

**Interpretation of the Planning Commission**  
(October 11, 2004)

Section 5.080 of the Rivergrove Land Development Ordinance (RLDO) establishes general building setbacks in all zones and districts. Sections 5.080(a) and 5.080(b) establish setbacks for detached and attached residential structures. They read as follows:

**Section 5.080 General Building Setbacks in All Zones and Districts.**

- (a) All new detached residential structures built with [sic] any zone or district in the City of Rivergrove shall maintain the following setbacks from the property lines of the lot on which they are constructed or erected.

Front Setback – 25 feet

Side Setback – 10 feet

Side Setback on a Corner Lot – 15 feet (to insure better visibility)

Rear Setback – 25 feet (from the rear [sic] lot line or the ordinary high water mark – whichever is greater).

- (b) All new attached residential shall maintain the same set backs as detached residential around the perimeter of the structure.

Ordinance 70-2001 establishes water quality resource and floodplain development standards. Section VI requires that Water Quality Resource Areas be delineated as a separate tract. It reads in relevant part as follows:

- (A) The purpose of this section is to amend the city regulations governing land divisions to require that new subdivision and partition plats delineate and show the Water Quality Resource Area as a separate tract.
- (B) The standards for land divisions in Water Quality Resource Areas Overlay Zone shall apply in addition to the requirements of the city land division ordinance and zoning ordinance.
- (C) Prior to preliminary plat approval, the Water Quality Resource Area shall be shown as a separate tract, which shall not be part of any parcel use for construction of a dwelling unit.
- (D) Prior to final plat approval, ownership of the Water Quality Resource Area tract shall be identified to distinguish it from lots intended for development. The tract may be identified as any one of the following:

- (4) Any other ownership proposed by the owner and approved by the Council.

The above provisions do not specify whether setbacks must be determined by the new lot lines after the separate water quality resource tract has been created or if setbacks can be determined based on the original lot lines. After consultation and upon recommendation from the City Attorney, the Council has determined that compliance with Section VI(D)(4) does identify a particular type of ownership for the property but does not remove the separate tract requirement set out in Section VI(A).

The purpose of setback requirements is to maintain light, air, separation for fire protection, and access. They reflect the general building scale and placement of houses in the city's neighborhoods. Setbacks promote a reasonable physical relationship between residences and they promote options for privacy for neighboring properties. Setbacks also provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

The purposes of the Water Quality Resource requirements are to protect and improve water quality, to support beneficial water uses, and protect and maintain Flood Management Areas. This includes maintaining the vegetated corridor separating Protected Water Features from development, maintaining or reducing stream temperature, protecting natural stream corridors, minimizing erosion and pollution in the water and stabilizing slopes.

Both of these purposes will be served by interpreting the setback requirements from the original lot line rather than the lot line created after the Water Quality Resource tract is created. Adequate air, light and sight distance will be provided by the setback area that is provided by the unbuildable vegetative corridor requirement. A general uniformity of scale and house placement will be retained. Allowing for an overlap of setback and water quality resource area will further maximize the flexibility to site a building so that may be compatible with the neighborhood and fit the topography of the site.

Similarly, the water quality resource and vegetative corridor will still be adequately protected by all of the development regulations contained in Ordinance 70-2001. There is nothing in Ordinance 70-2001 that regulates uses outside the protected Water Quality Resource tracts, vegetated corridor or floodplain areas. Construction of permanent structures and other uses of the area in the protected tract will still be regulated by the terms of the Ordinance.

It is not reasonable to impose a double setback requirement. Since the purpose of the setback requirement is still furthered by measuring setback along the vegetative corridor tract and the protections given to the resource tract is not compromised by allowing an overlap of the setback requirement, it makes sense to allow a setback to be determined from the original lot line rather than the lot line after the resource tract has been created.

Finally, there is nothing in the language of the Ordinance, the RLDO or the intent of the Planning Commission when adopting this Ordinance to suggest that a double setback was intended when these regulations were adopted.

The Planning Commission has the authority and responsibility to interpret the RLDO. Section 3.090. That interpretation shall be in writing and shall be available with copies of the RLDO. The following interpretation of RLDO Sections 5.080(a) and (b) and Ordinance 70-2001, Section VI(D)(4) hereby adopted by the Planning Commission at its regular meeting on October 11, 2004. Until these Sections are revised or until a different interpretation of these Sections is adopted by the Planning Commission, these Sections shall be applied and enforced in accordance with the following interpretation:

### **INTERPRETATION**

The Planning Commission hereby interprets Sections 5.080(a) and (b) and Ordinance 70-2001, Section VI(D)(4) of the Rivergrove Land Development Ordinance to include the following requirement:

When a separate tract must be created to comply with Water Quality Resource requirements contained in Ordinance 70-2001, Section VI(D)(4) and that separate tract is in contiguous ownership with the parent tract, setbacks, as required by Sections 5.080(a) and (b), shall be determined by the lot lines of the original parent tract. However, this interpretation of setbacks does not alter or diminish any of the setback requirements or other obligations contained in Ordinance 70-2001.