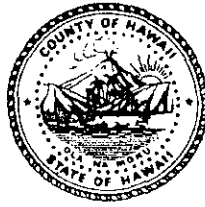


William P. Kenoi
Mayor



BJ Leithead Todd
Director

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April 26, 2012

Mr. Steven S. C. Lim,
Carlsmith Ball LLP
121 Waiānuenu Avenue
Hilo, HI 96720

Dear Mr. Lim:

**SUBJECT: PLANNED UNIT DEVELOPMENT
PERMIT NO. 11-000021 (PUD 11-000021)**
Project: "Big Island Country Club Estates"
Applicant: BICC Properties, LLC
Landowner: BICC Properties, LLC
**TMK: 7-1-007:001 to 050 and 7-1-008:001 to 012 Pu'uanaulu
Homesteads, North Kona District, Hawai'i**

After reviewing the information submitted with the Planned Unit Development application, the Planning Director hereby approves Planned Unit Development Permit No. 11-000021 to allow the development of a master-planned community of 99 agricultural lots (minimum lot size of 1.00 acre) on land consisting of a total of approximately 402.543 acres. This PUD addresses variances for cul-de-sac length, roadways improvements, street grade curves, lot configuration and confirmation of previously approved regulatory applications.

BACKGROUND

Project Location

The subject property (TMK: 7-1-007:001 to 050 and 7-1-008:001 to 012) hereinafter referred to as "Property", consists of a total of approximately 402.543 acres. The Property is located north (makai) of, and abuts the North Kona Belt Road (also known as Māmalahoa Highway) and the Pu'u Lani Ranch subdivision is located south (mauka) of the North Kona Belt Road; more specifically described as Pu'uanaulu Homesteads, District of North Kona, Island and County of Hawai'i.

Land Use Designations

The Big Island Country Club Estates was approved by Change of Zone Ordinance 02-106. The property is situated within the State Land Use Agricultural District and currently designated as Extensive Agriculture and Rural by the County General Plan, Land Use Pattern Allocation Guide (LUPAG) Map. The County zoning designation for the Property is Agriculture – 1 acre (A-1a) and Open (O). Although, Condition C of Change of Zone Ordinance 02-106 limits the project to 106 lots; the proposed 99 lot subdivision complies with the total density cap stipulated in Ordinance 02-106. This PUD Permit will allow for a more comprehensive site design that would preserve the existing rural character of the area, by allowing for the creation of more open space contours between the agricultural lots and the existing golf course, and between other neighboring tracts of land along the Project's western, northern and eastern boundaries. Each proposed lot will maintain a minimum lot size of one acre (1 acre). The Project, with the approval of this PUD, will be consistent with the requirements of the Hawai'i County Code, Chapter 25 (Zoning) and the applicable elements of the General Plan relating to Economic, Environmental Quality, and Natural Beauty. Further, the development shall not exceed the overall maximum density as allowable by the respective zoning designations.

The Kona Community Development Plan (KCDP), adopted by the County Council on September 25, 2008, identifies the property as located outside of the Kona Urban and Rural Area. The petition area known as Pu'u'anahulu is not specifically referenced; the Kona CDP encourages the redevelopment of Rural Towns along Māmalahoa Highway. The Kona CDP supports Clustered Rural Subdivision Project Unit Development (PUD) for rural or agriculturally zoned lands meeting the Clustered Rural Subdivision Guidelines. Furthermore the proposed PUD will maintain and enhance the existing lifestyle and culture of the Pu'u'anahulu community.

Description of Project Site

The property consists of 402.543 acres and is improved with a fully operational 18-hole golf course, known as Big Island Country Club. Elevations within the property range from approximately 360 feet at the lowest point to approximately 470 feet at the highest point, providing an elevation range of 110 feet. The site has a variety of slopes with an average slope of 6 percent from the low point of the site to the high point. Vegetation within the property area consists of a combination of kiawe, koa haole and variety of grass, shrubs, and weeds. The plants found on the property are generally alien and introduced species, none being considered rare or endangered. A faunal survey of the petition area was conducted by Phil Bruner and identified three federally sited endangered species; Hawaiian Hawk ('Io), Hawaiian Hoary Bat, and the Hawaiian Goose (Nēnē), with a resident flock within the Pu'u lani Subdivision and adjacent State lands. An "Endangered Vertebrate species Management Plan" prepared by Rana Productions Ltd., was approved by the U.S. Department of Interior and the State Department of Land and Natural Resources. An archaeological survey of the property was conducted by Paul

H. Rosendahl, Inc. (PHRI) in 1989 – 1990 which identified 11 sites within 26 features. This survey was approved by the State Historic Preservation Division (SHPD) by letter dated June 14, 1991. Another archaeological inventory survey was conducted in 1993. The State Historic Preservation Division concurred with the significance assessments and recommendations in this report by letter dated July 12, 1994, which states in part “*As noted in our previous letter, this report now meets with our approval.*” Also, a Burial Treatment plan was prepared by Huan and Associates in July of 2004 and approved by the Hawai‘i island burial Council On October 17, 2004.

Proposed Subdivision Improvements

The proposed Big Island Country Club Estates Project, as permitted by this PUD Permit, will allow the Applicant to create a 99-lot agricultural subdivision; with access to the subject property from North Kona Belt Road (Māmalahoa Highway).

The Applicant, through this PUD Permit, will be allowed to create internal subdivision roadways to service its proposed 99-lot subdivision that will deviate from the minimum requirements of the Hawai‘i County Code, Chapter 23 (Subdivisions). The project’s internal roadway system will be private streets in order to create a neighborhood-friendly environment sensitive to the existing rural character of the region. The internal roadways will be designed incorporating street trees and other landscape devices to provide for a more people-scaled neighborhood environment. The interior subdivision roadways will be permitted to have minimum pavement widths of 20 feet and 24 feet with grass shoulders of a minimum of 4.5 feet adjacent to the travel way, with grass swale of 5 feet, a paved meandering pedestrian pathway of 5 feet, within a 50-foot and 60-foot right-of-way, having no curbs and gutters, and no on-street parking.

The Project will be serviced by a privately maintained and operated water system to be regulated by the Public Utilities Commission. Variance Permit No. 722 was issued to allow the construction of two glass-lined steel water tanks in lieu of concrete water tanks and Variance Permit No. 753 was issued to allow for PVC high pressure water pipes in lieu of ductile iron pipes. All other essential utilities and services are available to the Project Site.

The Public Access Trail (pedestrian, equestrian and bicycle uses), as conditioned under the 1992 Board of Land and Natural Resources action and required by Change of Zone Ordinance 02-106, will be required to be included in the Revised Final Plat Map (Revised FPM) upon approval of the subject PUD application. Further, the applicant will be granting public access easements for the public access trail system in favor of the County of Hawai‘i upon approval of the Revised Final Plat Map.

Compatibility with Neighboring Uses

The Property is situated within an area primarily designated for agricultural types of uses by both the State Land Use Commission and the County. The Property essentially resides outside of the urban area as defined in the Kona Community Development Plan (KCDP). The Pu'u Lani Ranch Subdivision is located to the south (mauka) of the North Kona Belt Road and large open tracts of the State owned land along the Project's western, northern and eastern boundaries. Inasmuch as the proposed Project will establish agricultural lots that are consistent with permitted density allowed by zoning, the development of the Project will remain consistent with agricultural uses that prevail within the surrounding area.

Related Regulatory Approvals

1. Water Variance Permit 722 approved on December 29, 1995 allowed for the construction of two glassed lined steel water tanks as part of a private water system in lieu of the Department of Water Supply required dedicable concrete water tanks as required by the Hawai'i County Code, Chapter 23 (Subdivision). The tanks are proposed to be located on TMK: (3) 7-1-007:041 and within the Pu'u Lani Ranch Subdivision at TMK: (3) 7-1-006:101. The Water Variance Agreement was recorded at the Bureau of Conveyance of the State of Hawai'i on January 31, 1996 (Document No. 96-013471).
2. Water Variance Permit 753 approved on August 1, 1996 allowed the Project to be serviced by a private water system utilizing PVC high pressure pipes in lieu of ductile iron pipes. The Water Variance Agreement was recorded with the Bureau of Conveyance of the State of Hawai'i on February 5, 1998 (document No. 98-015740).
3. Road Variance Permit No. VAR 06-019 allowed for the subdivision roadways to be designed as a non-dedicable 20-ft. wide paved roadway with 15 feet grassed swales on each side within a 50-ft. wide ROW; 16 ft. wide paved roadways with 5-ft grassed swales within a 20-ft. wide paved dead-end roadways; modified cul-de-sac lengths; allowed custom street lighting fixtures, custom wooden street name and traffic signage in lieu of the Hawai'i County Code, Chapter 23 (Subdivision) and Standard Details. Upon approval of the subject PUD request, the Applicant will be amending VAR 06-019 to delete the portions of the prior approvals which are no longer applicable under the PUD Master Plan.
4. Change of Zone Ordinance No. 02-106, effective September 9, 2002, amended Change of Zone Ordinance Nos. 01-64, 00-105, 99-79 and 94-78, which changed the district classification of 425.69 acres from Unplanned (U) to Agricultural – 1 acre (A-1a), to allow the development of a maximum 106-lot agricultural subdivision with lot sizes ranging from 1 to 5 acres and a 27-hole golf course to allow adjustment to the proposed golf course and conceptual agricultural subdivisions, subject to amended conditions of approval.

PROJECT OBJECTIVES AND DESCRIPTION

According to the Applicant, the objectives for the “Big Island Country Club” agricultural subdivision project include the following:

- Develop an environment of sustained desirability and stability that is in harmony with the character of the surrounding area.
- Re-establish, maintain and enhance the economic viability of the existing agricultural lands.

The Project site will be developed in one phase, totaling 99 lots, and developed in conformance with the requirements of Change of Zone Ordinance No. 02-106, this PUD Permit, and the requirements of the Hawai‘i County Code, Chapter 23 (Subdivisions).

The applicant’s project schedule anticipates commencement of construction upon issuance of all required permits, and upon completion of working drawings/plans and financing arrangements. The construction timeline for the project is approximately four (4) years, with a projected commencement of lot sales in 2016.

AGENCIES’ REVIEW

Department of Water Supply – County of Hawai‘i. Letter dated February 24, 2012:

“We have reviewed the subject application and have the following comments:

As the existing and proposed water system serving the proposed development is privately owned and operated, we have no comments as to the water system improvements necessary to support the project.

Further, the Department will not provide plan review/approval or construction inspection services for the proposed water system as the applicant has been approved to use polyvinyl chloride (PVC) pipes (Variance Permit No. 753) and glass lined steel water tanks (Variance Permit No. 722), both of which do not meet our Department’s Water system Standards.

Should there be any questions, please contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.”

State of Hawai‘i – Department of Land and Natural Resources. Letter dated February 14, 2012:

“1. The ownership status of any historic Hawaiian trails on the subject property per the

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Highways Act of 1892 needs to be determined. It is possible that the State of Hawai'i has a fee simple ownership interest in trails that were in existence in 1892 or prior on the subject property.

2. Attached BLNR memo dated October 16, 1992 should be complied with.
3. Attached document, Ordinance No. 02 106 should be complied with. In particular, Condition N.

Thank you for allowing me to provide comments.”

