision Code requires street and traffic signs to meet County specifications. Since the roads are intended to be dedicated to the County, this variance to allow for the use of custom street and traffic signs within the proposed subdivision is denied in order to facilitate maintenance of these signs by the County's Traffic Division. The Department of Public Works is not in position to maintain specialty signs and its supports.



4. **Right-of-Way Improvement (§23-95).** The Subdivision Code requires the entire right-of-way to be improved. All road cross-sections proposed by the Applicant and approved by this PUD shows the entire road rights-of-way being improved. So no variance from this particular requirement is needed.

### **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 anticipates starting the proposed development in 2007 with the entire project to be completed within five years thereafter, or by 2012. We find that this is a very reasonable timetable for completion of the entire project.

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

The proposed residential lots are consistent with the General Plan LUPAG Map designation for the project site of Low Density Urban, which allows for residential, with ancillary community and public uses, and neighborhood convenience-type uses with an overall permitted residential density up to six units per acre. The proposed single family residential 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.**

With a zoning of RS-7.5, a maximum of 87 single family residential lots could be created within the 15-acre project site. The Applicant's proposal calls for a total of 65 lots, which does not exceed this maximum permitted density. Lands to the north and south are larger agricultural lands zoned A-20a and A-5a, which consist mainly of agricultural uses with scattered dwellings. To the west is a property zoned A-20a and approximately 900 feet further west are properties zoned RS-15 and CV-10 in nearby Hawi town. To the east are

properties zoned A-20a and RS-15. The Kohala Elementary and High Schools are located 600 feet to the east in a RS-15 zoned property. With the nearby town of Hawi, this proposed single family residential project will be compatible with adjoining uses and the rural-residential character that is well-established within this particular section of Hawi.

- 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.**

Unlike many projects that we see coming before this department, the approval of this PUD has, more than most projects, a singular goal; which is to provide certain residents of North Kohala in the low and moderate income levels the opportunity to purchase an affordable home. At the same time, the applicant is attempting to develop livable communities that the residents will not only be able to afford but enjoy as well. In order to accomplish this, our zoning and subdivision laws must afford the applicant the maximum flexibility in order to utilize the most cost effective and efficient methods. The Applicant is requesting the County's contribution to the successful completion of the Kumakua Affordable Housing project may be in the form of accepting maintenance responsibility for roadway sections that do not meet current code requirements and granting variances from other code requirements that do not compromise public health and safety. The simple fact is that the greater the scope of improvements required, the higher the cost of development that will then translate into a higher cost for the actual home. The Applicant is working to keep these costs under control in order to deliver a truly affordable product. Approval of this PUD will not compromise public health and safety.

#### CONDITIONS

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

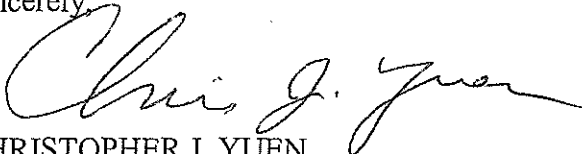
- A. Approval and Conditions Run with the Land. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Indemnification. The applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim 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.

Mr. Keith Kato  
Hawaii Island Community Development Corporation  
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January 30, 2007

- C. Subdivision Review. Subdivision review shall be subject to the following conditions:
1. Conformance with Master Plan. The final plat map shall show the lot layout as substantially represented in the master plan attached as Exhibit 1.
  2. 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.
- D. 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.
- E. Conditional Annual Report. If construction 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 final inspection approval of the required subdivision improvements by the pertinent agencies.
- F. 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).

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:cd

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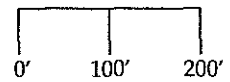
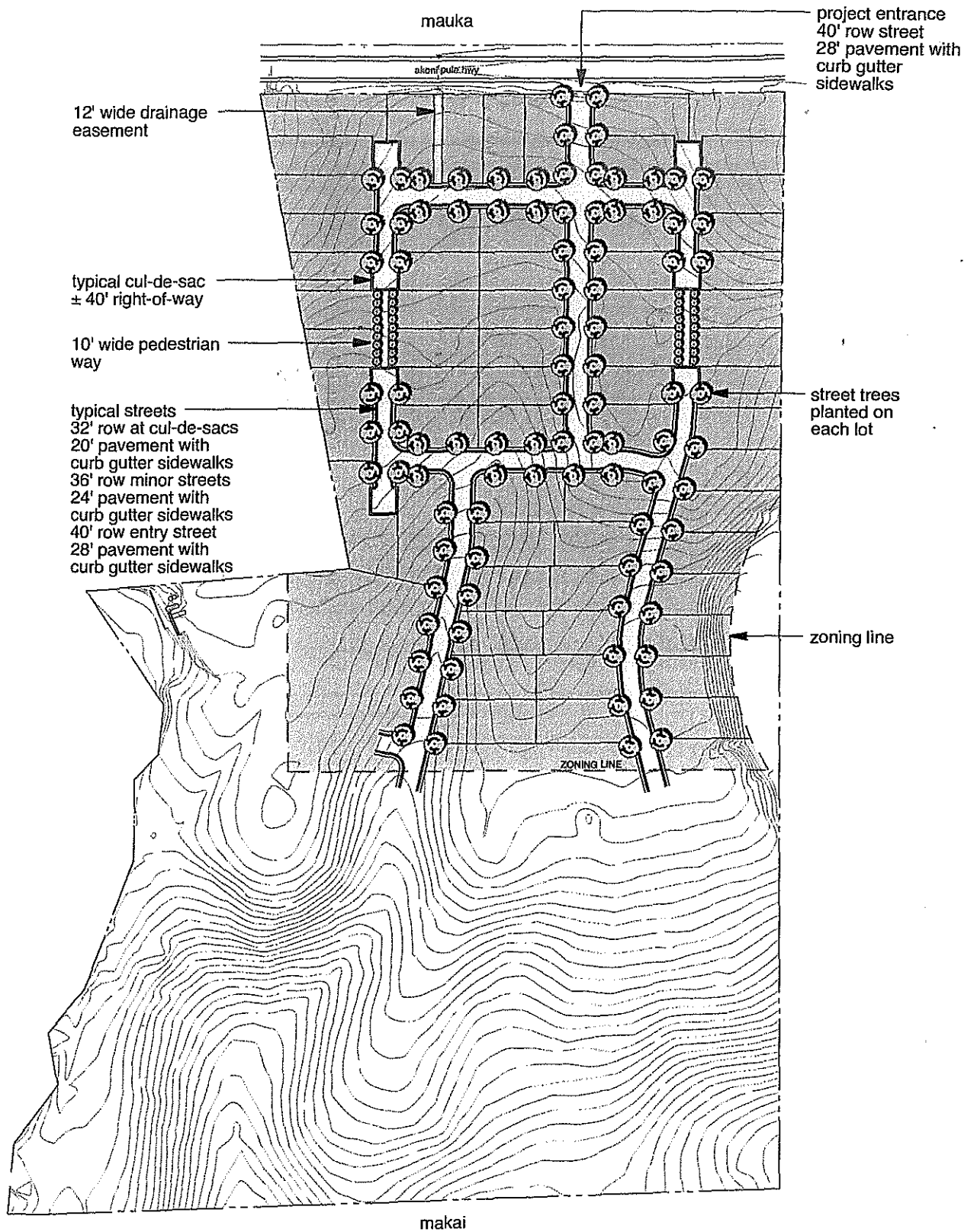
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xc: Department of Public Works, Engineering (Hilo and Kona)  
Department of Water Supply  
West Hawaii Planning Office  
Department of Environmental Management  
Fire Department

