



WARD VILLAGE

HONOLULU, HI

November 18, 2020

Mr. Deepak Neupane
Executive Director
Hawai'i Community Development Authority
547 Queen Street
Honolulu, Hawai'i 96813

Re: Request for Interpretation of View Corridor Setback Rule (HAR § 15-22-66)

Dear Mr. Neupane:

Pursuant to § 15-22-20 of the 2005 Mauka Area Rules (the "Vested Rules"), Victoria Ward, Ltd. ("VWL") respectfully requests a written interpretation confirming that: 1) building elements or features upon a platform deck for a planned unit development may be constructed within the "tower setback" area required by § 15-22-66 of the Vested Rules for designated view corridor streets; and 2) such building elements or features are not subject to the 1:1 slope requirement.

Section 15-22-20 of the Vested Rules provides in part that, "[i]n administering this chapter, the executive director may when deemed necessary render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity and applicability to a particular situation." A written interpretation shall be signed by the executive director, and include the following: 1) an identification of the section of the Vested Rules in question; 2) a statement of the problem; 3) a statement of interpretation; and 4) a justification statement.

Identification of the Section in Question

VWL requests a written interpretation of § 15-22-66 of the Vested Rules, which provides that:

§15-22-66 View corridors. (a) The purpose of this section is to provide view corridors along certain streets within the district in order to protect the scenic views of the mountains, sea, and sky, to provide visual relief of building masses, and to allow light and air at the street level.

(b) There are hereby established view corridor streets, as designated in the exhibit entitled "View Corridor Streets", dated April 1999, at the end of this chapter. Except for upper-level pedestrianways approved by the authority, all developments along the view corridor streets within the mauka area shall be subject to the view corridor setbacks set forth in the exhibit entitled "View Corridor Setbacks", dated June 1994, at the end of this chapter.

EXHIBIT 35

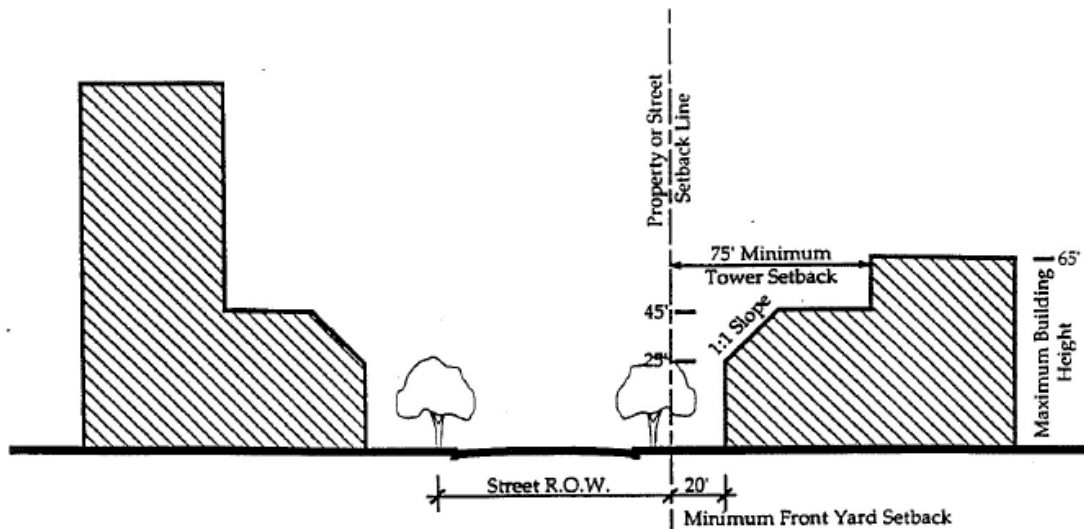
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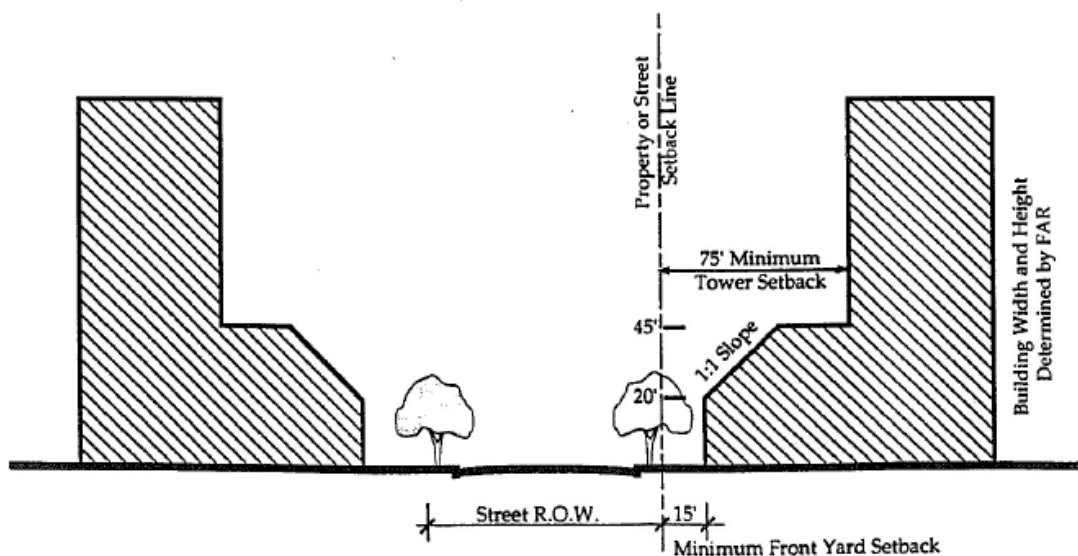
The "View Corridor Setbacks" exhibit referenced in § 15-22-66 is reproduced below:

View Corridor Setbacks

Hawaii Community Development Authority
June, 1994



View Corridor Setback for Developments along Punchbowl, King, or South Streets within the Area Bounded by Punchbowl, King, South and Pohukaina Streets



View Corridor Setback for Developments along the Designated View Corridor Streets in All Other Areas of the Kakaako District

Statement of the Problem

Section 15-22-66 of the Vested Rules does not expressly address whether “building elements or features” permitted pursuant to § 15-22-62(c) on platform decks are also subject to the “Tower Setback”.

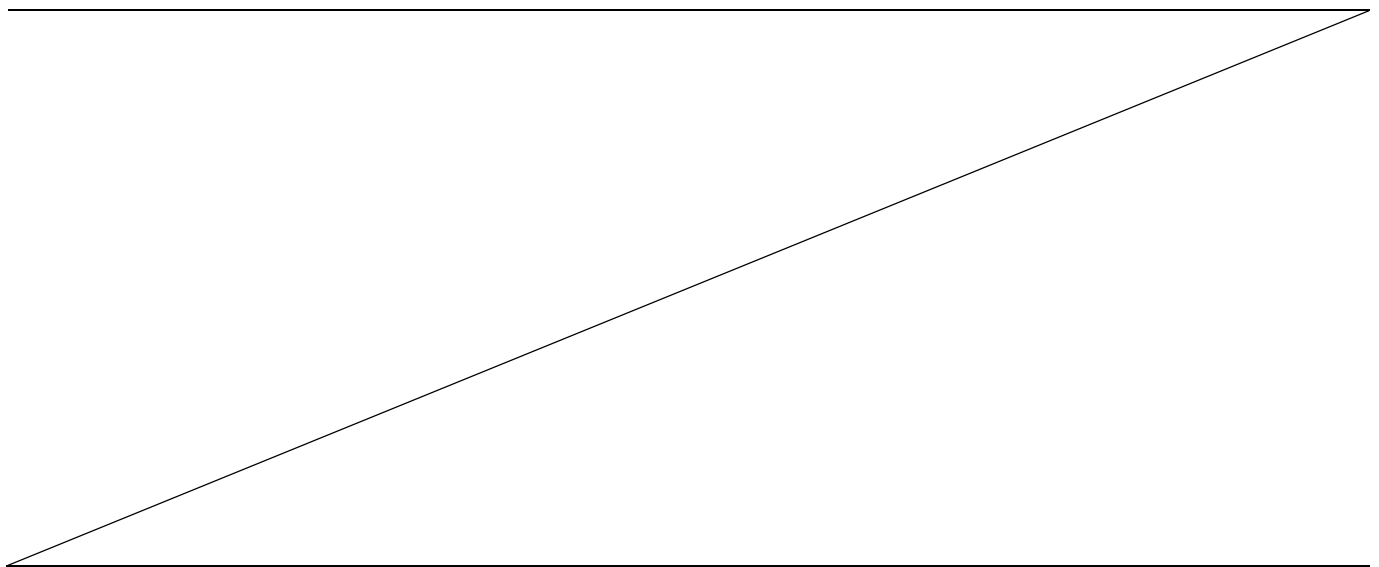
In addition, the rule does not address whether the 1:1 slope used to establish the setback of the platform deck edge must also be implemented above the platform deck height (*i.e.* whether safety railings and parapet walls at the edge of the platform deck (among other permitted building elements or features) need to be sloped on a 1:1 basis from the platform deck edge).

