

COLDSPRINGS TOWNSHIP
Private Road Ordinance

Ordinance No. 02 of 2003

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO PROVIDE FOR PRIVATE ROAD REGULATIONS AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

COLDSPRINGS TOWNSHIP HEREBY ORDAINS:

Section 1. Title.

This Ordinance shall be known and cited as the Coldsprings Township Private Road Ordinance.

Section 2. Purpose.

The purposes of this Ordinance are to regulate the design, construction, and maintenance of private roads and provide means to insure compliance with the provisions of this Ordinance. These regulations are specifically enacted to insure that:

- (a) Private roads will not be detrimental to the public health, safety, or general welfare.
- (b) Proposed private roads will not adversely affect the long-term development plans or policies within Coldsprings Township.
- (c) Private roads will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other emergency vehicles.
- (d) Private roads will be constructed to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.
- (e) Owners of lots that are served by private roads understand their responsibilities to participate in the maintenance of such roads.

Section 3. Definitions. As used in this Ordinance,

- (a) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
- (b) "Owner" means a person holding any legal, equitable, option or contract interest in a lot or parcel of land.
- (c) "Parcel" means a continuous area or acreage of land of any size, shape or nature, which is described by metes and bounds.

- (d) "Person" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company, or other legal entity.
- (e) "Private Road" means a road that is privately owned and maintained.
- (f) "Public Road" means a road under the jurisdiction of the Kalkaska County Road Commission or the Michigan Department of Transportation.
- (g) "Right-of-way" means the interest in property granting to persons the legal right to travel across and use the property of another person for purposes including but not limited to vehicular travel, sanitary and storm sewers, electric and telephone lines, natural gas lines, and other public utility facilities.
- (h) "Road" means the entire width between the boundary lines of every right-of-way that allows vehicular access to more than five (5) residential lots or parcels of land or to more than one (1) place of business.
- (i) "Road surface" means that portion of the right-of-way lying between the shoulders that is designed specifically for vehicular travel.
- (j) "Shoulder" means that portion of the road contiguous to the road surface generally extending the contour of the road surface and not designed for vehicular travel, but maintained for the temporary accommodation of disabled or stopped vehicles permitted on the road surface.
- (k) "Township Board" means the Coldsprings Township Board.

Section 4. Authority/Application Requirements/Review Procedures.

- (a) **Authority.** Private roads shall be permitted provided they conform to the requirements of this Ordinance. No private road shall be constructed, extended, improved, or relocated after the effective date of this Ordinance unless an application for a private road permit has been completed and filed with the township assessor and subsequently approved in accordance with the procedures of this Ordinance.
- (b) **Application Requirements.**
 - (1) **Application.** An application for a private road permit shall be submitted on forms provided by the township supervisor.
 - (2) **Plans and Agreements Required.** Ten (10) sets of the following materials shall be submitted to the township supervisor at least twenty-one (21) days prior to the date the application will be reviewed by the Township Board. All plans shall be sealed by a registered professional engineer licensed in the State of Michigan.

- (A) **Construction Plans.** Detailed construction plans shall be provided at a scale of 1" = 100' (one inch equals one hundred feet) or larger and shall include the following:
- (i) Detailed survey drawings showing the right-of-way, the proposed road location, road names, and all parcels being serviced by the private road.
 - (ii) Existing conditions, including topography at two (2) foot contour intervals, existing and proposed drainage courses and facilities and any structures that may be affected by the proposed road.
 - (iii) The proposed gradients of all roads, a grading plan illustrating cuts and fills, the location of drainage facilities and structures, and other pertinent information as may be requested by the Township.
 - (iv) Utility easements shall be shown on the plan and such utility easements shall include the legal authority to place sanitary and storm sewer, water, gas, telephone, electric, cable TV, and other public utilities within the easements.
 - (v) Design specifications for roadbeds, shoulders, ditch profiles and slope requirements meeting the standards of Figure 1, typical road cross sections.
- (B) **Drainage Plan.** A drainage plan satisfying the requirements of the Kalkaska County Soil Erosion and Sedimentation Control Officer shall be prepared by a registered professional engineer licensed in the State of Michigan, which plan shall be designed to control erosion and retain storm water on-site or direct it to a proper drainage course. The drainage plan, as it pertains to roads, shall indicate the manner in which surface drainage is to be discharged. This will require making use of existing ditches, natural watercourses, or constructing tributaries thereto. An easement twenty (20) feet or more in width shall be provided when the drain crosses private property within or adjacent to the project. The drainage plan shall conform to the requirements of all agencies having jurisdiction.
- (C) **Road Maintenance Agreement.**
- (i) A proposed road maintenance agreement shall be provided to the township supervisor. The road maintenance agreement shall include requirements:
 - (a) That all decisions regarding road improvements and maintenance be approved by a majority vote of those

having ownership in lands that are served by the private road.