Island Transitions LLC. Letter dated February 10, 2012:

“The above-mentioned PUD application inadequately addresses the public trail system that is supposed to be included in the development project, per Conditions N and R of Ordinance No. 02-106. Those conditions exist because of state and county actions in 1992 – 1998 (see enclosures) related to the sale of Pu'u Anahulu Homestead roads. Brief reference to the public access trail requirements appears in a table on the PUD's "summary" page. However, the applications narrative and maps say nothing about:

- How the public access trail network will be intergrated into the overall development plan;
- Where people will park and the size of parking areas;
- Where the bicycle and equestrian trails will be located, widths, surfacing. Etc.

This lack of information in the application is unacceptable and needs to be corrected prior to PUD approval. The public trail system was a component of the road sale agreement and intended to help compensate for the loss of public use of roads that were once an integral part of the historic Pu'u Anahulu Homesteads. The Pu'u Lani Ranch in Pu'u Anahulu is also subject to the public trail requirement, but the trail system there has never been conducted despite the granting of a non-exclusive easement to the County of Hawai'i for the purpose in 1994 (see enclosure).

As keepers of the public's interests, please ensure that this long-standing, unfinished public trail system is implemented.

Mahalo for your attention to these concerns.”

Department of Public Works. Memorandum dated February 2, 2012:

“We have no objections to the variance requests, as proposed and with the following conditions.

1. It would be our understanding that this proposed PUD, if approved, will supersede VAR 06-019.

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2. The subdivision streets shall not be considered eligible for conveyance to the County unless improved to meet dedicable standards. The proposed subdivision road traveled-way pavement sections also deviate from Hawai'i County Code Section 23-86 for dedicable roadways.
3. Storm drainage generated by the development shall be disposed of on site in a manner meeting with the approval of DPW and the Storm Drainage Standards. This includes not only the roadways but storm runoff shall be submitted with construction plans to substantiate how developed lot and roadway runoff is being disposed of within drainage structures and easements on site. Final construction approval will require complete stabilization of the roadsides and drainage systems.
4. Requirements at the entry to Māmalahoa highway shall meet with the Hawai'i Department of Transportation, Highways Division.

If you have any questions, please call Kiran Emler at our Kona office, 323-4851”.

Department of Public Works - Traffic Division. Plan Review Comment Sheet dated February 2, 2012:

“Signs and Markings:

Interior roads noted as private. Road “A” – Highway 190 intersection is under the jurisdiction of the State. Apply standard street lighting treatment at the intersection.

Administration: No Comments.”

Fire Department. See Memorandum dated January 25, 2012 and attached as Planning Department Exhibit A.

Police Department. Memorandum dated January 25, 2012:

“The Planned Unit Development application for the above-referenced project has been reviewed, and we have no comments or objections to offer at this time.

Should you have any questions, please contact Captain Richard Sherlock, Commander of the Kona District, at 326-4646 ext. 299.”

Department of Environmental Management. Memorandum dated January 18, 2012.

No comments from Solid Waste Division and Waste Water Division.

Department of Water Supply. Memorandum dated December 7, 2010:

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“We have reviewed the subject application and our comments in our memorandum dated June 24, 2009, to you, still stand.

We would like to reiterate that water will not be made available for the applicant’s proposed 53-lot development until the necessary transmission and storage facilities, as detailed in the Agreement, have been satisfactorily completed and properly dedicated to the Water Board. Water will be made available for the proposed development from the new transmission waterline after all necessary water system improvements have been completed, in accordance with the Agreement.

Should there be any questions, please contact Mr. Ryan Quitariano of our Water Resources and Planning Branch at 961-8070, extension 256.”

PUBLIC COMMENTS

- A. Faxed Letter from DeeDee Keakealani-Bertelmann dated February 14, 2012 expressing concerns regarding the PUD application.
- B. Letter from Carlsmith Ball LLP dated March 12, 2012 responding to Dee Dee Keakealani-Bertelmann’s concerns.
- C. Letter from Carlsmith Ball LLP dated March 13, 2012 responding to comments raised by Island Transitions LLC letter dated February 10, 2012.
- D. Letter from Carlsmith Ball LLP dated March 13, 2012 responding to comments raised by the Department of Land and Natural Resources.
- E. Letter from Carlsmith Ball LLP dated March 16, 2012 agreeing to a two week time extension from March 16, 2012 to March 30, 2012.
- F. Letter from Carlsmith Ball LLP dated March 28, 2012 informing of Bertelmann family meeting and submitting a revised Master Plan which consolidates proposed lots 25, 26, and 27, to create one (1) open space lot O-7 (at the end of cul-de-sac Road D). The 3 lots are relocated in within Phase II existing bulk lot 54, and are identified on the revised Master Plan as proposed lots 25, 26 and 27 (along Road B, near Road B and Road H intersection).
- G. Faxed letters from: Dee Dee KK Bertelmann dated March 27, 2012, from Sonny and Luana Keakealani dated March 27, 2012, and from Lehua Alapai dated March 29, 2012; expressing support of a time extension in order for them to continue working with Moshe Silagi of Silagi Development and Management/Big Island Country Club.
- H. Objection letter from the Hao Ohana (Debralee Kailiwai-Ray, Roman Hao, and Tracey Mae Hao) dated March 29, 2012.

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- I. Letter from Carlsmith Ball LLP dated March 30, 2012 agreeing to an additional two week time extension from March 30, 2012 to April 13, 2012.
- J. Letter from Carlsmith Ball LLP dated April 13, 2012 in response to Ms. Dee Dee Keakealani Bertlemann's second letter dated March 27, 2012.
- K. Letter from Carlsmith Ball LLP dated April 13, 2012 in response to Hao Ohana's (Debralee Kailiwai-Ray, Roman Hao and Tracey Mae Hao) letter dated March 29, 2012.
- L. Letter from Carlsmith Ball LLP dated April 13, 2012 in response to Lehua Alapai's letter dated March 27, 2012.
- M. Letter from Carlsmith Ball LLP dated April 13, 2012 agreeing to an additional two week time extension from April 14, 2012 to April 27, 2012.

APPROVED VARIANCES

The following variances are hereby approved by the Planning Director and incorporated into this PUD:

Variance Requests:

- **Split Zoning:** This variance will allow certain parcels within the Project to encompass both agricultural and open split-zoning designations within a minimum lot size of one acre. We have no objections to this request since the portion of the lots within the Open Zoned District involve portions of the golf course; this area will create a self imposed open space buffer, which shall continue to conform to the Open zone district regulations.
- **Variance Permit No. 06-019 (VAR 06-019):** The applicant is requesting that a portion of the approval under VAR 06-019 be ratified or approved for this PUD project. Specifically, the Project will utilize: (1) custom street lighting fixtures and (2) custom wooden post and street name and traffic signage. The applicant will be amending VAR 06-019 to delete the portions of the prior approvals which are no longer applicable under the PUD Master Plan.
- **Variance Permit No. 722 (VAR 722):** The applicant is requesting the ratification and/or approval of Variance Permit No. 722 (VAR 722) recorded with the Bureau of Conveyances of the State of Hawai'i on January 31, 1996 from the minimum water requirements (to allow a privately maintained and operated water system utilizing glass-lined steel water tanks) of Subdivision Control Code. We do confirm and agree that the relief provided by Variance 722 was considered comprehensively Variance 722 was comprehensively with this PUD application and is thereby made a part of the approval of this variance.

- **Variance Permit No. 753 (VAR 753):** The applicant is requesting ratification and/or approval of Variance Permit No. 753 (VAR 753) recorded with the Bureau of Conveyances of the State of Hawai'i on February 2, 1998 from the minimum water requirements (to allow PVC high pressure pipes) of the Subdivision Code. We do confirm and agree to the issuance of Variance 753 for this PUD Project.

Variances to the Hawai'i County Code, Chapter 23 (Subdivision)

- **Lot Side Lines** (Hawai'i County Code §23-35). Applicant is requesting that lot side lines, which should run at right angles to the street as far as practicable, be waived in order to maintain a more rectangular shape to the proposed lots, thereby accommodating a better building site configuration. Note that this section of code already provides flexibility for such design consideration, but we will agree to this variance provided that reasonable attempts are made to comply with this section of the code.
- **Cul-de-sacs** (Hawai'i County Code §23-48(a)). Applicant requests variance from the requirement that cul-de-sac shall be short as possible and shall not be more than six hundred feet in length nor serve more than eighteen lots. Based on the irregular shape, topography and existing configurations of the golf course, we have no objections to this variance since longer streets may be approved by the director when unusual conditions exist. No variance from the maximum 18-lot limit along cul-de-sacs is necessary since the Applicant's subdivision layout is compliant with this requirement. The deviations are limited to the exhibits as included within this PUD Permit.
- **Minimum Right-of-Way and Pavement Widths** (Hawai'i County Code §23-41). The Applicant is requesting a variance from the minimum rights-of-way widths for its internal, minor-type roadway. The requested variances are as follows:
 - **Roads "B" through "H"** having a pavement width of 20 feet with grass shoulder of a minimum width of 4.5 feet adjacent to the travel way, grass swale of 5 feet, a paved meandering pedestrian pathway of 5 feet, within a 50-foot right-of-way, having no curbs and gutters, and no on-street parking. **Refer to exhibit 11a.**
 - **Road "A"** having a pavement width of 24 feet with grass shoulder of a minimum width of 4.5 feet adjacent to the travel way, grass swale of 5 feet, a paved meandering pedestrian pathway of 5 feet, within a 60-foot right-of-way, having no curbs and gutters, and no on-street parking. **Refer to Exhibit 11b.**
 - **Project Entrance Treatment** to allow the Project entrance with grass shoulder of a minimum width of 4.5 feet adjacent to the travel way, a grass swale of 5 feet, a paved pedestrian pathway of 5 feet, with no curbs and gutters. **Refer to Exhibit 11c.**

- **Cul-de-sac Treatment** to allow the cul-de-sacs within the Project with grass swale of 5 feet, a paved pedestrian pathway of 5 feet, with no curbs and gutters **Refer to Exhibit 11d.**

The roadway system shall be approximately 60 to 50 feet right-of-way with 20 to 24 feet pavement surface width, with grass shoulders, grass swales, pedestrian pathway and no curbs, gutters and on-street parking. The design of the street layout should assist in reduce traffic speed and create a more intimate neighborhood. Acknowledging the low traffic volume in this Project and that the roadways will be privately owned and maintained, we have no objections to this variance.

- **Grades and Curves** (Hawai'i County Code §23-50 (a). Applicant requested a variance from the minimum requirements for vertical and horizontal curves. This variance is approved on the basis of providing design flexibility in the presence of site constraints, but in a manner as generally represented in the Applicant's master plan. *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.* The geometric design of the streets should be based on the AASHTO Guidelines for Geometric Design of Low Volume Roads (average daily traffic volume of less than 400 vehicle trips per day).

See attached PUD maps: Exhibit B

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 commencement of construction upon issuance of all required permits, and upon completion of working drawing/plans and financing arrangements. The construction timeline for the Project is approximately four (4) years, with a projected commencement of lot sales in 2016.

- 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 Property of Extensive Agricultural and Rural. The proposed 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. Urban Expansion 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. Thus, the proposed development would be consistent with the General Plan land use designation and will be in harmony with the character of the surrounding neighborhood and result in an intensity of land utilization no higher than as permitted or as otherwise specified for the district in which this proposed development occurs. This project will simply add to a diverse mix of uses within this immediate area.