Statement of Interpretation

Section 15-22-66 of the Vested Rules, as interpreted in conjunction with the “View Corridor Setbacks” exhibit dated June, 1994 and the 2005 Mauka Area Plan, permits building elements or features consistent with § 15-22-62(c)(1) and (2) to exist (and exceed the platform deck height limit by not more than twelve and eighteen feet respectively) within the view corridor. In addition, such building elements or features are not subject to the 1:1 slope used to establish the edge of the platform deck.

Statement of Justification

The “View Corridor Setbacks” exhibit of the Vested Rules expressly states that the 75 foot minimum setback along designated view corridor streets is a “Tower Setback”. This is also consistent with Figure 18 of the 2005 Mauka Area Plan, which is reproduced on the following page:



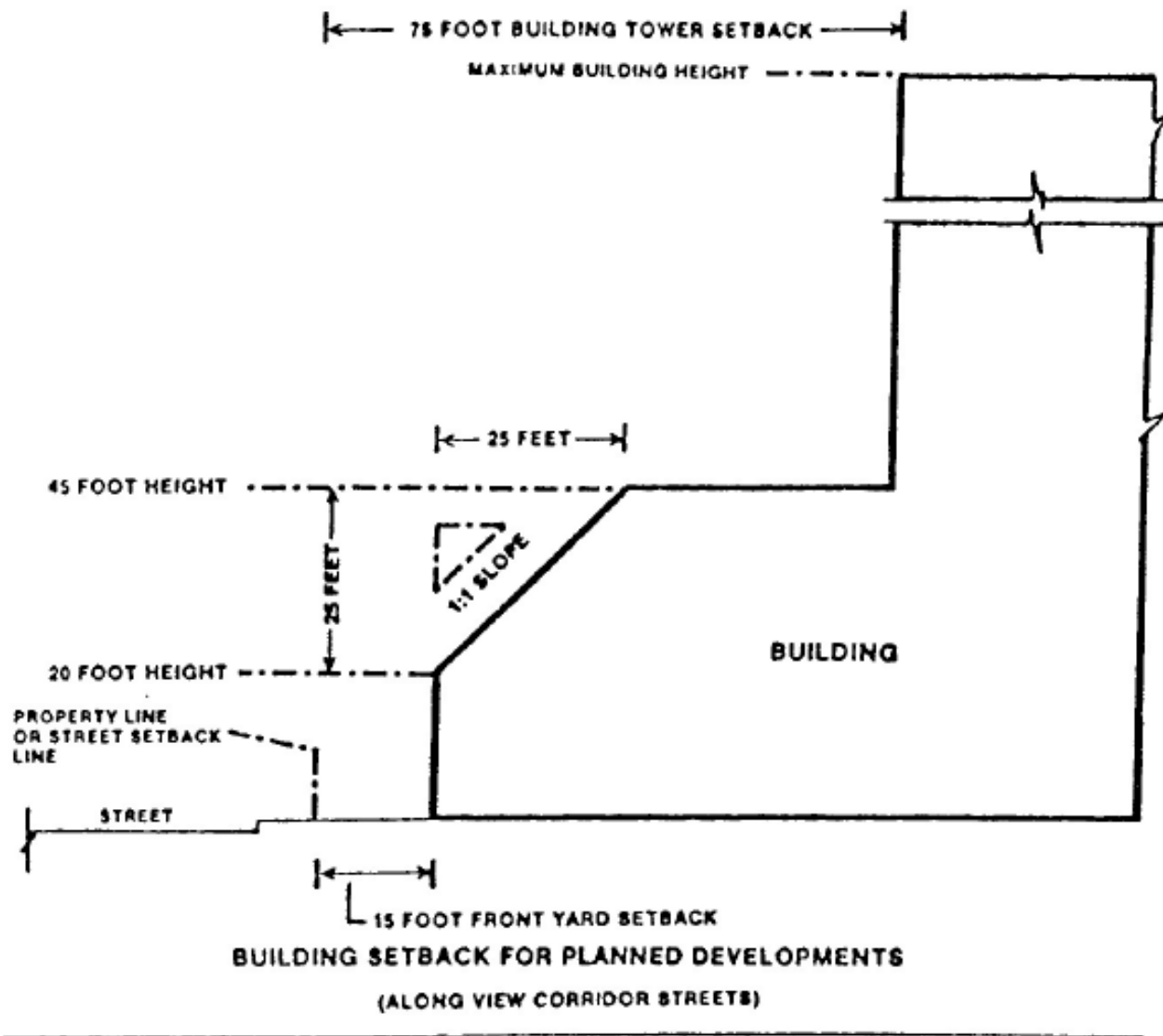


Figure 18

Consistent with the foregoing, the “View Corridor Setback Requirements” section of the 2005 Mauka Area Plan states:

View corridor setbacks control the location and configuration of buildings. The view corridor setback starts at the yard setback line and includes a 1:1 sloping plane from the 20-foot height level to the 45-foot height level resulting in a 40-foot setback from the property line or the proposed roadway setback line to the edge of the platform deck. A setback of 35 feet shall be imposed from the deck edge to the base of the tower. In total the tower will be a minimum of 75 feet from the property line or the proposed roadway setback line. These setback requirements apply along the designated public streets. The configuration of the view corridor setback is depicted in Figure I8.

See 2005 Mauka Area Plan at 64.

A “tower” is defined by § 15-22-5 of the Vested Rules as a “single building form which may be situated above or abutting the platform.” In turn, “platforms” are separately defined by § 15-22-5 as “those parts of mixed-use developments limited to forty-five feet in height. The platforms may contain extensive parking areas as well as other permitted uses.” The 2005 Mauka Area Plan contemplates “uses and appurtenant structures” on platforms to “compliment the park-like settings and recreation activities occurring on the decks” of the platforms. See 2005 Mauka Area Plan at 61.