- (b) That the owner of each parcel be responsible for payment of the costs apportioned to his or her parcel.
- (c) That the owners have the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
- (d) That the agreement be recorded in the Kalkaska County Register of Deeds Office and run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
- (e) That the owner or owners of the land served by the road be responsible to grade, drain, and otherwise maintain the private road in accordance with the requirements of this Ordinance.
- (f) That a statement indicating that the owners have not requested the Kalkaska County Road Commission to accept the road as a public road. As such, the road shall be private and the county road commission shall have no obligation to maintain the road in any manner. This provision, however, shall not prevent the future upgrading of the road to county road commission standards nor preclude a request in the future that the road be taken over by the county road commission.

(ii) **Township Attorney Review.** The road maintenance agreement shall be reviewed and approved by the township attorney for compliance with this Ordinance. Following approval by the township attorney, the agreement shall be recorded with the Kalkaska County Register of Deeds.

(c) **Application Review Procedures.**

- (1) **Township Supervisor Review.** The township supervisor shall review the application and plans for a private road to determine whether they are complete. In the event the application is incomplete, the township assessor shall inform the applicant of any deficiencies in writing.
- (2) **Agency and Township Attorney Review.** When it is determined that the application and plans are complete, the township supervisor shall transmit one (1) copy of the application and plans to each of the following agencies

impacted or affected by the proposed private road for their review and comment:

- (A). Kalkaska County Zoning Department.
- (B). Kalkaska County Road Commission.
- (C). Kalkaska County Health Department.
- (D). Kalkaska County Drain Commissioner.
- (E). Kalkaska County Soil Erosion Control Office.
- (F). Kalkaska School District - Superintendent of Schools.
- (G). Coldsprings Township Fire Chief.
- (H). Kalkaska County Sheriff Department.

(I). *Mancelona School District*

The township supervisor shall forward a copy of the application and plans to the Michigan Department of Transportation (MDOT) if the private road connects to a state highway. Comments and recommendations from the above agencies shall be provided to the Township Board prior to the date of the meeting at which the application is to be reviewed. If no comments or recommendations are received from the above agencies within thirty (30) days of the date the application and plans were transmitted, then it shall be deemed that the agency failing to respond has no objections to the proposed private road.

- (3) **Township Board Review/Action.** After reviewing all of the materials and recommendations submitted, the Township Board shall approve, or approve with conditions, the application for a private road if it finds that all of the standards of Section 5 have been satisfied. When approval is granted by the Township Board, a preliminary private road permit shall be issued by the township assessor. If the application is denied or if conditions are issued by the Township Board, they shall be given in writing to the applicant.
- (4) **Inspections.** The township supervisor shall arrange for inspections by the township's consulting engineer during construction of, and upon completion of the private road. The applicant shall be responsible for the costs of these inspections.
- (5) **Conditions.** When granting approval for a private road, the Township Board may attach reasonable conditions to the approval. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy,

to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (A) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (B) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - (C) Be necessary to meet the purposes of this Ordinance, be related to the standards established in this Ordinance, and be necessary to insure compliance with those standards.
- (6) **Final Approval.** The Township Board shall grant approval of a final private road permit upon inspection by the township supervisor and/or the township's consulting engineer and a finding that the road was constructed according to the approved plans.
- (7) **Failure to Perform.** Failure by the applicant to begin construction of the private road according to approved plans on file with the Township within one (1) year from the date of approval shall void the approval, and a new approval shall be required before any construction begins. The new application shall be reviewed subject to any changes made in this Ordinance regarding the standards and specifications for road construction and development.
- (8) **Notice of Easements.** All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, conforming to the following:

"This parcel of land has private road access across a permanent easement which is of record and a part of the deed. This notice is to make the Purchaser aware that this parcel of land has ingress and egress over this easement only. Neither the County nor the Township has any responsibility for the maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States Postal Service and the local school district are not required to traverse this private road and may provide service only to the nearest public access (Michigan Public Act 134 of 1972, as amended)."