Attached Exhibits:

- Exhibit 1: Master Plan
- Exhibit 2: Corner Building Sites
- Exhibit 3: Minimum Yards
- Exhibit 4: Lot Side Lines
- Exhibit 5: Right-of-way Improvement (40-foot ROW)
- Exhibit 6: Right-of-way Improvement (36-foot ROW)
- Exhibit 7: Right-of-way Improvement (32-foot ROW)
- Exhibit 8: Corner Radius
- Exhibit 9: Cul-de-sac
- Exhibit 10: Cul-de-sac
- Exhibit 11: Grassed swale sections for Minor and Dead-end streets

# Exhibit 1: Master Plan

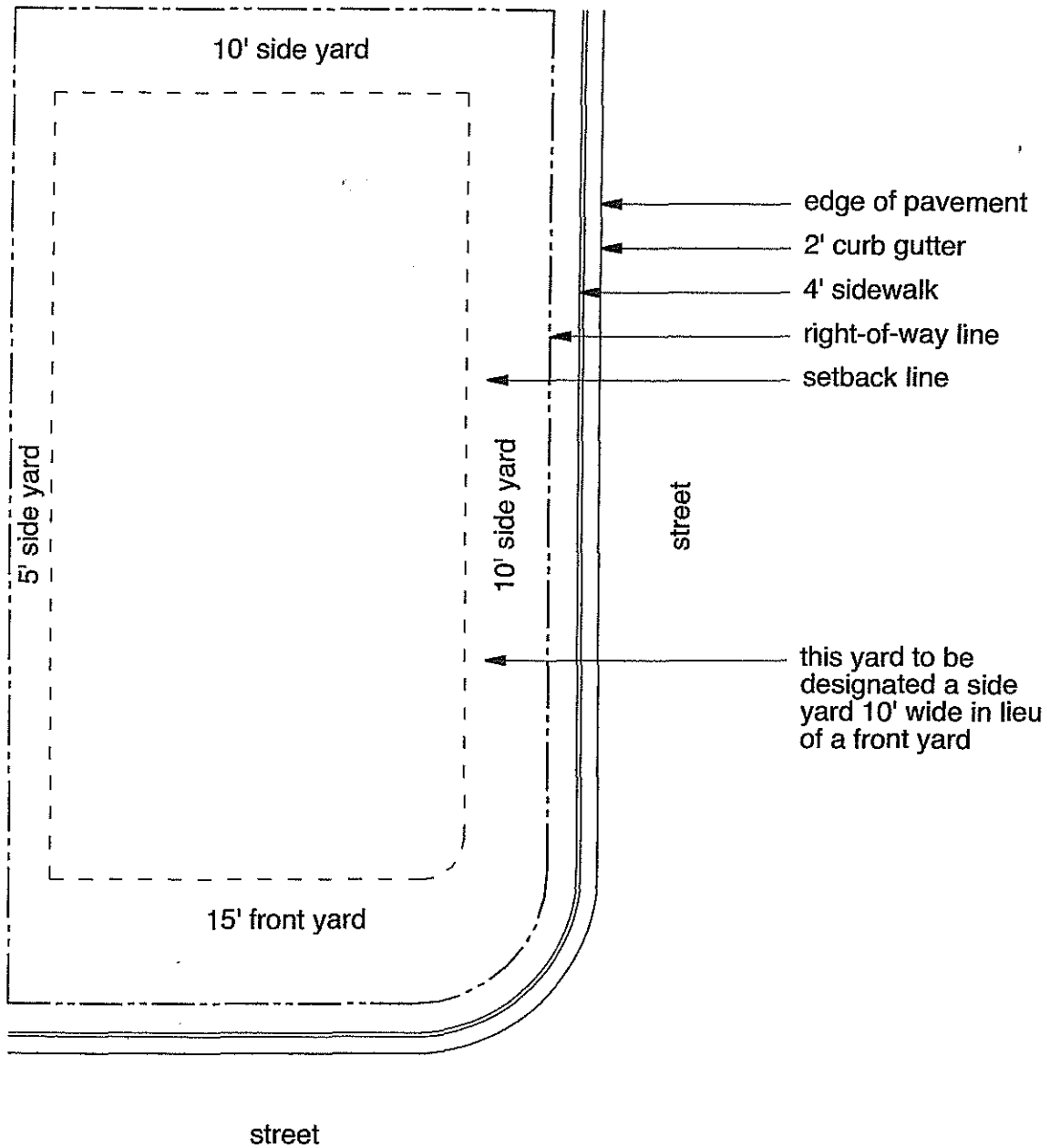


# Exhibit 2: Corner Building Sites

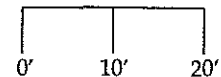
Variance Request - Zoning Code

## Request:

The Petitioner requests that the requirements of 25-4-42 be modified to allow one front yard and three side yards as depicted.