The Kona Community Development Plan (KCDP), adopted by the County Council on September 25, 2008 identifies the property as located outside the Urban Area and Rural Area. Although, Pu'uānāhulu is not specifically referenced, the Kona CDP encourages the redevelopment of Rural Towns along Māmalahoa Highway; further the Kona CDP supports Clustered Rural subdivision Project Unit Development (PUD) for rural or agriculturally zoned land meeting the clustered Rural Subdivision Guidelines

- 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 99-lot agricultural subdivision will provide a density that will not exceed the total density cap 106 lots as specified under Condition C of Change of Zone Ordinance 02-106. With the approval of this PUD, it will allow the Applicant to configure its proposed lots and roadways to realize the type of residential-agricultural uses that is generally consistent with uses within this particular area of North Kona. This PUD will allow the Applicant this opportunity, which we believe is reasonable and will not compromise existing and potential land uses within the surrounding area.

- 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 makes it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.**

The project is designed to address the needs and lifestyle of those residents who want to live in a residential community that promotes social interaction, encourages outdoor activities, and is pedestrian oriented. The project consists of 99 agricultural lots with a streetscape designed to create a sense of place reminiscent of our older, more traditional neighborhoods. Emphasis is placed on the design of the streets to provide a safe setting for pedestrians and to

mitigate the speed of the automobile.

The granting of this PUD will allow for greater flexibility in addressing design and aesthetic issues. It will allow for a roadway system that promotes a landscaping and casual pedestrian movements rather than the more efficient, but visually unappealing, system of widely paved roadways and constructed sidewalks.

Public comments and concerns were submitted regarding the proposed PUD. Many of the concerns are directed to and would be addressed through conditions of the Change of Zone Ordinance and further be addressed prior to Final Subdivision Approval.

In order to facilitate proper treatment of human burial remains, a Burial Treatment Plan was prepared and approved by the Hawaii Island Burial Council on October 21, 2004. The applicant, in coordination with the concerned families, will continue to implement preservation measures and access to Burial sites.

Further, the Subdivision Final Plat Map shall address and incorporate concerns expressed by Island Transitions, LLC, regarding a Public Access Trail, including, parking, bicycles and pedestrian trails. The Final Plat Map shall also incorporate a buffer zone between the homestead properties and the project through the creation of an open space Lot 0-7.

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, including those conditions within Change of Zone Ordinance No. 02-106. Should a conflict arise between the requirements of this PUD and Change of Zone Ordinance No. 02-006, the requirements of the Change of Zone Ordinance 02-106, as may be amended from time to time, shall prevail.
2. ***Master Plan and Street Layout.*** The proposed Planned Unit Development shall be developed in a manner as substantially represented within exhibits and figures attached to this Planned Unit Development Permit.
3. ***Roadway Design Guidelines.*** All roadways not required to be constructed to County-dedicable standards shall follow the guidelines incorporated in the Hawai'i Statewide Uniform Design Manual for Streets and Highways or the applicable AASHTO design guide for the appropriate design speed. The geometric design of the interior subdivision access road should be based on the AASHTO Guidelines for Geometric Design of Low Volume Roads. Utility poles within these subdivision roads shall conform to DPW Standard Detail R-39 (revised).

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4. **Construction Plan Review by Fire Department.** The Applicant shall consult with the Fire Department to ensure conformance of roads within the Project Site to 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.
5. **No Additional Dwellings.** The PUD is subject to an Agreement Regarding Single-Family Dwellings, prohibiting second dwellings, which addresses Condition E of Change of Zone Ordinance 02-106. The Agreement has been filed and recorded with the Bureau of Conveyance on July 3, 2006 (Doc. No. 2006-122494).
6. **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.
7. **Time Extension.** Pursuant to Section 25-2-7 of the Zoning Code, an application for the subdivision of the Property in accordance with the terms and approvals granted by this PUD Permit shall be submitted to and accepted by the Planning Department within two years from the date of this permit. If the applicant should require an extension of time, the applicant may request a time extension pursuant to Section 25-6-14, of the Hawai'i County Code, Chapter 25 (Zoning) relating to time extensions and amendments.

Should any of the conditions fail to be met or substantially complied with in a timely fashion, the Director may initiate nullification of the Planned Unit Development Permit.

Sincerely,



BJ LEITHEAD TODD
Planning Director

LHN: nci

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xc: Department of Public Works, Building Division
Department of Public Works, Engineering (Hilo and Kona)
Department of Water Supply
Fire Department
West Hawai'i Planning Office

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Carlsmith Ball LLP
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xc: Island Transitions LLC
P.O. Box 202
Paauilo, HI 96776-0202

Carlsmith Ball LLP
P.O. Box 686
Hilo, HI 96721-0686

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William P. Kenoy
PLANNING DEPT.
COUNTY OF HAWAII

2012 FEB -6 AM 9:16



Darren J. Rosario
Fire Chief

Renwick J. Victorino
Deputy Fire Chief

County of Hawai'i
HAWAII FIRE DEPARTMENT
25 Aupuni Street • Room 2501 • Hilo, Hawai'i 96720
(808) 932-2900 • Fax (808) 932-2928

January 25, 2012

TO: BJ LEITHEAD TODD, PLANNING DIRECTOR
FROM: DARREN J. ROSARIO, FIRE CHIEF
SUBJECT: PLANNED UNIT DEVELOPMENT APPLICATION (PUD 11-000021)
APPLICANT: BICC PROPERTIES, LLC
RE: BIG ISLAND COUNTRY CLUB ESTATES PROJECT
OWNERS: BICC PROPERTIES, LLC
TMK: 7-1-007:001 TO 050 AND 7-1-008:001 TO 012

In regards to the above-mentioned Planned Unit Development application, the following shall be in accordance:

Fire apparatus access roads shall be in accordance with UFC Section 10.207:

"Fire Apparatus Access Roads

"Sec. 10.207. (a) General. Fire apparatus access roads shall be provided and maintained in accordance with the provisions of this section.

"(b) Where Required. Fire apparatus access roads shall be required for every building hereafter constructed when any portion of an exterior wall of the first story is located more than 150 feet from fire department vehicle access as measured by an unobstructed route around the exterior of the building.

"EXCEPTIONS: 1. When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of this section may be modified.

2. When access roadways cannot be installed due to topography, waterways, nonnegotiable grades or other similar conditions, the chief may require additional fire protection as specified in Section 10.301 (b).

076737



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

PLANNING DEPT. EXHIBIT A

BJ Leithead Todd
January 25, 2012
Page 2

"3. When there are not more than two Group R, Division 3 or Group M Occupancies, the requirements of this section may be modified, provided, in the opinion of the chief, fire-fighting or rescue operations would not be impaired.

"More than one fire apparatus road may be required when it is determined by the chief that access by a single road may be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

"For high-piled combustible storage, see Section 81.109.

"(c) **Width.** The unobstructed width of a fire apparatus access road shall meet the requirements of the appropriate county jurisdiction.

"(d) **Vertical Clearance.** Fire apparatus access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.

"EXCEPTION: Upon approval vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

"(e) **Permissible Modifications.** Vertical clearances or widths required by this section may be increased when, in the opinion of the chief, vertical clearances or widths are not adequate to provide fire apparatus access.

"(f) **Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities." (20 tons)

"(g) **Turning Radius.** The turning radius of a fire apparatus access road shall be as approved by the chief." (45 feet)

"(h) **Turnarounds.** All dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

"(i) **Bridges.** When a bridge is required to be used as access under this section, it shall be constructed and maintained in accordance with the applicable sections of the Building Code and using designed live loading sufficient to carry the imposed loads of fire apparatus.

"(j) **Grade.** The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief." (15%)

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"(k) **Obstruction.** The required width of any fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. Minimum required widths and clearances established under this section shall be maintained at all times.

"(l) **Signs.** When required by the fire chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both."

Water supply shall be in accordance with UFC Section 10.301(c):

"(c) **Water Supply.** An approved water supply capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings are hereafter constructed, in accordance with the respective county water requirements. There shall be provided, when required by the chief, on-site fire hydrants and mains capable of supplying the required fire flow.

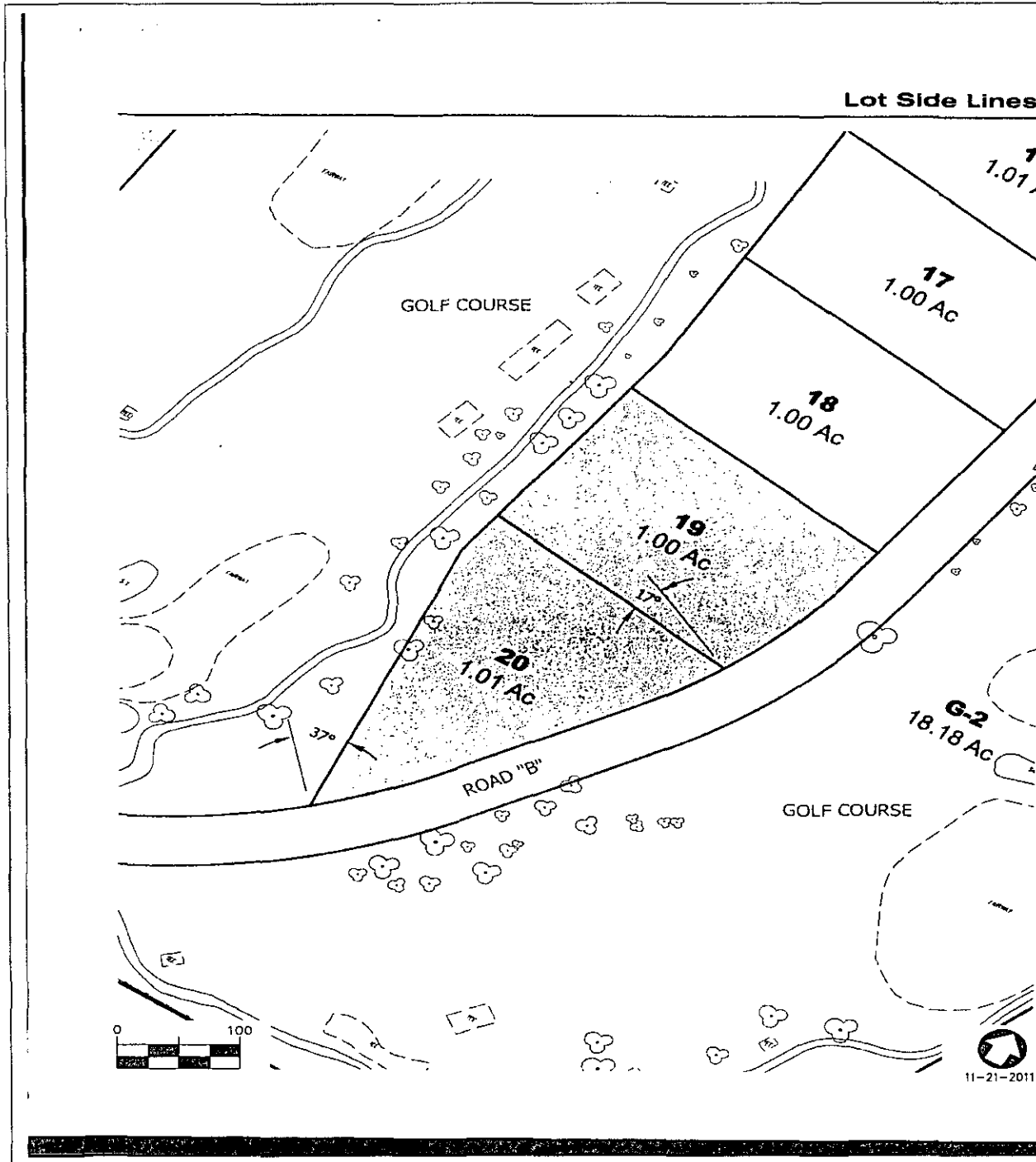
"Water supply may consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow.