Section 5. Private Road Standards.

(a) Road Continuation/Turnarounds/Intersections.

- (1) **Road Continuation Required.** Whenever an existing road terminates at the boundary of the proposed development, the existing road shall be connected with the road system within the proposed development.
- (2) **Turnarounds.** The layout of roads shall provide, as much as possible, for continuous travel. In special cases, where lands to be divided are limited in size or are subject to a natural barrier, the Township Board may approve a cul-de-sac not exceeding a length of six hundred (600) feet, provided it has a forty (40) feet minimum road surface radius with a sixty (60) feet right-of-way radius. For short dead-end roads serving six (6) or fewer houses, the Township Board may approve a hammerhead turnaround consistent with Figure 2, attached hereto. Neither a cul-de-sac nor a hammerhead shall be allowed where it is reasonable to connect to other roads or adjacent properties. Refer to Figures 2 and 3 for typical cul-de-sac, hammerhead, and intersection layouts.
- (3) **Intersections.** The following standards shall apply to intersections:
 - (A) **Angle of Intersection.** Roads shall be designed to intersect at ninety degrees (90°) or as close thereto as possible. In no case shall the angle of intersection be less than seventy-five degrees (75°).
 - (B) **Site Distance.** The minimum clear sight distance at all private road intersections shall permit vehicles to be visible to the driver of another vehicle when each is one hundred twenty-five (125) feet from the center point of the intersection.
 - (D) **Number of Roads.** No more than two (2) roads shall cross at any one (1) intersection.
 - (E) **"T" Intersections.** "T" type intersections shall be used, wherever practical.
 - (F) **Centerline Offsets.** Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, road centerlines on opposite sides of the road shall be offset by a distance of not less than one-hundred fifty (150) feet.
 - (G) **Vertical Alignment of Intersections.** A one percent (1%) grade or less shall be required at intersections. This nearly flat section shall extend no less than seventy-five (75) feet from the center of the crossroad.

(b) **Minimum Right-of-Way Width.** The minimum width of the right-of-way shall be determined by drainage and utility needs. In no case shall the right-of-way be less than 33 feet where the drainage and utility easements are outside the right-of-way or less than 44 feet where drainage and utility easements are inside the right-of-way. The road surface, shoulders, and ditches shall be located within the right-of-way. Back slopes may be permitted beyond the right-of-way provided a temporary grading easement is provided until the road construction is completed, if legally required.

(c) **Minimum Road Surface and Shoulder Design Standards.** The following design standards shall apply to road surfaces and shoulders:

(1) **Road Surface Required.**

(A) **Gravel Road:** For private roads servicing ten (10) or fewer residential lots or parcels, the road surface may be gravel meeting the requirements of this Ordinance and the centerline road grades shall be between 0.4 to 7.0%.

(B) **Paved Road:** For private roads servicing more than ten (10) residential lots and parcels, all businesses and centerline road grades exceeding 7.0%, the road surface shall be paved meeting the requirements of this Ordinance.

(2) **Minimum Road Surface Width.** The minimum road surface widths shall meet the following requirements:

	<u>Centerline Grades</u>	<u>Min Road Surface Width</u>
(A) Gravel Surface	0.4 to 7.0%	20 feet ¹
(B) Paved Surface	7.1 to 9.0%	20 feet ¹
(C) Paved Surface	9.1 to 12%	22 feet ¹

(3) **Minimum Shoulder Width.** The minimum shoulder widths for all private roads shall be 2 feet meeting the requirements of this Ordinance.

(d) **Road Specifications.**

(1) **Aggregate Base Course.** A minimum total depth of six (6) inches of compacted dense aggregate shall be placed on private roads. The aggregate base course shall be placed on the prepared sub-grade for the

¹ Shoulder is required in addition to road surface width.

entire width of the road surface in accordance with the Standard Plans for Private Roads (Figure 1). All material specifications shall meet the current MDOT specifications for 22A aggregate for paved roads and 23A for gravel roads.