9/1/06

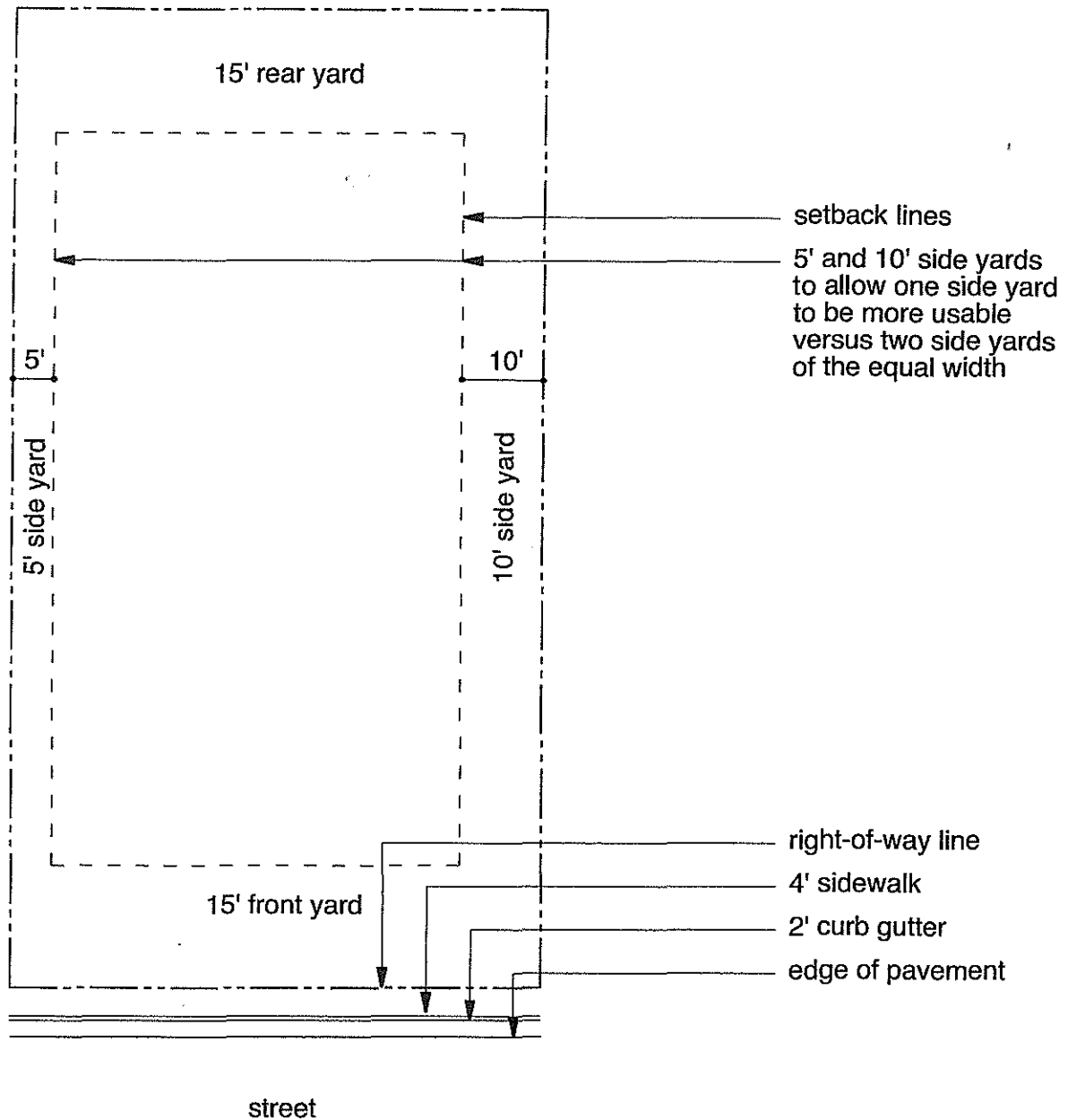


# Exhibit 3: Minimum Yards

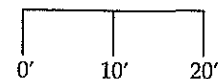
Variance Request - Zoning Code

## Request:

The Petitioner requests that the requirements of 25-4-40 and 25-5-7 be modified to a minimum five foot yard setback as indicated below:



9/1/06

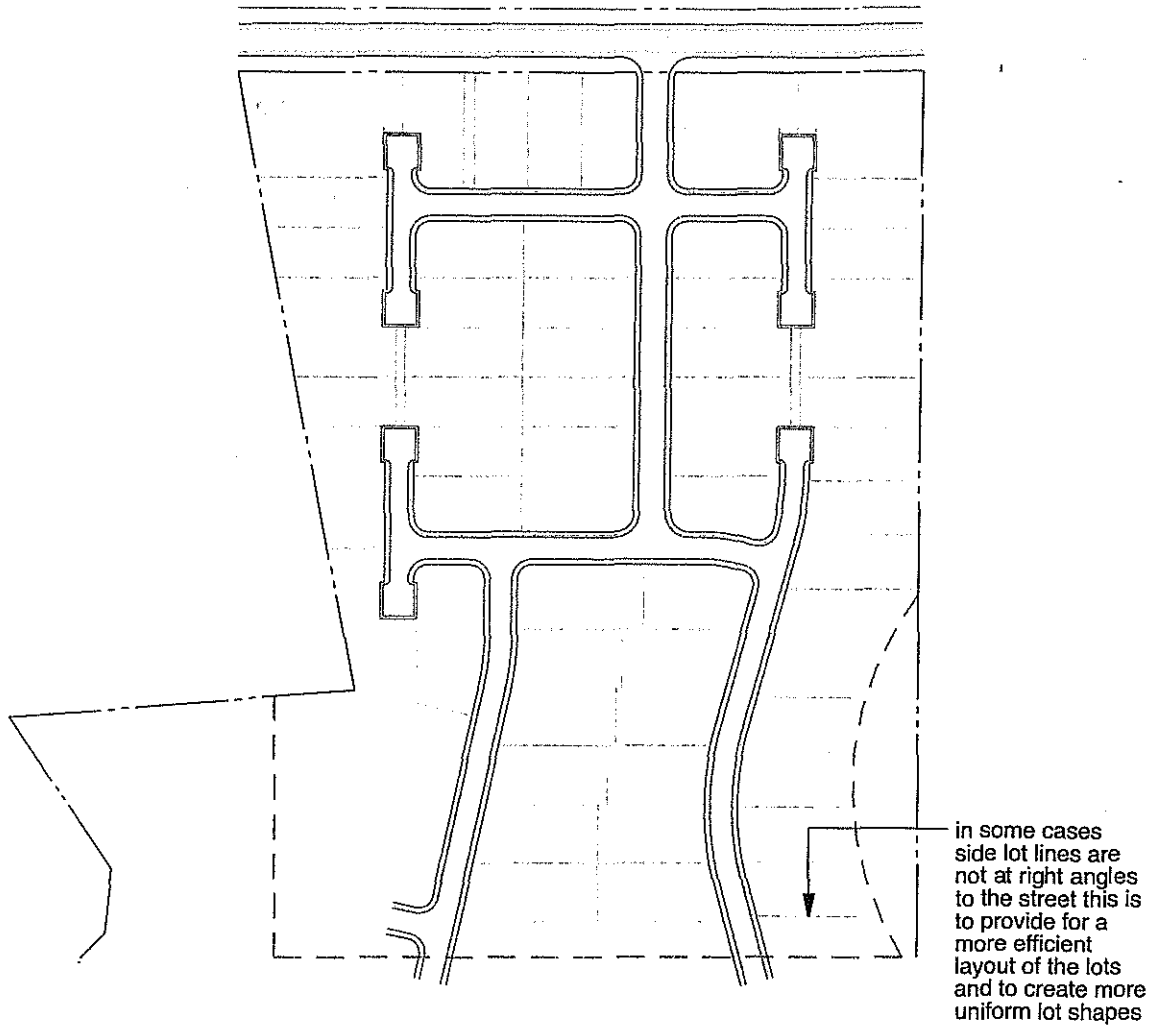


# Exhibit 4: Lot Side Lines

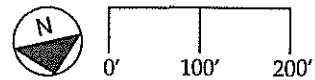
Variance Request - Subdivision Contro; Code

## Request:

The Petitioner requests that the requirements of 23-35 be modified to allow a maximum lot side angle of thirty-five degrees.