"The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be protected as set forth by the respective county water requirements. All hydrants shall be accessible to the fire department apparatus by roadways meeting the requirements of Section 10.207.



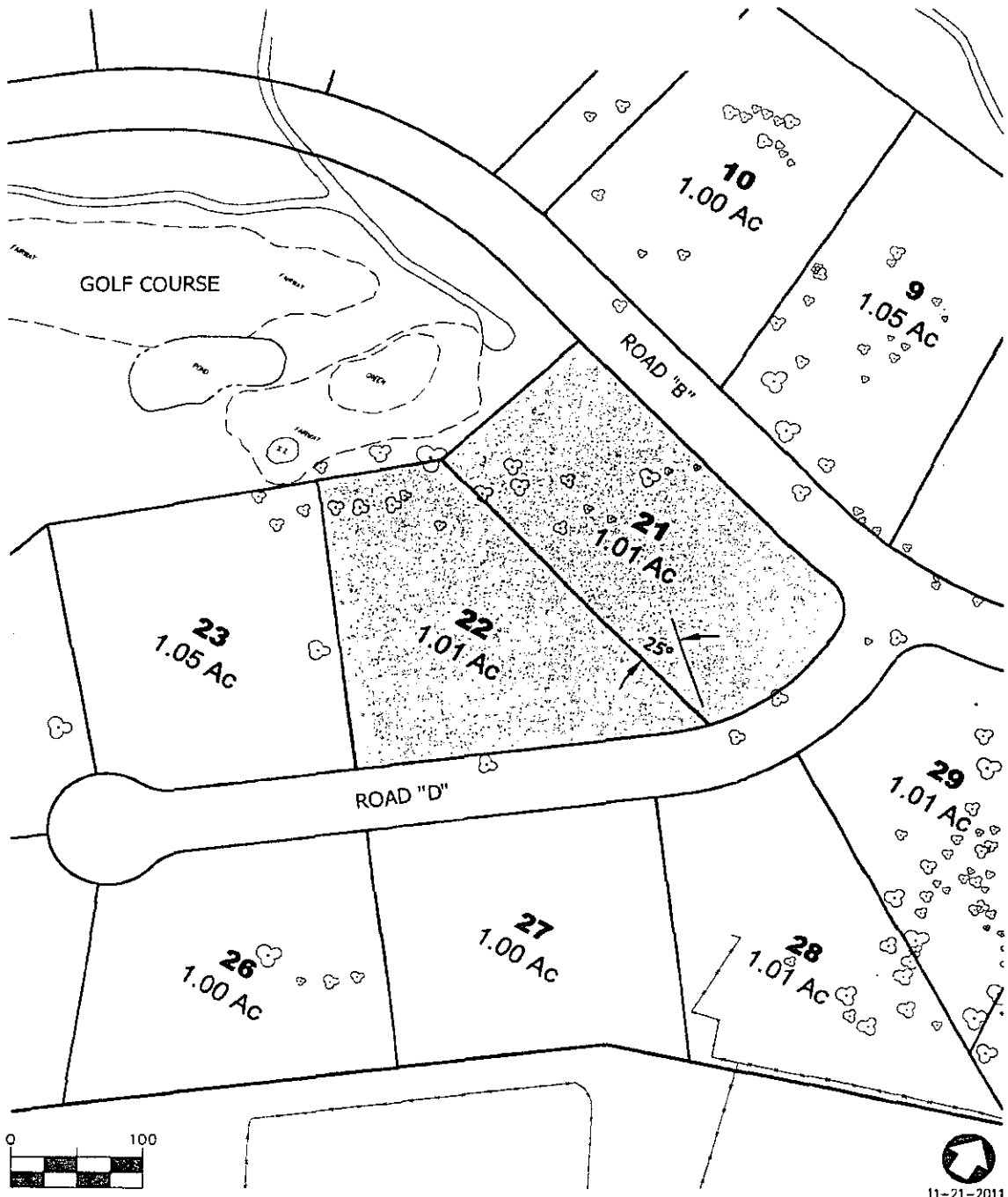
DARREN J. ROSARIO
Fire Chief

TDG:lpc

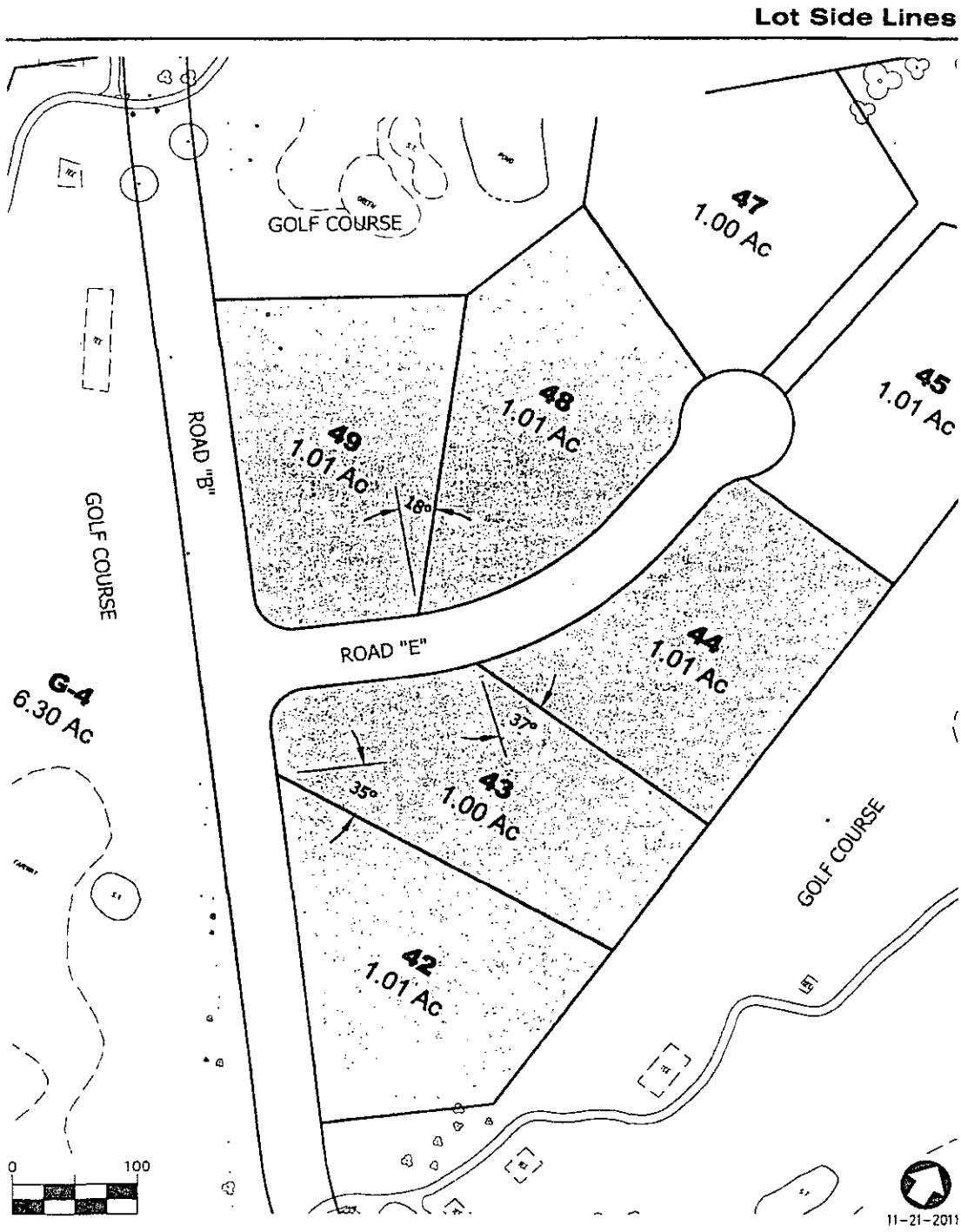


PUD MAPS: EXHIBIT B

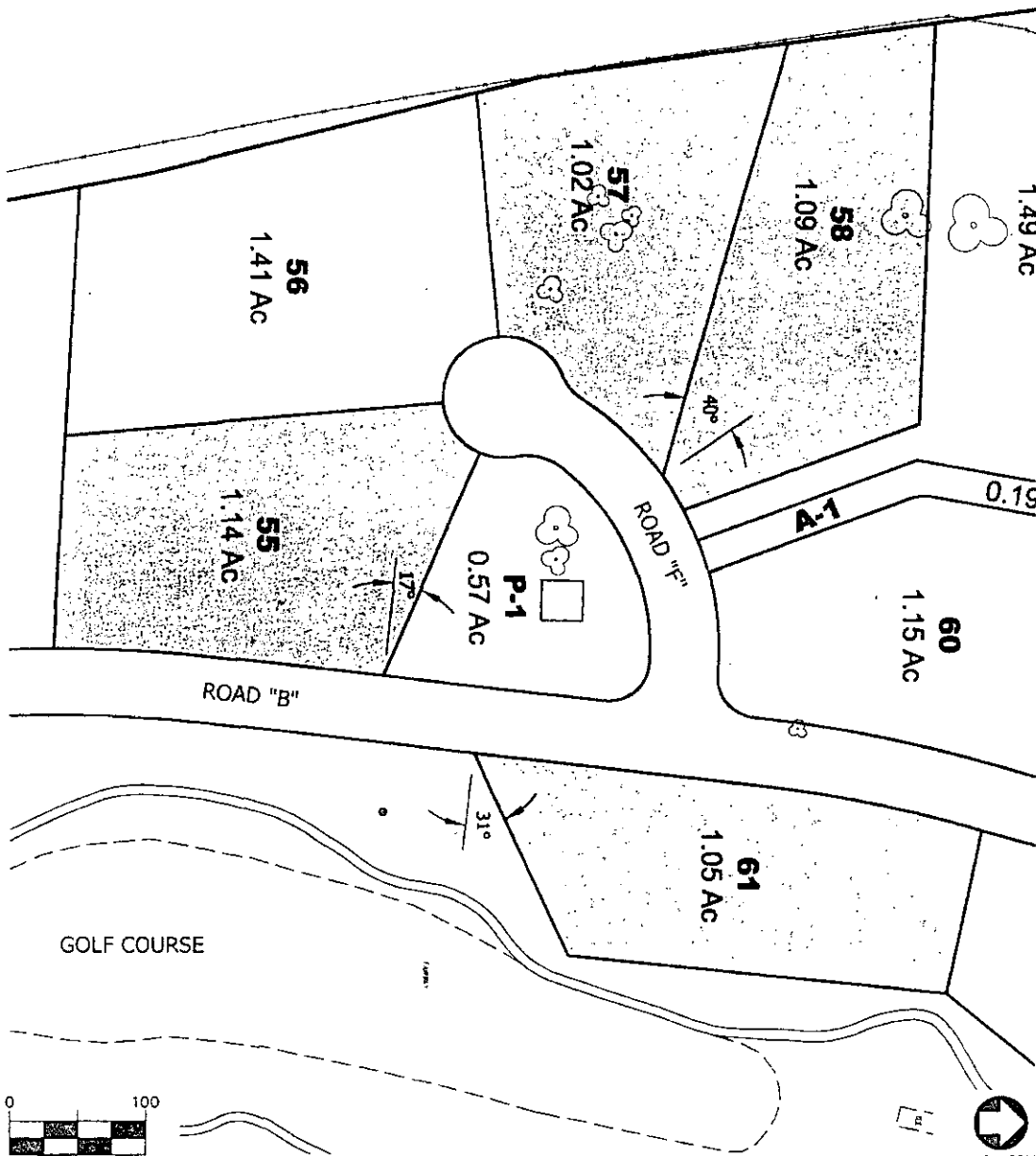
: Lot Side Lines





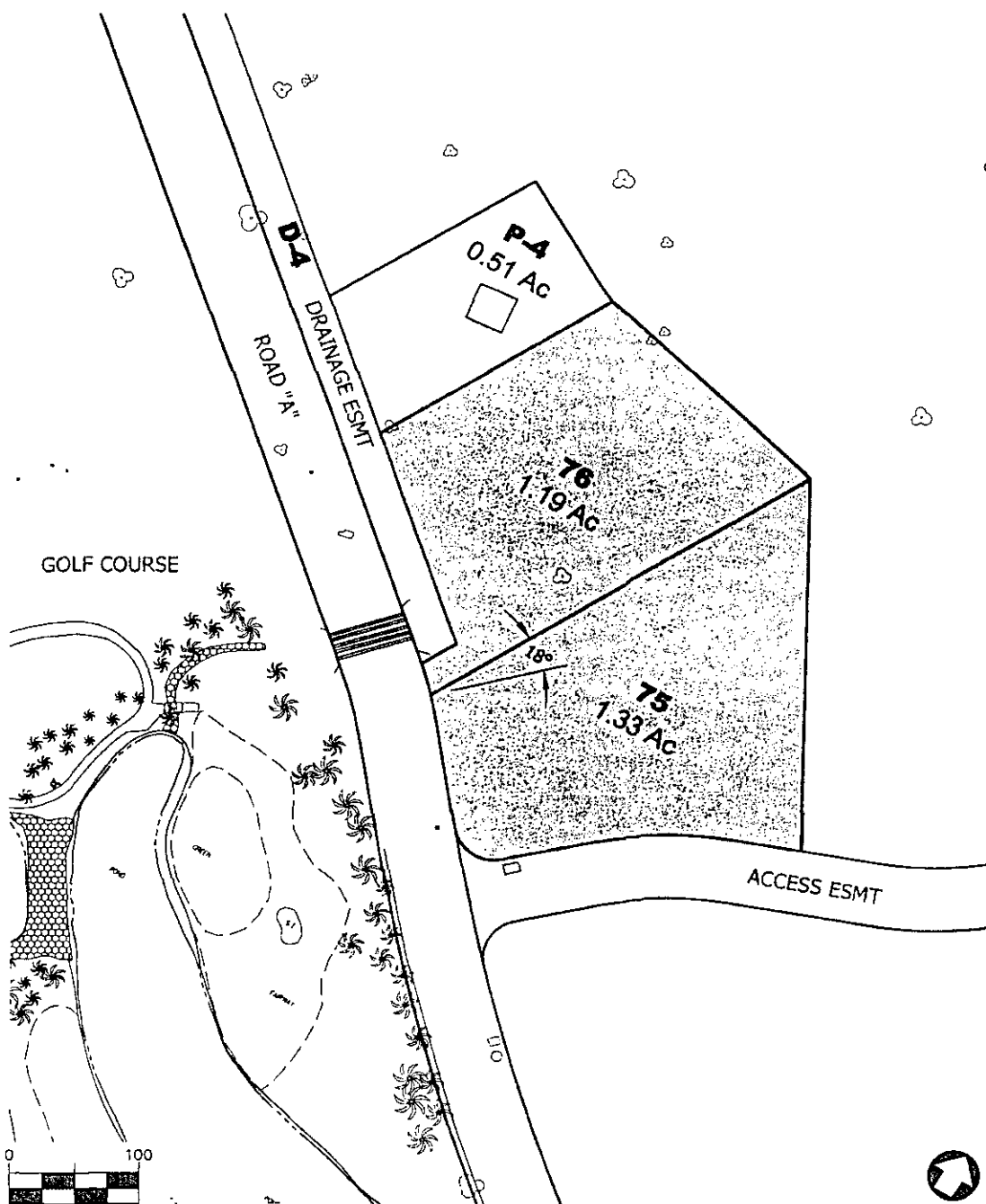


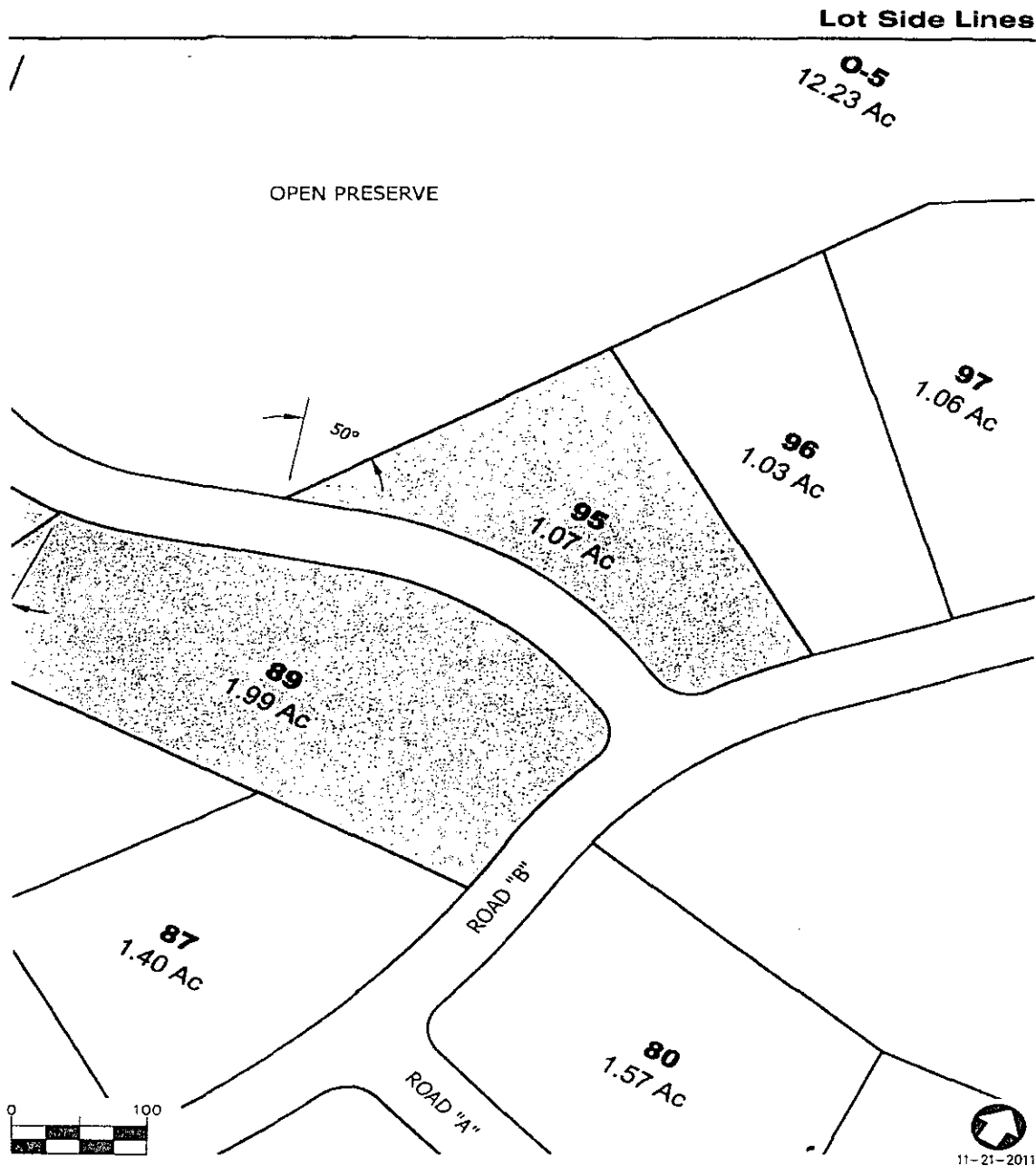
Lot Side Lines





: Lot Side Lines





Cul-de-sacs

Request:
The Petitioner requests that the requirements of 23-48(a) be modified to allow cul-de-sacs longer than 600 feet in length on the affected roads listed below.

Variance Request - Subdivision Code
Section 23-48(a) Cul-de-sacs

The request is based on the irregular shape, topography and existing configurations of the golf course, existing lots, roads, utilities and property shapes.

- Affected Roads:**
Road "C" - 2580 feet, serves only 9 lots
Road "D" - 680 feet, serves only 8 lots
Road "B" - 730 feet, serves only 5 lots
Road "H" - 860 feet, serves only 6 lots