- (2) **Bituminous Pavement.** Where bituminous aggregate pavement is required, bituminous aggregate pavement course, MDOT Specification 1100T (or an alternate mix recommended by the township's consulting engineer), shall be applied in one (1) or more courses at the minimum rate of 220#/SYD.
- (e) **Shoulder Specifications.** Shoulders for paved roads shall consist of six (6) inches of compacted 23A gravel. Ditches and slopes shall be sodded or seeded and mulched to insure an adequate covering of grass.
- (f) **Centerline Grade.** The minimum road centerline grade shall be four-tenths percent (0.4%). The maximum road centerline grade shall be twelve percent (12%).
- (g) **Public Road Connection Required.** A private road shall have at least one access to a public road.
- (h) **Compliance with AASHTO Requirements.** Where no specific standard is provided in this Section, private road design plans shall meet the design criteria outlined in the most recent edition of the American Association of State Highway and Transportation Officials (AASHTO) Manual "A Policy on Geometric Design for Highways and Streets"; provided the minimum horizontal curve shall be two-hundred thirty (230) feet in radius. The Township Board may reduce this radius to not less than one hundred fifty (150) feet in cases where rolling terrain or a significant number of mature trees would be preserved, if the design will accommodate expected vehicle speeds as determined by the township's consulting engineer.
- (i) **Utility Easements.** Utility easements shall be required in conjunction with the private road project unless they are otherwise provided along the rear property lines of the lots or parcels being assessed for the road project. Utility easements shall have a minimum width of ten (10) feet regardless of whether they are located inside or outside and abutting the right-of-way.
- (j) **Road Names and Signs.** Private roads serving two or more properties shall have a road name approved by the Township Board. Proposed names shall be submitted with the application. Addresses shall be assigned by the Kalkaska County Equalization Department. In the event a road name is requested by the applicant which, in the opinion of the County Equalization Director, duplicates a road name elsewhere in the county, a name change shall be initiated by the applicant to eliminate the duplication. The applicant shall furnish and erect road name signs at all intersections within the project and entrances thereto, to assist in the location of the property by emergency vehicles. The design and color of the road name signs shall be consistent with the specifications of the Kalkaska County Road Commission.

- (k) **Traffic Control Signs.** Traffic control signs shall be placed in accordance with the Michigan Manual of Uniform Traffic Control Devices. Signs marked "Private Road" shall be erected and maintained by the applicant at the entrance to all private roads.

Section 6. Nonconforming Private Roads.

Roads existing and used as private roads at the time of adoption of this Ordinance that do not conform with the design standards of this Ordinance may continue to be used; provided the grade, road surface, shoulder and paving requirements of this Ordinance are satisfied prior to the issuance of zoning permits by the county zoning administrator for new buildings serviced by the private road.

Section 7. Performance Guarantees.

Any site improvements affecting drainage structures, soil erosion control measures, or other special construction features as may be required by the Township Board or as proposed by the applicant, shall be guaranteed by a deposit with the township clerk, of cash, a certified check, a certificate of deposit or irrevocable bank letter of credit, whichever the applicant selects, or a surety bond acceptable to the Township, to insure the faithful completion of the improvements specified. The Township shall release funds on a pro rata basis as work is completed, subject to the township consulting engineer's inspection and approval of the work. The amount of the deposit shall be set by the Township based on reliable estimates of the cost of completing the work.

Section 8. Fees and Escrow Account.

The application fee for a private road shall be as established by resolution of the Township Board. If the Township Board determines that the basic fee is not adequate to cover the cost of inspections and application review by the township's consulting engineer, planner and/or attorney, the applicant shall deposit with the township clerk such additional fees in an amount determined by the Township Board equal to the additional costs. The additional fees shall be held in escrow in the applicant's name and shall be used to pay these additional costs. Failure of the applicant to make any escrow deposit required under this ordinance shall be deemed to make the application incomplete thereby justifying the denial of the application. Any unexpended funds held in escrow shall be returned to the applicant following approval of the final private road permit by the Township Board. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid within thirty (30) days of the date the written bill was sent to the applicant.

Section 9. Violations and Penalties.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under

this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

Section 10. Enforcement Officer.

The township supervisor is hereby authorized to administer and enforce this Ordinance. The township supervisor or deputies of the Kankaska County Sheriff Department are also hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 11. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 12. Separate Court Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 13. Variations.