9/1/06



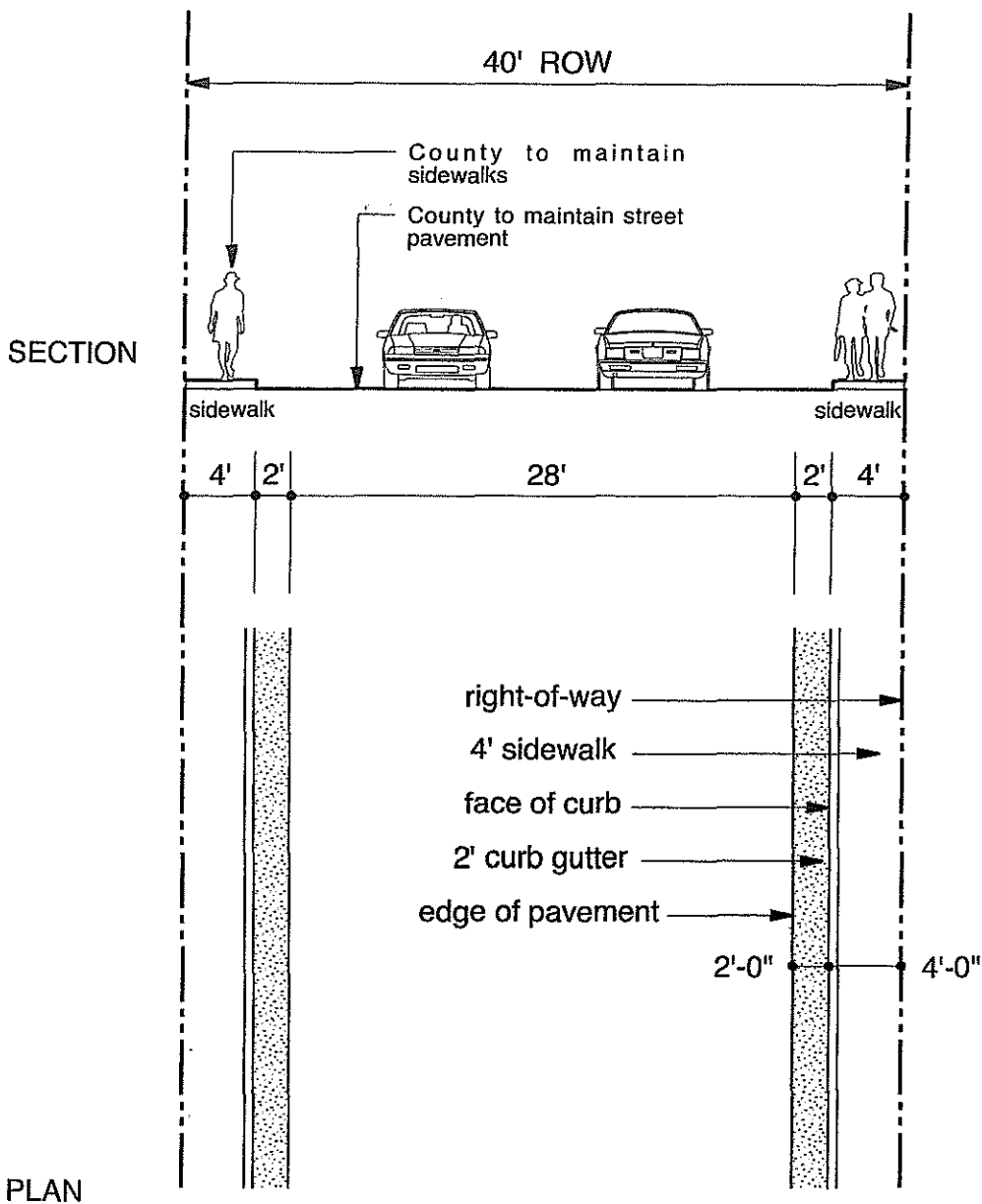


# Exhibit 5: Right of Way Improvement

Variance Request - Subdivision Control Code

## Request:

The Petitioner requests that the requirements of 23-41 be modified to allow a minor street with a right-of-way width of 40 feet, pavement width of 28 feet, sidewalks of 4 feet, curbs and gutters of 2 feet and two sided parking.



Typical Minor Street 40' ROW  
On Street Parking Both Sides

9/1/06

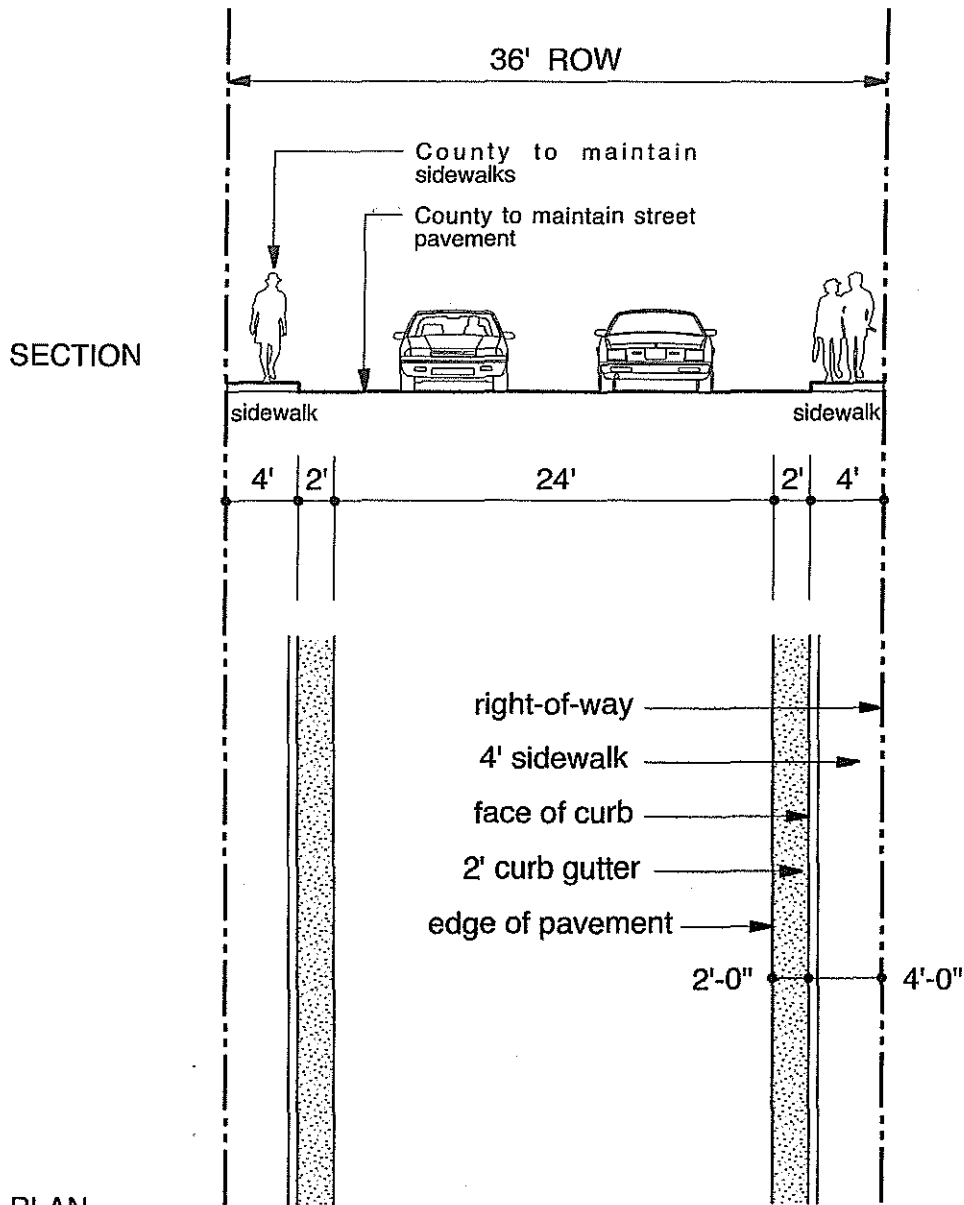


# Exhibit 6: Right of Way Improvement

Variance Request - Subdivision Control Code

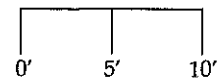
## Request:

The Petitioner requests that the requirements of 23-41 be modified to allow a minor street with a right-of-way width of 36 feet, pavement width of 24 feet, sidewalks of 4 feet, curbs and gutters of 2 feet and two sided parking.