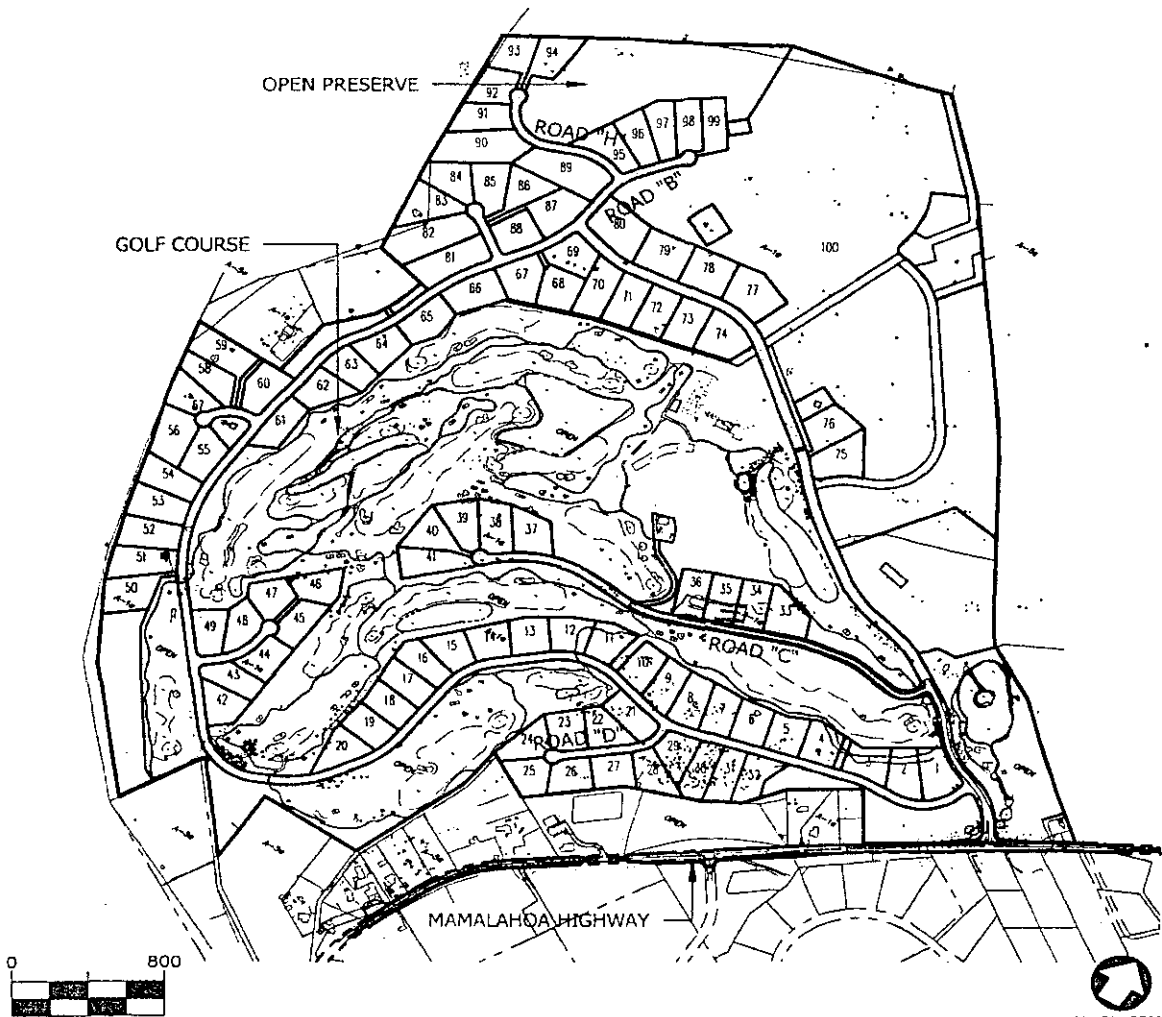
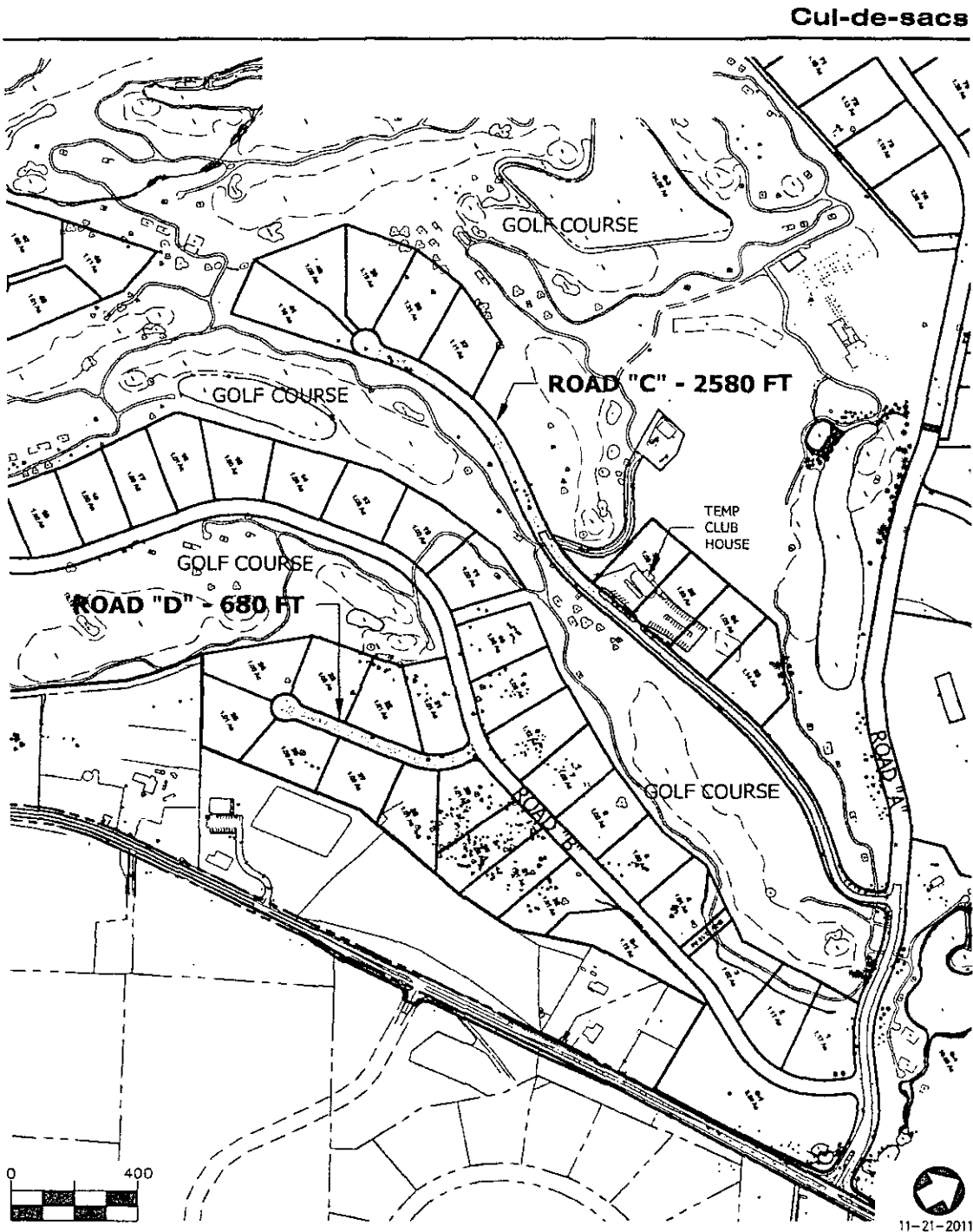
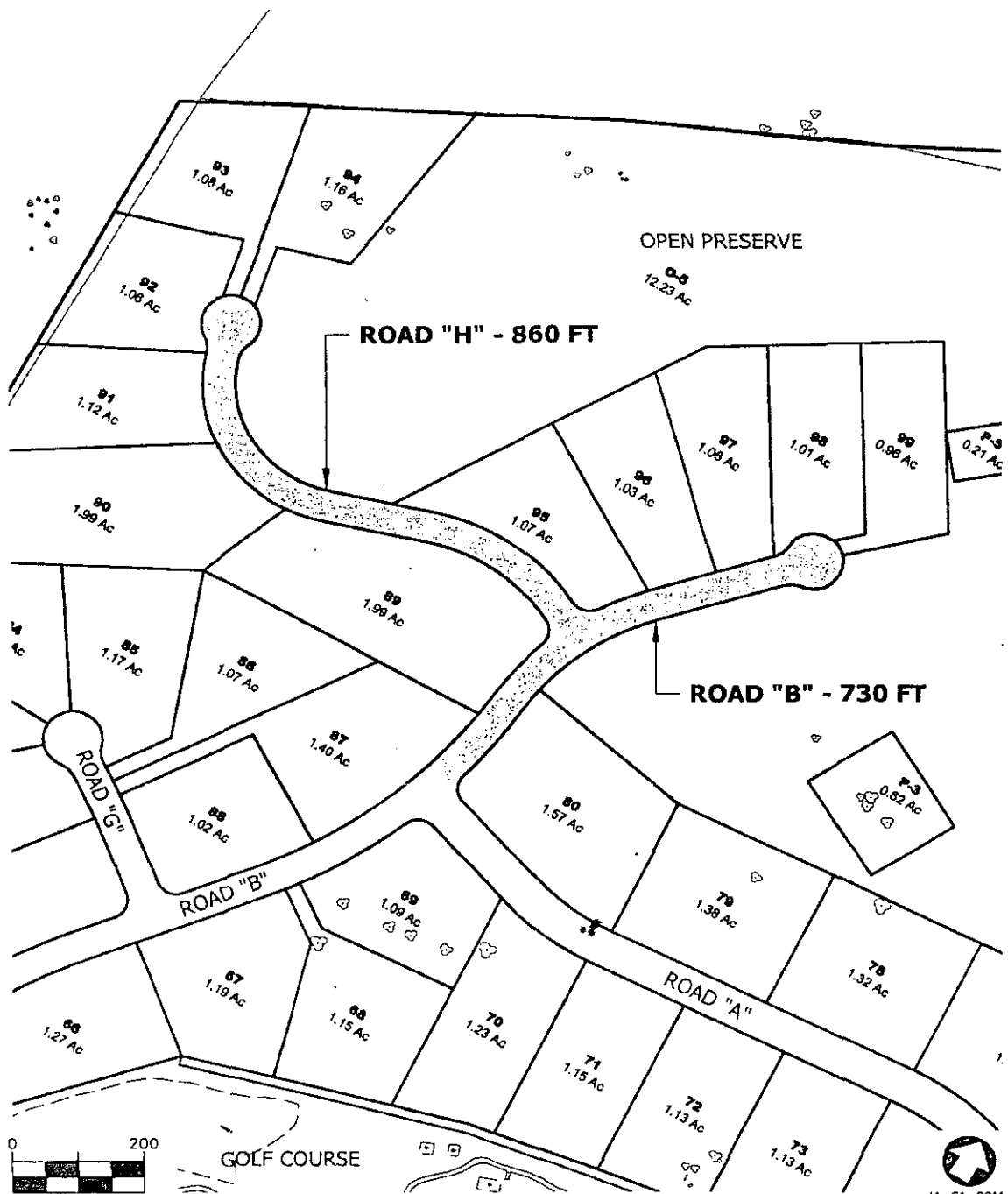


EXHIBIT 10



Cul-de-sacs



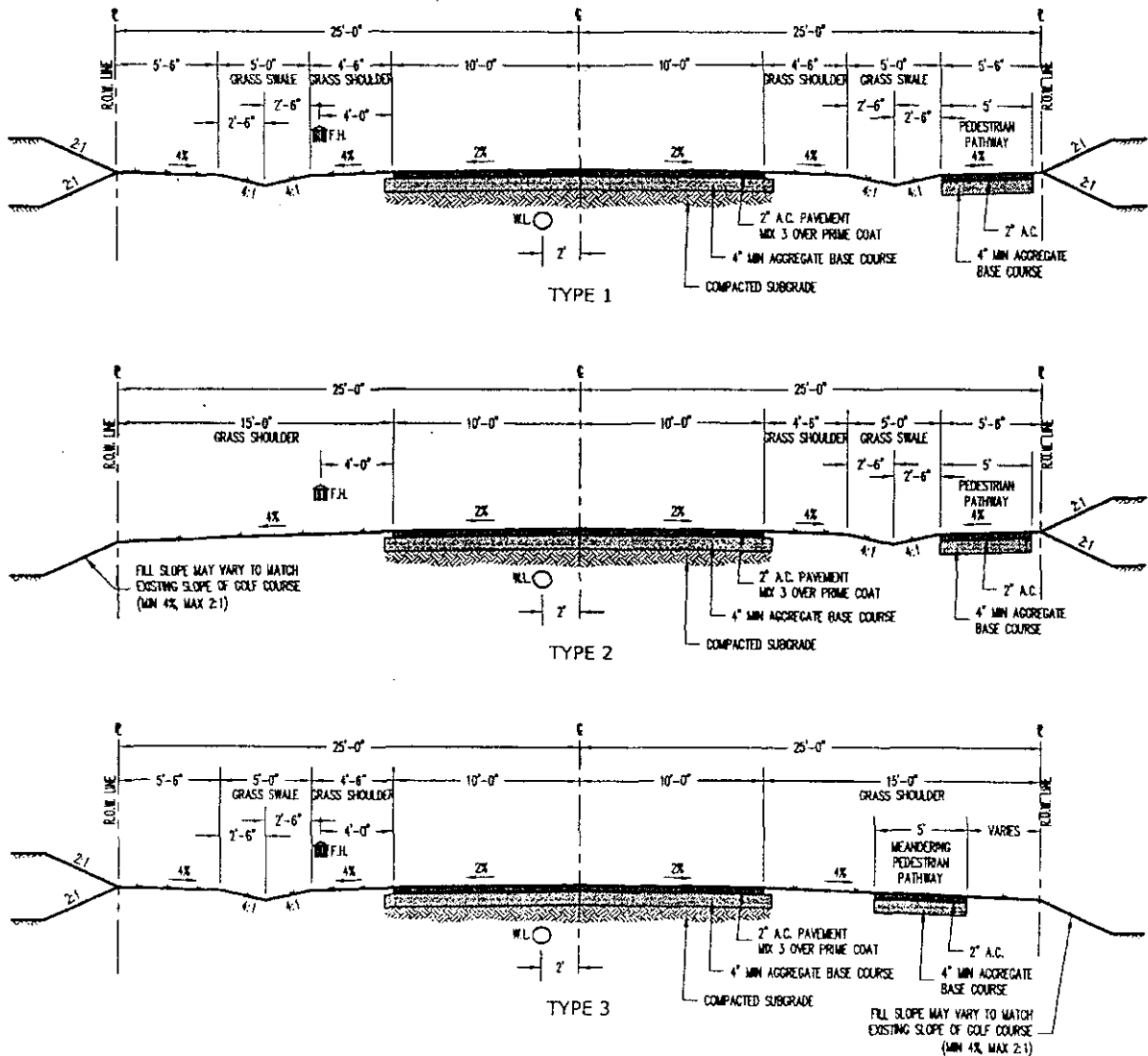
Minimum ROW & Pavement Width

Request:

