

**INTERPETATION OF THE ZONING CODE  
LANDSCAPE PLANTER STRIP AND SIDEWALK EASEMENTS AREA ABUTTING A RIGHT-  
OF-WAY SHALL BE CONSIDERED AS PART OF THE RIGHT-OF-WAY FOR DETERMINING  
ALLOWED DENSITY.**

**I. ACTION REQUIRING INTERPETATION:**

The City Public Works Department has received a number of requests to deviate from the required street right-of-way width standards. Most recently, this has occurred with Georgian Heights I, II, III, and Stevenwood Plats and now the proposed Wood Trails and Montevello Preliminary Plats. The deviation requests have generally included a request to reduce right-of-way from 60 feet to 30 feet with part of the right-of-way cross-section, the landscape strip and sidewalk, being accomplished as an easement outside of the right-of-way, across the frontage of the private lots created by the subdivision. The problem created by this extension of cross-section elements outside the right-of-way is that the reduced area of the right-of-way has actually increased base density of the proposal beyond that intended by the Zoning Code.

Density is calculated under WMC 21.12.070 and .080. Under the Code, public rights-of-way, private streets, vehicle access easement, etc., are subtracted from the gross density (acreage) of a site before applying the base density for the zone in which it is located. The concern is that by subtracting rights-of-way that are less than the 60-foot wide as prescribed by City Street Standards, results in an increase in base density beyond that allowed by the Code.

**II. AUTHORITY:**

Authority to issue interpretations of all development regulations is granted the Planning Director under WMC 17.07.080.

**III. FINDING OF FACT:**

1. The City has received at least six (6) requests over the past three years for a deviation from the Street Standards for High Density Residential Streets (Plate 104) of the City Transportation Infrastructure Standards and Specifications.
2. The requests have generally been to reduce street right-of-way from sixty (60) feet to thirty (30) feet. This began with Georgian Heights Phase I Preliminary Plat, and was justified at that time to create additional lot depth because of the closeness of the wetlands and buffers. Reducing the right-of-way width allowed for deeper lots. Landscape strips and sidewalks were eliminated from the right-of-way and allowed as easements across the front of the abutting lots, seemingly still presenting a standards street cross-section, though part on easement.
4. Georgian Heights Phase II and III and Stevenwood Plats were also allowed a reduced right-of-way, but without any physical site constraints as justification. In these cases, the reduced right-of-way actually increased net density for the site.

5. The City now has a proposed plat, Woods Trail and one plat before TRC, both requesting 30-foot rights-of-way and both incorporating the reduction of right-of-way as a means to increase the base density of the sites beyond that intended in the Zoning Code.

#### IV. CONCLUSIONS:

1. The Zoning Code WMC 21.12.030A, establishes the base density for the City's zoning districts.
2. The Zoning Code WMC 21.12.030A, also establishes the maximum permitted density which cannot be exceeded other than by density transfer in the R-4 through R-6 zones and by density transfer and/or density incentives in the R-8 and greater zones.
3. WMC 21.12.070(1) states that, "The maximum allowed number of dwelling units shall be computed by multiplying the site area (in acres) by the applicable residential density, subject to WMC 21.12.080".
4. WMC 21.12.080(1) states that, "All areas of a site used in the calculation of allowed residential density . . . shall exclude from the site area the on-site areas designated for public rights-of-way, private streets, vehicle access easements, storm water facilities, and on-site recreation space subject to the adjustments for sensitive areas and their buffers . . .".
5. Transportation Infrastructure Standards and Specifications Section 1-1.7.1 Right-of-Way defines the right-of-way as, "All portions of the traveled way, curbs, gutters, sidewalks, medians, bike lanes, drainage facilities, landscaping, and other required improvements . . . within the right-of-way".
6. Part 3 of the Transportation Infrastructure Standards and Specifications, Street Cross Sections Plates 100 through 112B, Typical Roadway Sections, all show traffic lanes (travel way) curb, gutter, planter (landscape) and sidewalks as a part of and located within the right-of-way.

#### V. DISCUSSION

From the code definitions and diagrams of the elements of a right-of-way, it can be concluded that landscape planter strips and sidewalks are to be considered a part of the right-of-way (Conclusions 5 & 6). Both the Street Standards definition of the right-of-way include these elements as does the cross-sections of the street right-of-ways in the design plates under Part 3 of the Standards.

The Zoning Code states that public rights-of-way are to be excluded from the gross area of a site before determining density for the site.

When a deviation is granted for a reduced right of way, that reduced right-of-way shall include the full design elements shown as being a part of the right-of-way, consequently, if a deviation is given

from 60 feet to 30 feet, that 30 feet should include a street travel surface, curb, gutter, landscape strip and sidewalk. This was done with the Miller's Ridge Plat, where a deviation was given from 60 feet to 48 feet. The full right-of-way was developed with all the elements of that right-of-way included.

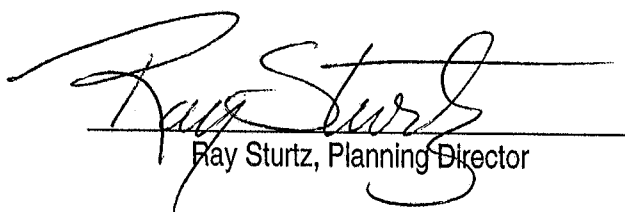
What has happened since the Miller's Ridge Plat is that in some instances, the right-of-way has been reduced to thirty (30) feet and only contain road surfaces, curb and gutter. The other two elements of the right-of-way, the landscape strip and sidewalk, have been shown as easements on the abutting property frontages. The reduced (30 ft.) right-of-way has then been deducted from the gross acreage when determining density for the site, as per code, but without consideration of the easement containing landscaping and sidewalks.

This method of calculating site density can result in an increase in the base density of a site beyond what is allowed by WMC 21.12.030A. The Code states that the right-of-way is to be subtracted from gross acreage to determine density; however right-of-way as used in the Zoning Code is intended to mean the full complement of elements of a right-of-way as defined in the Transportation Infrastructure Standards and Specifications definition of a right-of-way. That means an easement which contains portions of the elements of the right-of-way and which lies adjacent to that (reduced) right-of-way must be considered a part of that right-of-way when determining site density under WMC 21.12.080.

#### **VI. INTERPRETATION:**

The City shall include the area of any easement for required landscape planter strip and sidewalks abutting to the designated right-of-way as a part of the right-of-way for purposes of determining site density.

**Issued this 3<sup>rd</sup> day of November, 2004.**

  
Ray Sturtz, Planning Director