**Typical Minor Street 36' ROW**  
On Street Parking Both Sides

9/1/06

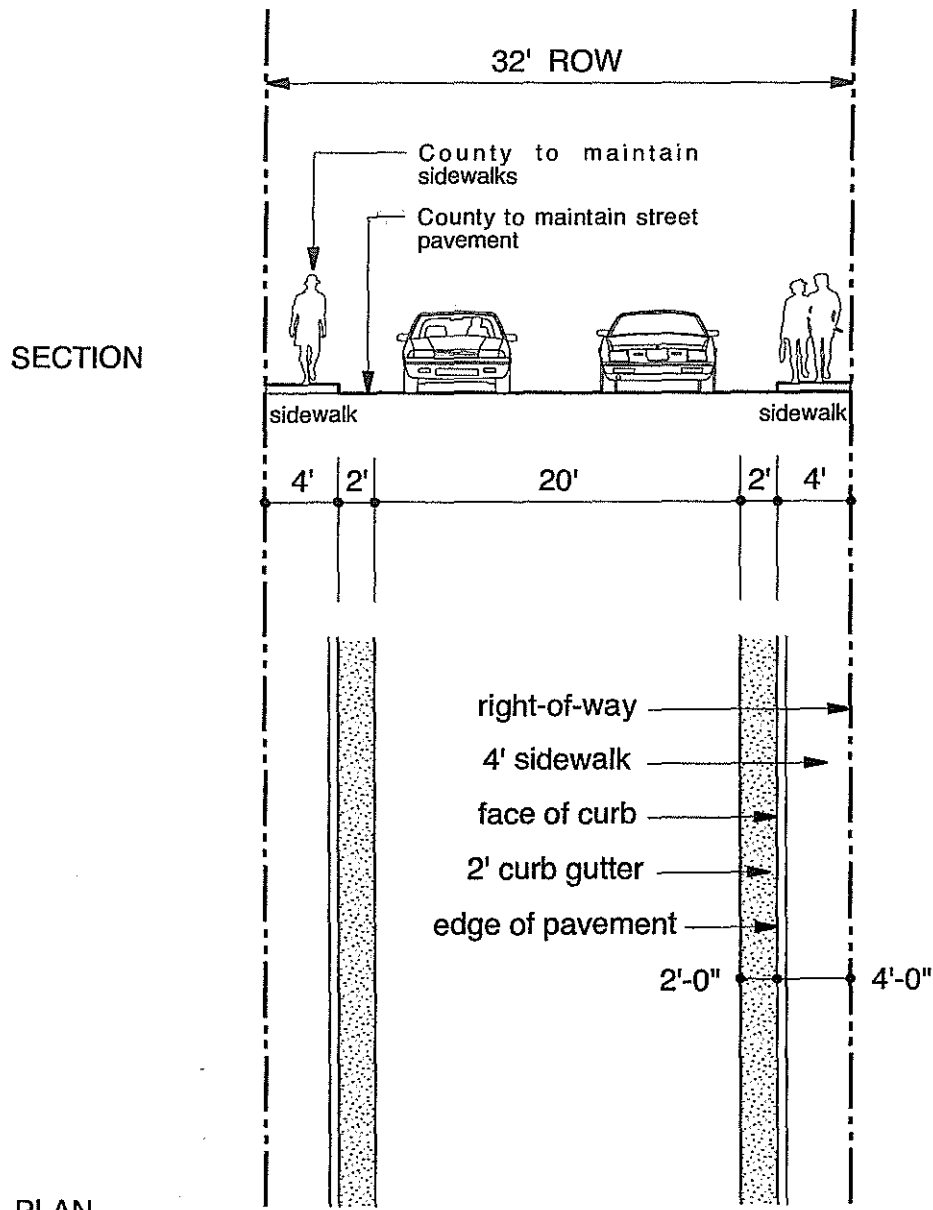


# Exhibit 7: Right of Way Improvement

Variance Request - Subdivision Control Code

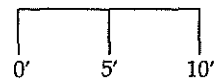
## Request:

The Petitioner requests that the requirements of 23-41 be modified to allow a minor street with a right-of-way width of 32 feet, pavement width of 20 feet, sidewalks of 4 feet, curbs and gutters of 2 feet and parking on one side.