(a) **Variations.** The Township Board shall have the authority to approve variations from the design standards of this Ordinance where it can be demonstrated by the applicant that the strict application of those standards would either preclude or unnecessarily restrict the use of the property, would be detrimental to the natural environment or would preclude coordination with adjacent properties. Before the Township Board decides to approve a variation in the design standards of this Ordinance, it shall make at least one of the following findings:

- (1) The property has an unusual shape or dimension (narrowness) that makes the strict application of the design standards impractical.
- (2) The variation is necessary to coordinate planning with adjacent properties.
- (3) The variation is necessary to protect and maintain the natural landscape including existing topography and slopes, mature woodlands, wetlands, ponds, streams and lake shores.

(b) **Limitations.** The Township Board shall limit the approval of variations to the areas necessary to satisfy the finding(s).

Section 14. Severability.

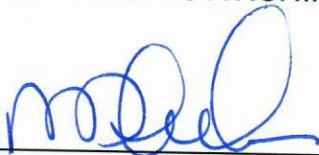
If any article, section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect

the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

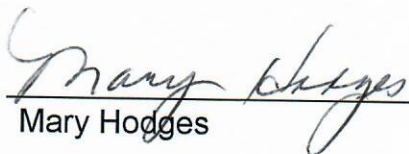
Section 15. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