Accordingly, since the 75 foot view corridor setback is unambiguously and expressly a “tower setback,” under both the Vested Rules and the 2005 Mauka Area Plan: 1) a “tower” is distinct from a “platform” under the Vested Rules; 2) the 75 foot setback *only* applies to the “tower” of a planned unit development facing a view corridor street; and 3) the setback does not apply to building elements or features on the platform deck.

In addition, the 2005 Mauka Area Plan provides that: “View corridor setbacks control the location and configuration of *buildings*. The view corridor setback . . . includes a 1:1 sloping plane from the 20-foot height level to the 45-foot height level resulting in a 40-foot setback from the property line or the proposed roadway setback line to the edge of the *platform deck*.” See 2005 Mauka Area Plan at 64 (emphases added).

Therefore, the 2005 Mauka Area Plan clarifies that the intent of the 1:1 slope depicted in the View Corridor Setback figure is to establish the setback for the *edge* of the platform deck, and the 1:1 slope requirement does not apply to building elements or features on the platform deck.

Mr. Deepak Neupane
November 18, 2020
Page 6

The foregoing interpretation of the view corridor setbacks required by § 15-22-66 is consistent with the stated purposes of the Vested Rules and approved master plans, including developing the Mauka Area as a desirable urban community through the interpretation of the rules to encourage flexibility of design, encourage investments in master planning large land holdings, and facilitate better site planning.

Conclusion

Thank you very much for your time and consideration with respect to this matter, and we respectfully request a written interpretation confirming the foregoing. Please contact me should you have any questions or wish to discuss.

Respectfully,

VICTORIA WARD, LIMITED

By: _____

Its: Authorized Signatory