The Petitioner requests that the requirements of 23-41 be modified to allow a street with a right-of-way of 50 feet, pavement width of 20 feet, a grass shoulder of a minimum width of 4.5 feet adjacent to the travelway, a grass swale of 5 feet, a paved meandering pedestrian pathway of 5 feet, no curbs and gutters and no on street parking.

Variance Request - Subdivision Code
 Section 23-41 Minimum right-of-way and pavement widths

TYPICAL SECTIONS
50' PRIVATE ROW - ROADS "B" thru "H"
 SCALE 1/8" = 1'-0"



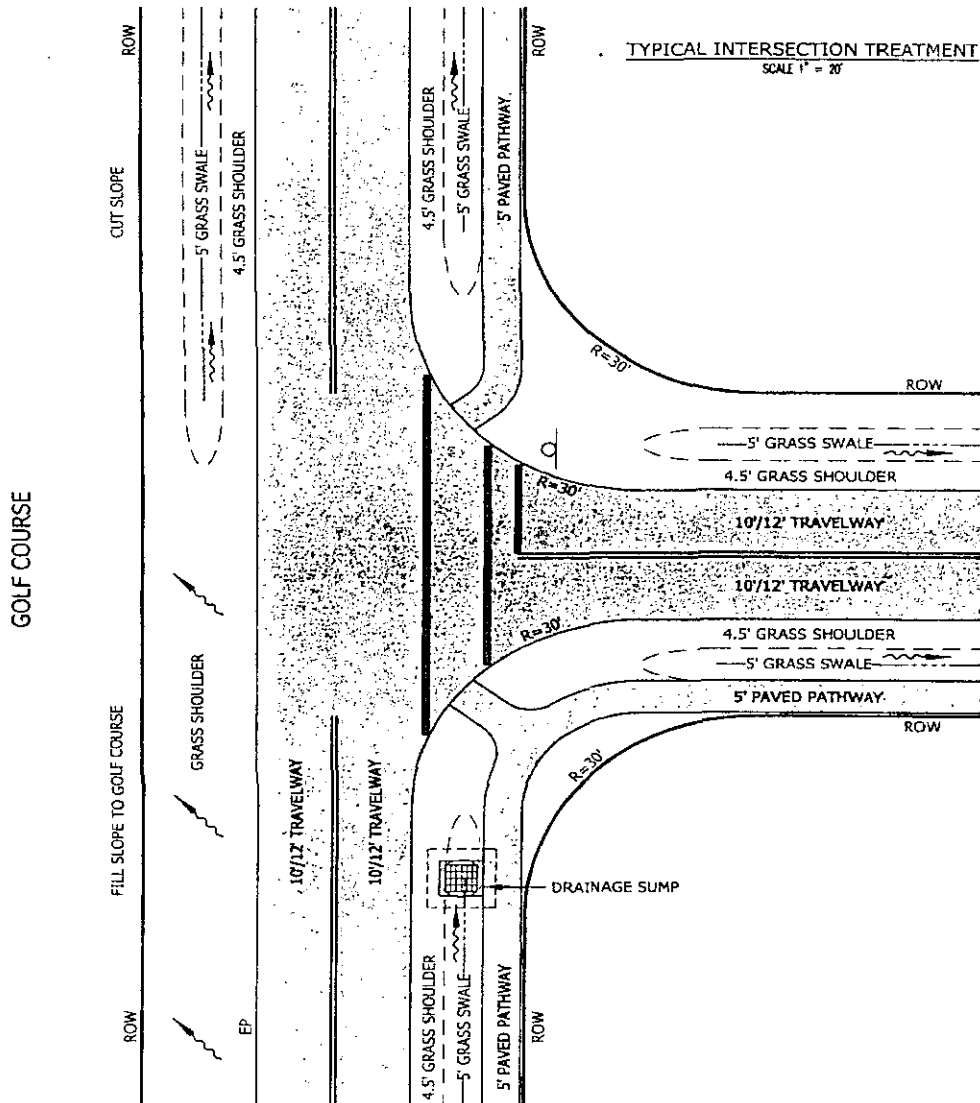
11-21-2011

Intersection Treatment

Request:

The Petitioner requests that in conjunction with exhibits 5.1 and 5.2 that intersections be treated as pictured below. Having a grass shoulder of a minimum width of 4.5 feet adjacent to the travelway, a grass swale of 5 feet, a paved pedestrian pathway of 5 feet, no curbs and gutters.

Variance Request - Subdivision Code
 Section 23-41 Minimum right-of-way and pavement widths



11-21-2011

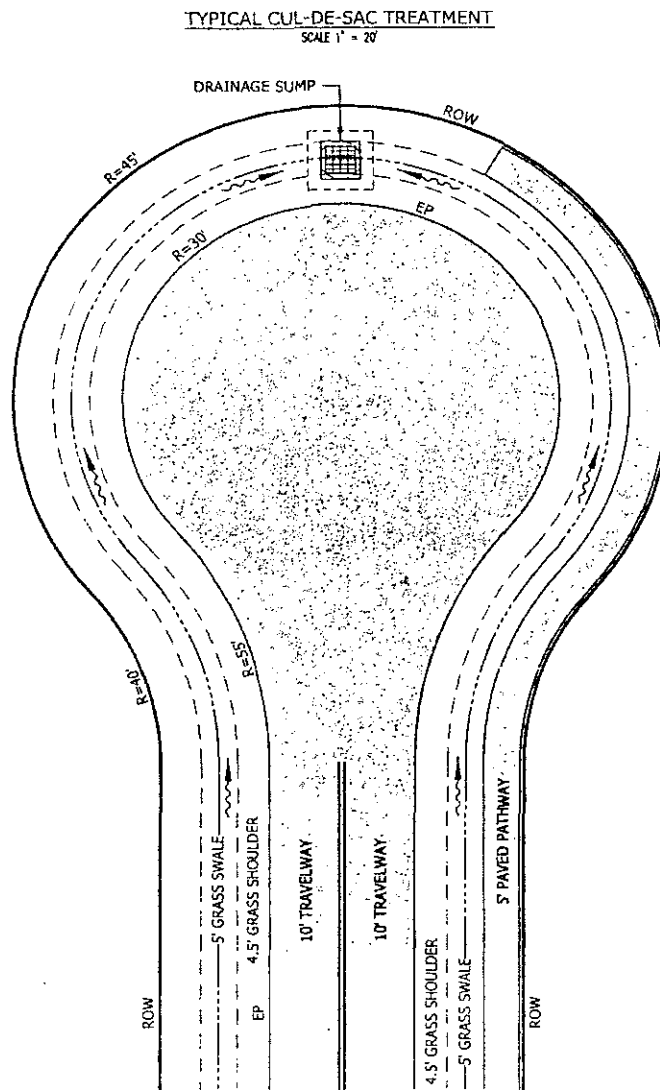
EXHIBIT 11c

Cul-de-sac Treatment

Request:

The Petitioner requests that in conjunction with exhibits 5.1 and 5.2 that cul-de-sacs be treated as pictured below. Having a grass shoulder of a minimum width of 4.5 feet adjacent to the travelway, a grass swale of 5 feet, a paved pedestrian pathway of 5 feet, no curbs and gutters.

Variance Request - Subdivision Code
Section 23-41 Minimum right-of-way and pavement widths



11-21-2011

EXHIBIT 11d

Grades and Curves

Request:
The Petitioner requests that the requirements of 23-50 be modified to allow a maximum of 12% grade on a collector street provided that a shoulder of minimum 4.5 feet be paved. See Exhibit 5.2, Typical Section Type 1 shoulder note.

Variance Request - Subdivision Code
Section 23-50 Grades and curves

The request is based on the irregular shape, topography and existing configurations of the golf course, existing lots, roads, utilities and property shapes.

