

An Interpretation of the Planning Commission

(April 4, 2005)

1. An Area Accessory Development Permit is required for Individual Sewer Service Lines / Connections in accordance with Rivergrove Land Development Ordinance (RLDO) Sections 1.050(e), 2.030, 6.010, and 6.020. The approval criteria for decisions on Area Accessory Development are found at RLDO Section 6.050. RLDO Section 6.050 reads in its entirety as follows:

"Section 6.050. Criteria for Decisions on Area Accessory Development.

- (a) A development permit shall be issued for an area accessory development if, in addition to complying with the plan and applicable standards, the location, size, design and operating characteristics of the proposal are appropriate to the needs of the area and will be reasonably compatible with and have minimal impact on the livability and development of abutting property and the surrounding area.
- (b) Consideration shall be given also to the following:
 - (1) harmony in scale, bulk, coverage and density;
 - (2) the availability of public facilities and utilities;
 - (3) the generation of traffic and the capacity of surrounding streets; and
 - (4) other relevant impacts of the development."

2. Since an Area Accessory Development Permit Application that is solely for an individual sewer service line / connection will almost certainly be consistent with the approval criteria at Section 6.050, a simplified and expedited permit application and processing procedure is desired.

3. The Planning Commission has previously authorized and instructed the staff to develop a simplified procedure for the processing of Area Accessory Development Permit Applications that are solely for individual sewer service lines / connections and has generally responded favorably to the proposals made. The issue has been raised concerning the Commission's authority to adopt simplified / expedited procedures under the RLDO versus the possible requirement for a legislative amendment to the RLDO to expressly provide for such a procedure.

4. Section 4.020 of the RLDO reads as follows:

"Section 4.020. Coordination of Development Procedures. The Commission shall be responsible for coordinating the development permit application and decision-making procedure and shall issue a development permit to an applicant whose application and proposed development complies with the plan and this ordinance after being provided with the detail required to establish full compliance with the requirements of this ordinance."

Section 4.020 gives the Planning Commission broad discretion and authority concerning development permit applications and decision-making procedures.

5. Section 3.090 of the RLDO reads as follows:

"Section 3.0920. Interpretation of the Land Development Code. It is the duty of the Planning Commission to interpret this Ordinance when necessary. These interpretations shall be made in writing and shall be available with copies of this Ordinance. A Planning Commission Interpretation of this Ordinance may be appealed to the City Council following the appeals procedure set forth in this Ordinance."

Whereas the Planning Commission has the authority and responsibility to interpret the RLDO under Section 3.090 of the RLDO, and whereas that interpretation shall be in writing and shall be available with copies of the RLDO, therefore the following written interpretation of the RLDO is hereby adopted by the Planning Commission at its regular meeting on April 4, 2005. Until this portion of the RLDO is revised or until a different interpretation of this portion of the RLDO is adopted by the Planning Commission or the City Council, the following interpretation shall be applied and enforced:

Interpretation

The broad discretion (and authority) the Planning Commission is given in Section 4.020 for "coordinating the development permit application and decision-making procedure" includes the power to delegate to staff the authority to grant tentative and conditional approval to Area Accessory Development Permit Applications that are solely for individual sewer service lines / connections, expressly subject to those conditions specified by the Commission and also expressly subject to validation by the Commission at its next regularly scheduled meeting. The Planning Commission does hereby delegate to staff such authority as per its guidance of March 7, 2005.