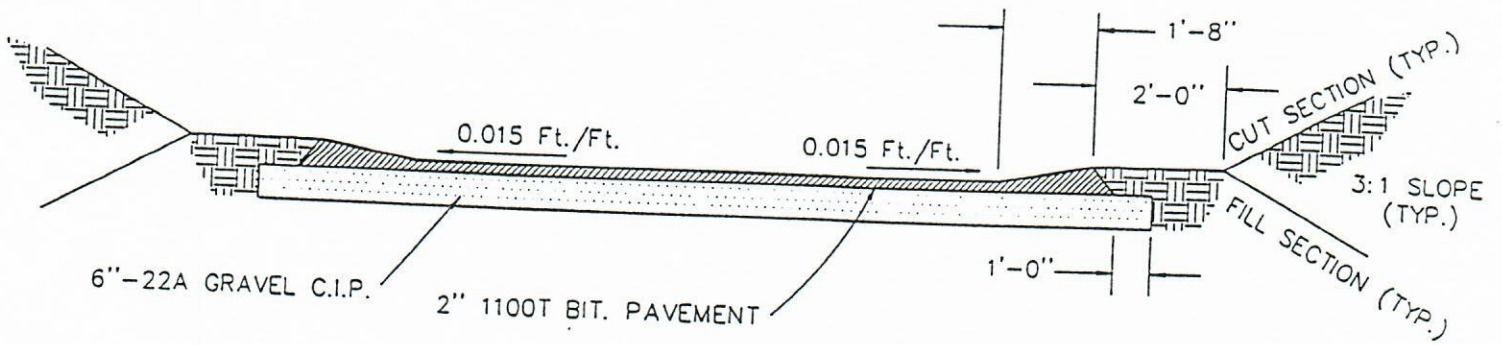
COLDSPRINGS TOWNSHIP

By: 
Michael Neubecker

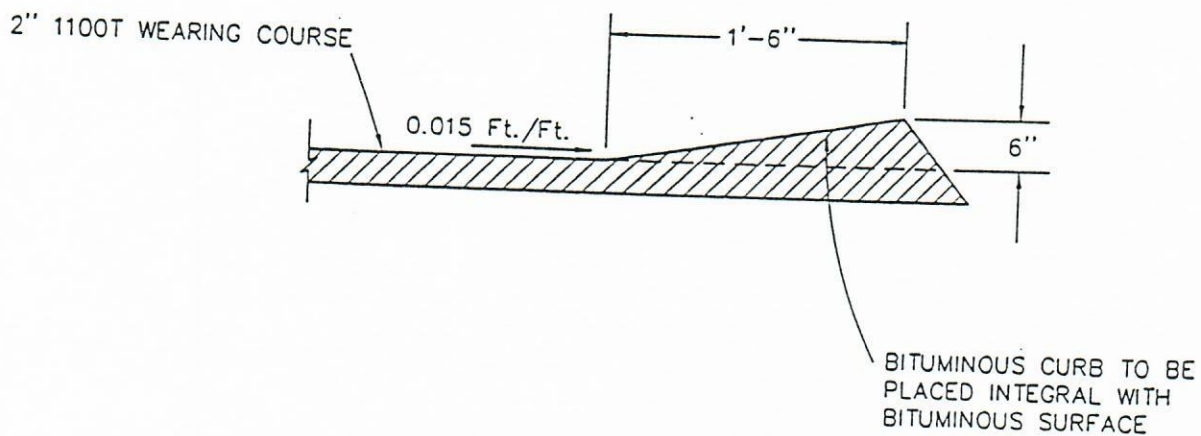
Its: Supervisor

By: 
Mary Hodges

Its: Clerk

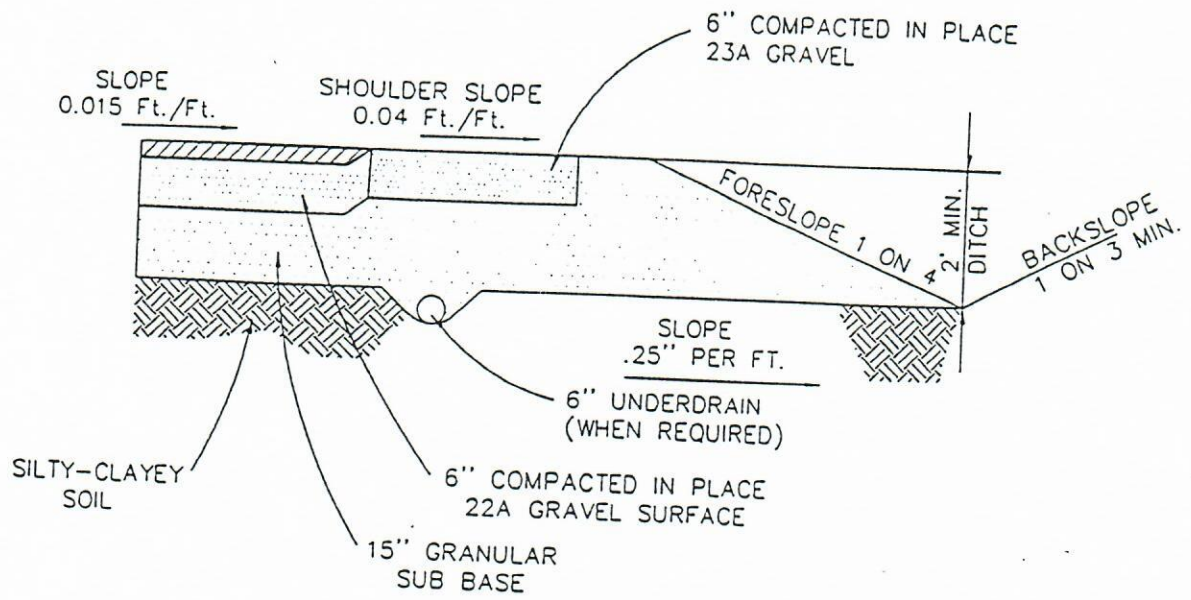


TYPICAL ROAD SECTION
WITH RAISED BIT. EDGES