**Typical Minor Street 32' ROW**  
On Street Parking One Side

9/1/06

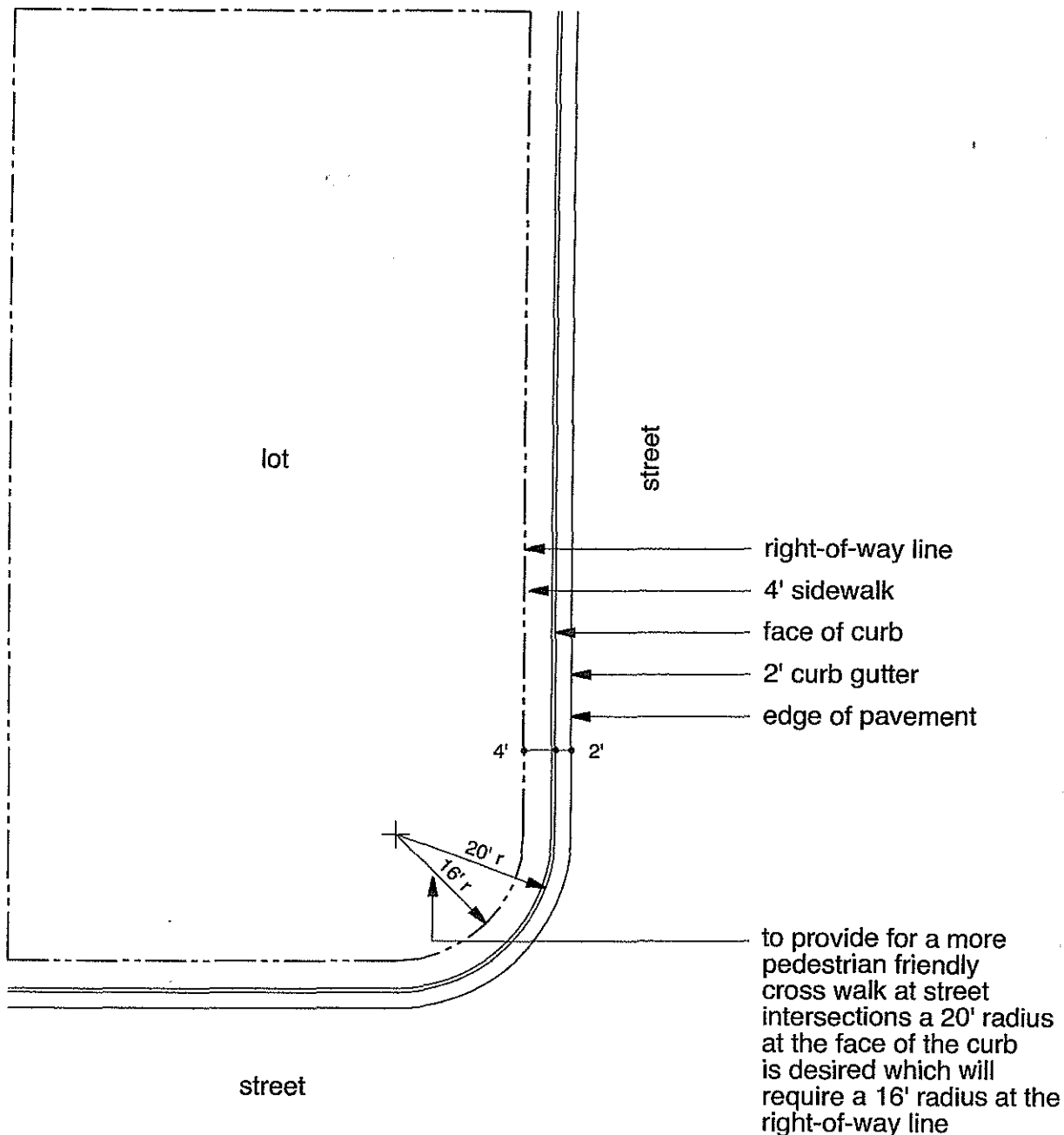


# Exhibit 8: Corner Radius

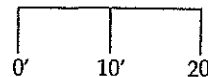
Variance Request - Subdivision Control Code

## Request:

The Petitioner requests that the requirements of 23-45(b) be modified to allow a maximum radius of 16 feet for the right-of-way line and 20 feet for the edge of curb line as indicated below for intersections of minor streets unless otherwise determined by the Civil Engineer of Record.