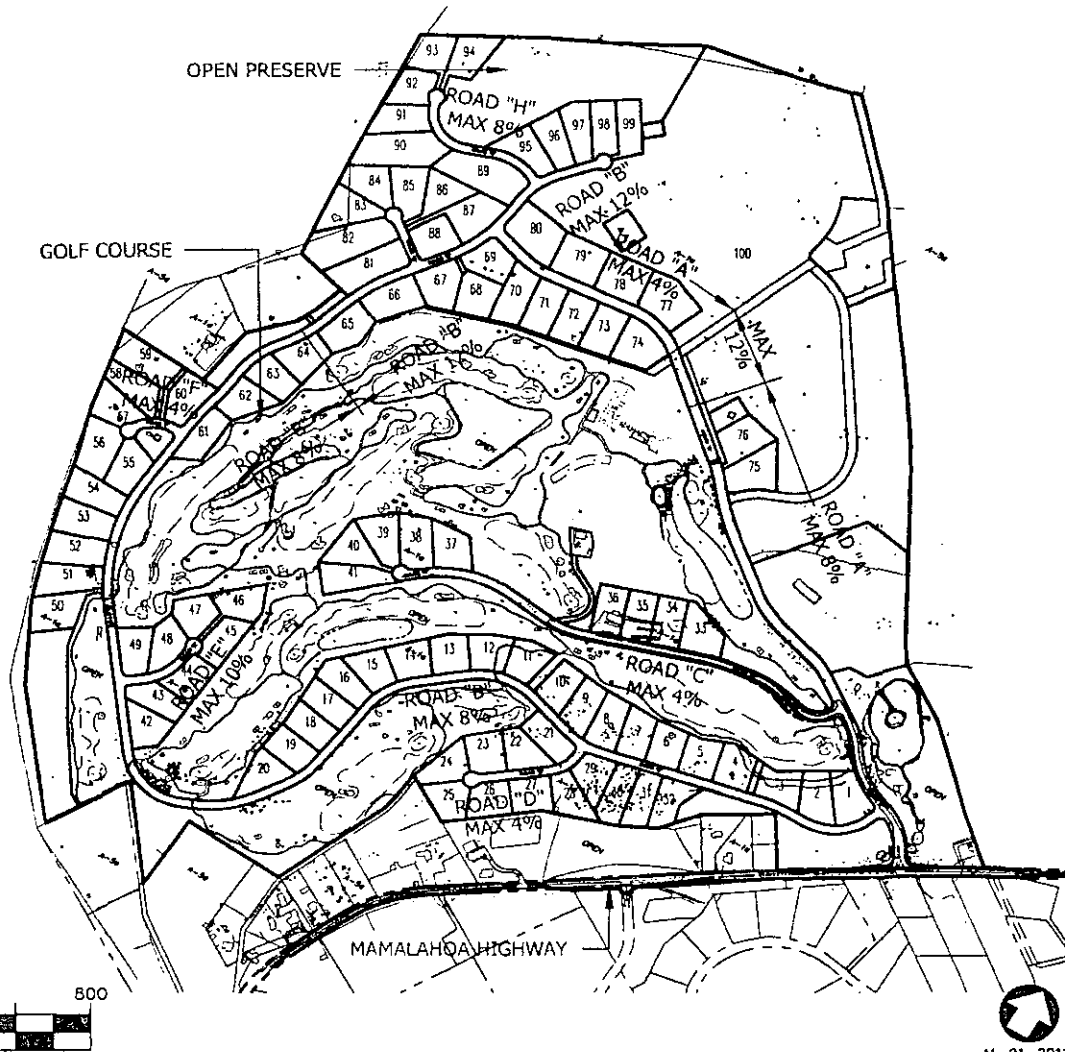
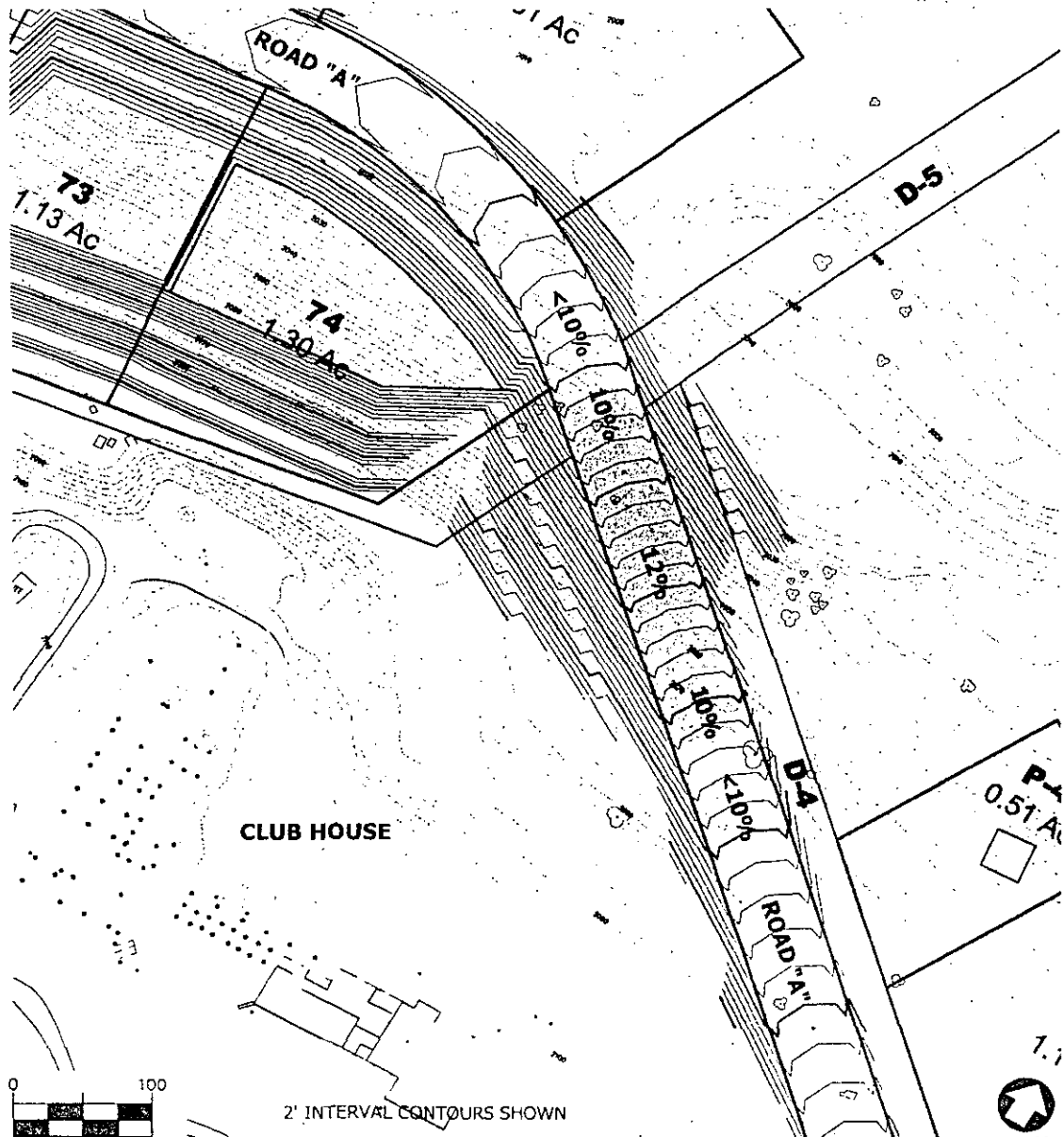


EXHIBIT 12

11-21-2011

Grades and Curves

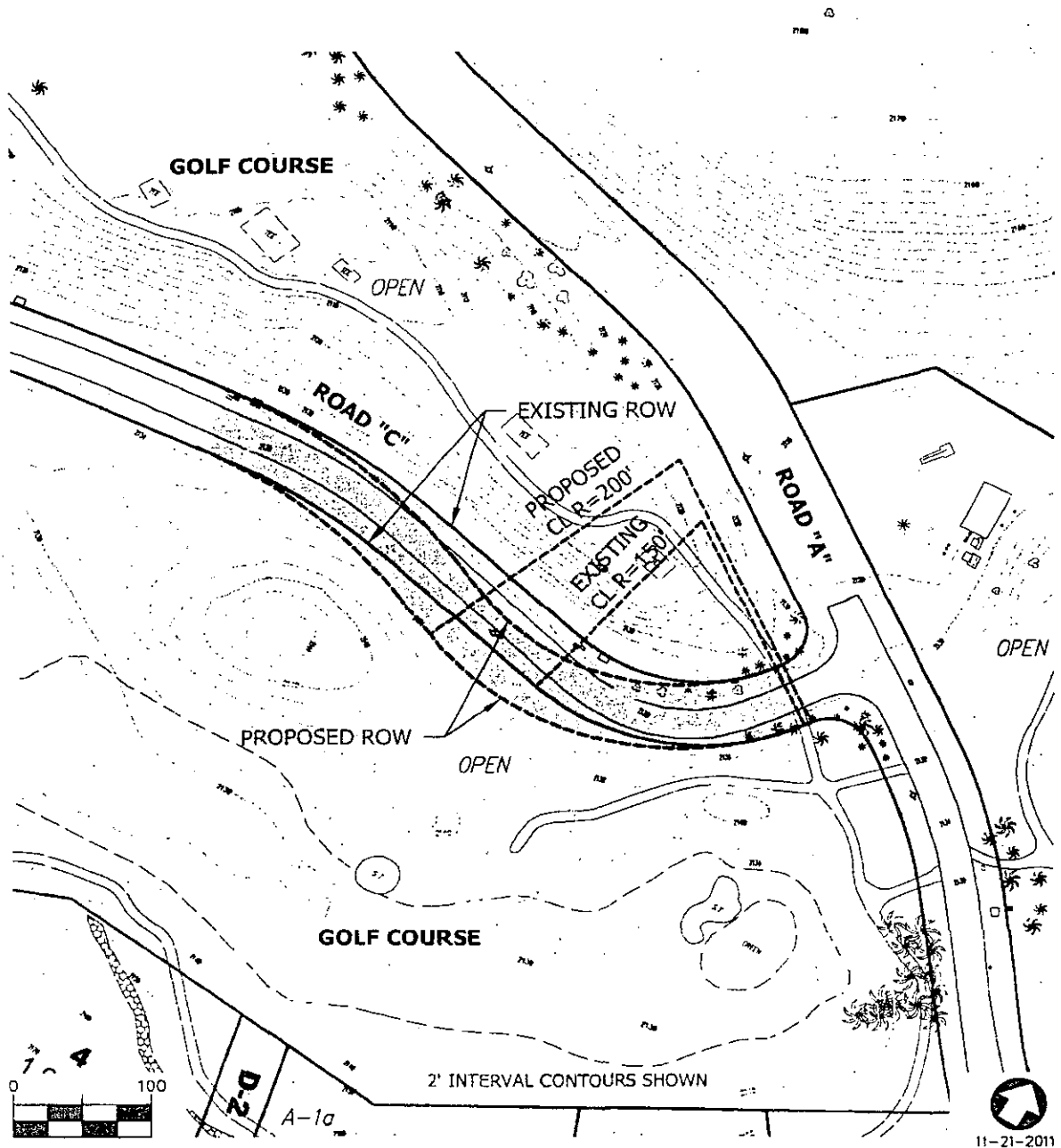
Variance Request - Subdivision Code
Section 23-50 Grades and curves



Grades and Curves

Exhibit showing the realignment of road "C" to accommodate a minimum horizontal curve of 200 feet.

Variance Request - Subdivision Code
Section 23-50 Grades and curves



Mr. Steven S. C. Lim
Carlsmith Ball LLP
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April 26, 2012

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

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WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

March 28, 2012

BJ Leithead Todd
Planning Director
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720
Attention: Larry Nakayama

Re: Applicant: BICC Properties, LLC
Project: Big Island Country Club (PUD 11-000021)
Request: PUD Application for the development of a master-planned community of 99-lots with agricultural and open split-zoning designation, a remainder bulk lot, an 18-hole golf course and interior subdivision roadways
Tax Map Key Nos.: (3) 7-1-007:001 to 050, and (3) 7-1-008:001 to 012 (the "Project")

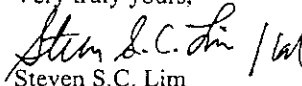
Dear Ms. Todd:

The Applicant met with the extended Bertlemann family on March 27, 2012 relative to the Project Master Plan.

The Applicant has revised the Master Plan (Exhibit 4 to the PUD application), and hereby submits a Revised Master Plan which consolidates proposed lots 25, 26 and 27 (further identified as Lots 25, 26 and 27 approved under SUB-90-189; TMKs: (3) 7-1-007:025 to 027, inclusive), to create one (1) open space lot O-7 (at the end of cul-de-sac Road D). These 3 lots will be relocated within the Phase II existing bulk lot 54, and are identified on the attached Revised Master Plan as proposed Lots 25, 26 and 27 (along Road B, near the Road B and Road H intersection). Since the Applicant will place restrictive covenants on the consolidated lot O-7 for open space use, this will request your confirmation that the consolidated lot will not be counted toward the 99-lot maximum density count.

Please feel free to contact me or my paralegal Katherine Luga at 935-6644 should you have any questions concerning this matter.

Very truly yours,


Steven S.C. Lim

SSL:KYL
Enclosure
xc w/enclosure: Client

077724