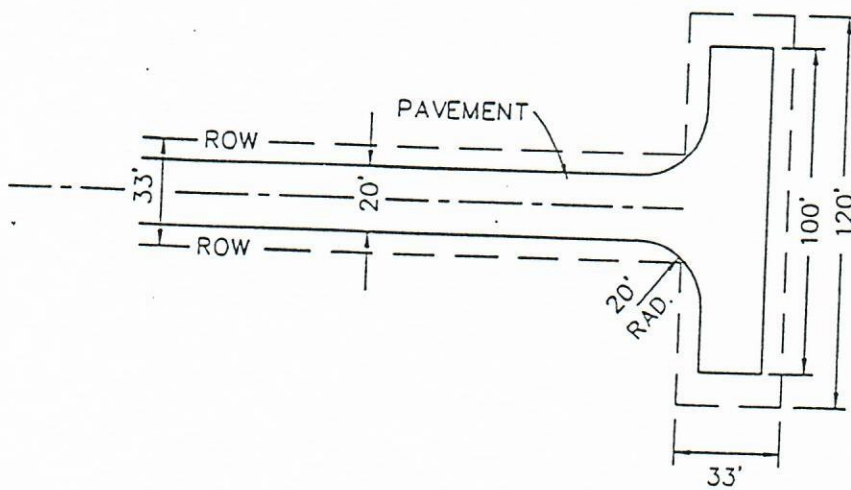


BITUMINOUS CURB

FIGURE 1

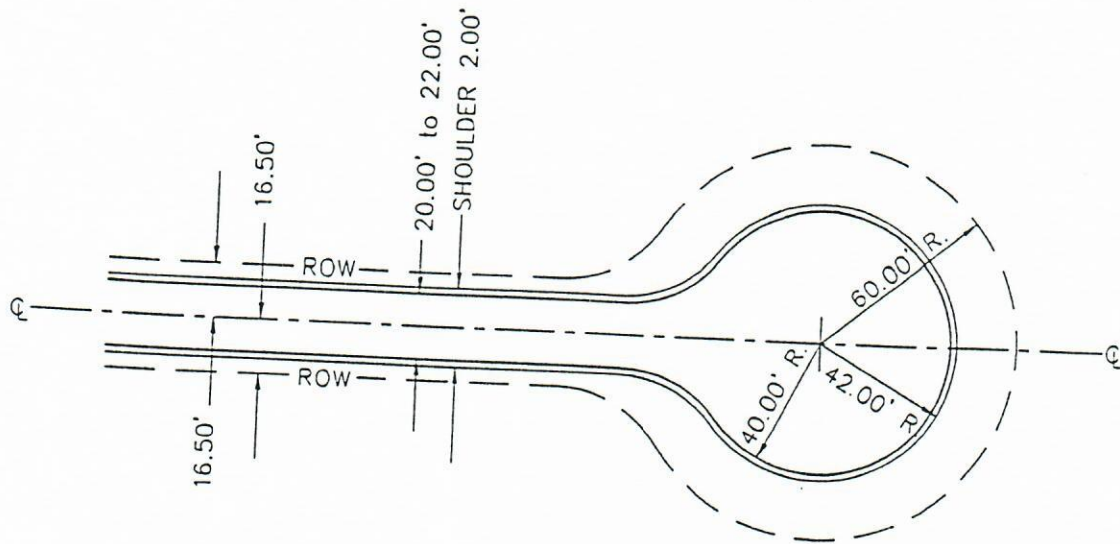


TYPICAL DITCH DETAIL

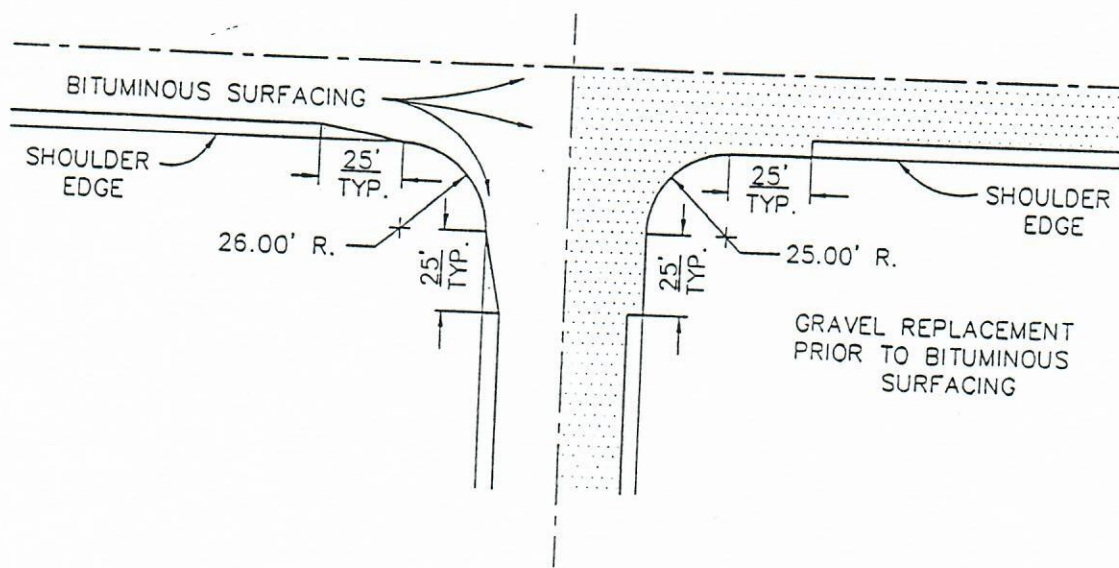


HAMMERHEAD TYPE TURNAROUND

FIGURE 2



TYPICAL
CUL-DE-SAC



TYPICAL
INTERSECTION

FIGURE 3