9/1/06

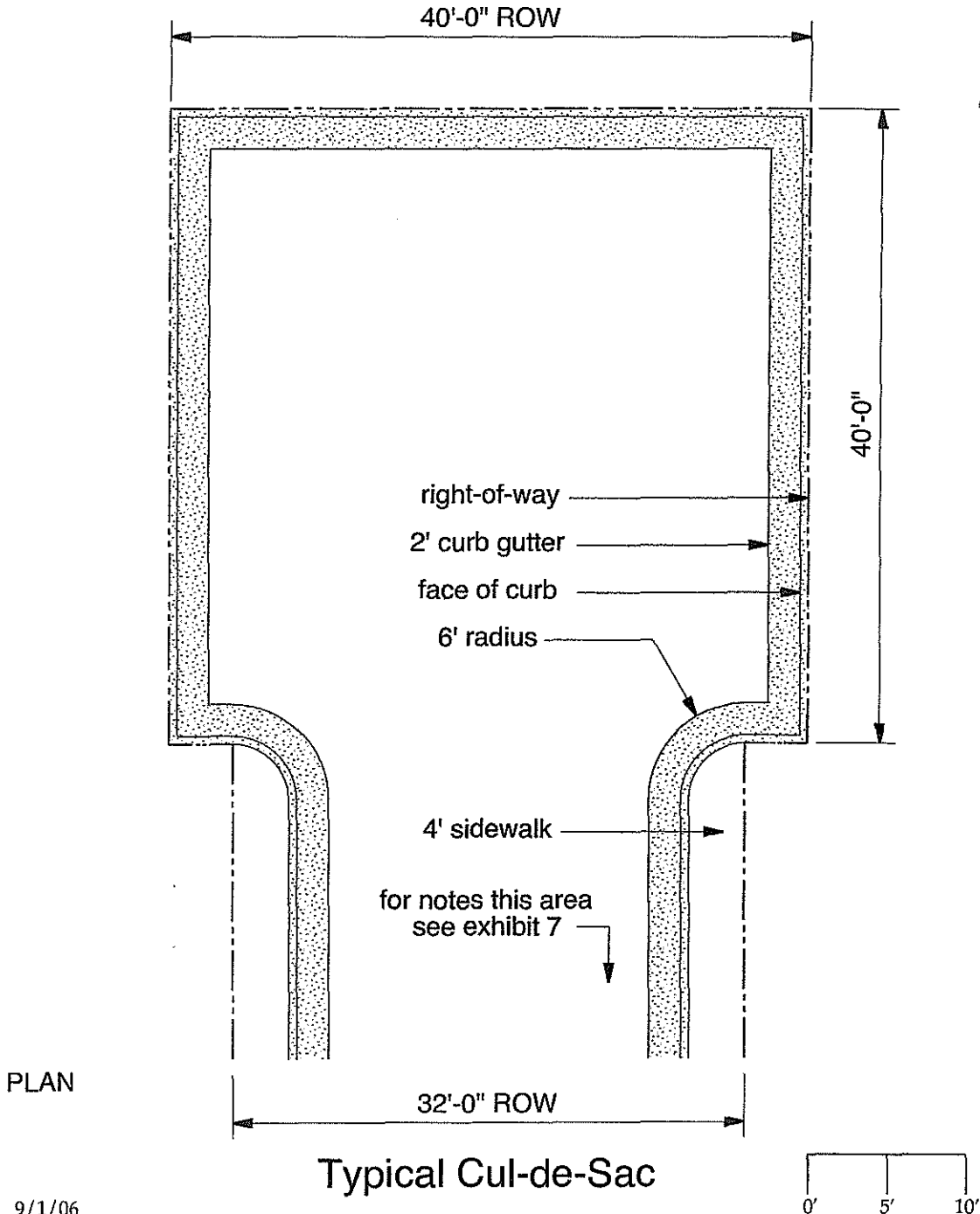


# Exhibit 9: Cul-de-Sac

Variance Request - Subdivision Control Code

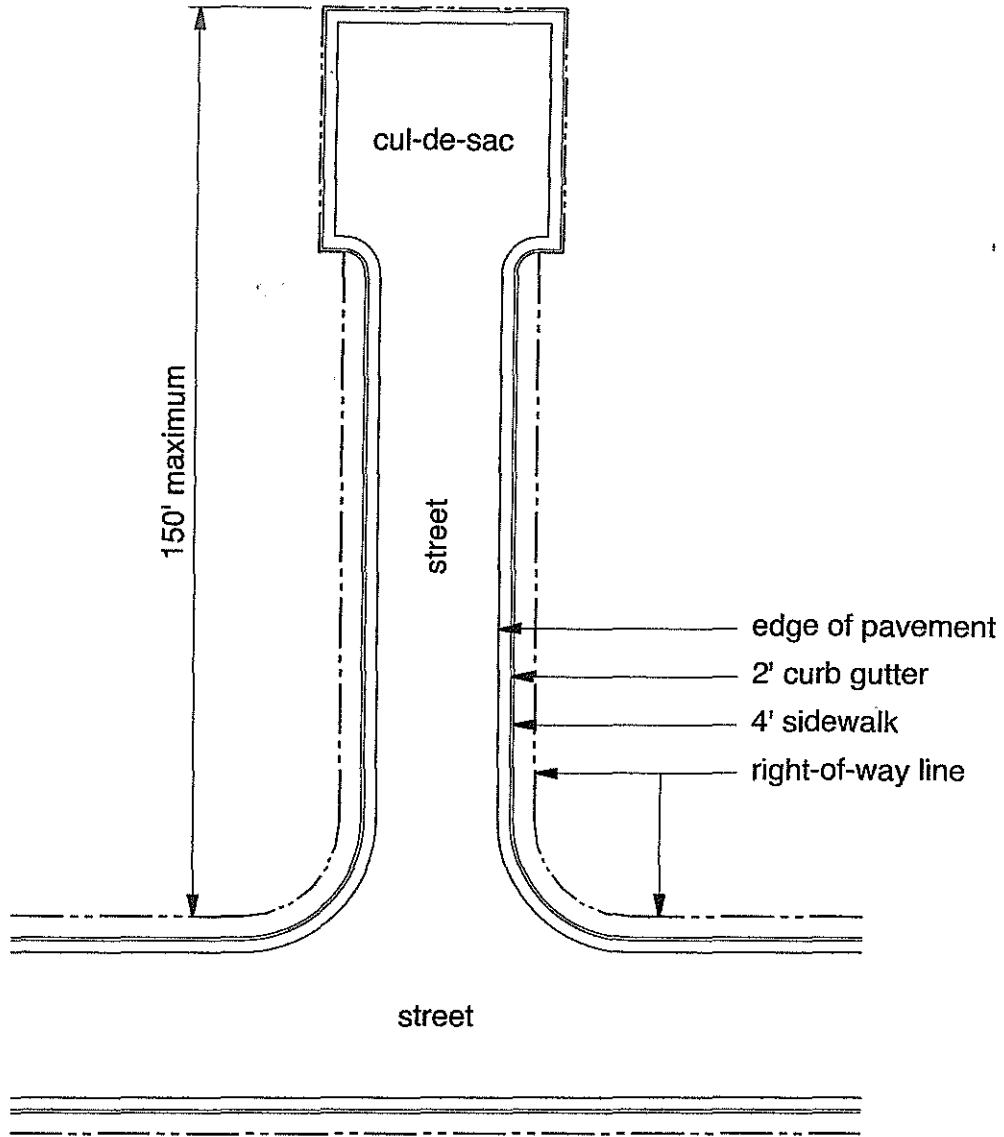
## Request:

The Petitioner requests that the requirements of 23-41 be modified to allow a cul-de-sac with a right-of-way width of 32 feet, pavement width of 20 feet, sidewalks of 4 feet, curbs and gutters of 2 feet and parking on one side. The Petitioner also requests that the requirements of 23-48 be modified to allow the 40 foot wide drivecourt in lieu of a circular turn-around with a forty-five feet radius.



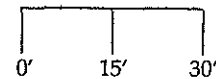
9/1/06

# Exhibit 10: Cul-de-Sac



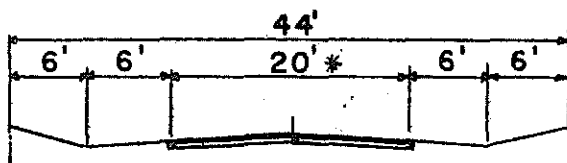
## Maximum Street Length With Cul-de-Sac

9/1/06

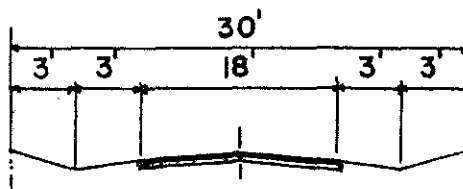
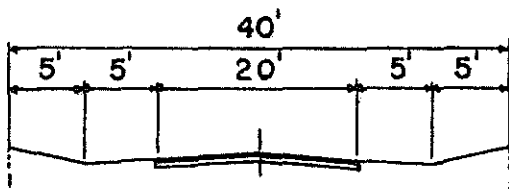


# EXHIBIT 11

## Grassed Swale Sections



**MINOR STREET**



**DEAD END STREETS**

R-42	STANDARD DETAILS	STREET CROSS-SECTIONS WITHOUT CURB AND GUTTER SEPTEMBER 1984	COUNTY OF KAUAI NOT TO SCALE
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