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## RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

Type of RID		Requested Response Time	DSD Assigned RID # <b>78</b>
Customer RID	<input type="checkbox"/>	24 hours	<input type="checkbox"/>
Internal Staff RID	<input checked="" type="checkbox"/>	5 working days	<input type="checkbox"/>
		As time available	<input checked="" type="checkbox"/>

**1. Project Name:** Applicability of RM-4, RM-5, RM-6 and density/lot size requirements - Section 35-310 Table 310-1; Note number 1, Note for Column B, C and D; Section 35-310.06 Mixed Residential Development; Section 35-373 Attached Dwellings for Older Persons; and Definitions for Density (Gross and Net) - (general issue)

**2. Project Number:** None  
(Plat #, Zoning Case #, etc.)

**3. Project Street Address:** None  
(If not available nearest intersection of two public streets)

**4. Applicant Name:** Planning and Development Service Staff, Plans & Permits

**5. Applicant Address:** 1901 S. Alamo

**6. Applicant Telephone #:** (210) 207-8281

**7. Applicant e-mail Address:** NA

**8. Rule in Question:** Specifically Density/Lot Size Requirements for RM Zoning  
(Section and/or policy of UDC, Building Code, Master Plan, etc.)

When does the minimum lot size for RM-4, RM-5, and RM-6 apply? How is it calculated, when is it applied, and it is applicable only under some circumstances?

**9. Applicant's Position:** NA  
(Including date position presented and name of city staff point of contact)

**Date:**      **Contact:**      **Contact Telephone #:**

**10. Staff Finding:**  
(Including date of finding and name of city staff person formulating finding)

**Date:** 11/20/2008 **Contact:** Richard Chamberlin **Contact Telephone #:** (210) 207-8281

Staff finds that there are different interpretations of Section 35-310, Table 310-1, notes to the Table; Section 35-310.06 Mixed Residential Development; Section 35-373 Attached Dwellings for Older Persons; and Appendix A - definitions for density (gross and net). Different interpretations affect the ability of the development community to plan accordingly and Planning and Development Services staff to provide consistent directions

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to applicants for re-zoning cases, MDP/platting reviews, and for building reviews for permit applications.

### **11. Staff Position:**

(Including date position presented internally and name of city staff person formulating position)

**Date:** 11/20/2008    **Contact:** Richard Chamberlin    **Contact Telephone #:** (210) 207-8281

Staff finds the following policies in place (specifically plan review unless otherwise stated).

Table 310-1 contains the minimum lot size requirements and maximum density in units per acre for RM-4, RM-5 and RM-6. Table 310-1 is currently applied on a lot by lot basis during plan review when a duplex or other type of development is submitted for a residential building permit.

The note to Table 310-1, Column (B) and (C) indicates that the minimum lot size only applies to "Conventional Option, single family detached developments". Currently this note is ignored by review staff. The note to Table 35-310-1 for Column (D) – maximum density, indicates that the gross density definition is to be used. By definition gross density is dwelling units per acre including un-developable areas such as roads and open space. Staff currently applies gross density on a lot by lot basis during a permit application for a structure on a single lot even if that one lot is part of a multiple lot development for which the gross density definition is more appropriate. The note #1 to Table 310-1 indicates that RM requirements are modified by further UDC sections regarding zero-lot line and other development types (other than single family).

Section 35-373 is titled "Attached Dwellings...for Older Persons", and appropriately applied by staff for any dwellings intended for any age based on the type of dwelling unit. Subsection 35-373(b) for townhomes specifically state that minimum lot sizes do not apply. Subsection 35-373(d) for cottage housing allows reduced minimum lot sizes according to the table in that section. Subsection 35-373(c) for zero-lot line units do not indicate how to handle minimum lot sizes, and there is no subsection for duplex, triplex or quadplex type structures. Staff attempts to apply the minimum lot sizes in Table 310-1 and modify the requirement depending on the type of development proposed in the permit application as per 35-373.

Section 35-310.05 (R-3 Zoning) allows single-family attached (including duplex, triplex etc on the same lot), townhomes, zero-lot line and garden homes and states that in a RM zoned district, up 15% of the gross lots in the subdivision may be developed as R-3 by right without additional zoning. (It is therefore implied that there must be 7 total RM lots in a development for one to be considered R-3 to meet the 15%). This section goes on to further allow up to 20% of the R-3 lots to be not less than 2,000 square feet, with equal amount of lots less than 3,500 with average lot size not less than 3,000. Currently staff ignores this section when reviewing a lot

zoned RM where the lot size may be less than that required by Table 310-1 and/or further modified by 35-373 and one of its subsections.

In Section 35-310.06 for Mixed Residential, under the Statement of Purpose, it states “Mixed residential districts provide flexible minimum lot size and density requirements....” The subsection 35-310.6(a) repeats that R-3 lots may be developed if they meet the minimum lot sizes of section 35-310.05. The section further specifies that if there are 10 or more RM lots in the development, then a mixture of housing types must be provided, with no more than 80% of the same housing type.

*Development of ten (10) or more "RM-6", "RM-5", and "RM-4" mixed residential lots in any one project shall have no more than eighty (80) percent of the lot consisting of one (1) type of housing as outlined in (2) below. The remaining twenty (20) percent of the lots may be developed in any combination of one (1) or more of the housing types not used in the eighty (80) percent limit defined above.*

A housing site plan (HSP) must be presented at platting (or at permitting for existing platted lots) for all new subdivisions using RM zoning, regardless of size of the subdivision.

*"RM-6", "RM-5", and "RM-4" mixed residential zoned property must submit with the plat application a housing site plan (HSP) which conforms to the provisions of subsection (a) above which will be utilized as the basis for issuing building permits.*

For existing platted property with RM zoning, a HSP is only required if more than 10 lots are provided.

*Existing platted property zoned "RM-6", "RM-5", and "RM-4" mixed residential shall submit a housing site plan (HSP) if the number of lots in the project exceed ten (10) units.*

Staff recognizes a conflict in the three code sections cited above: specifically the mixture of housing types is required when “ten or more” lots are proposed, a HSP is required for all new RM plats regardless of lot count, and RM developments that are already platted require a HSP if “exceed [sic] ten (10) units.” The table below details the requirements as currently stated in the UDC:

**Table of Housing Site Plan and Housing Type Requirements**

<i>Number of Lots</i>	<i>Lot Status</i>	<i>Housing Site Plan Requirement</i>	<i>Mixture of Housing Types Requirement</i>
1 through 9	Unplatted	Yes	No
1 through 9	Platted	No	No
10	Unplatted	Yes	Yes
10	Platted	No	Yes
11 or more	Unplatted	Yes	Yes
11 or more	Platted	Yes	Yes

Plan review staff does not currently ask for the HSP, either a previously City approved copy as part of a new subdivision, or new HSP to review for an existing older development. Subsection 35-310.06(a)(1) states that only the density restrictions of Table 310-1 apply and not the front, side and rear setbacks (Column H, I, J, and K) with no mention of minimum lot size. Subsection 35-310.06(a)(2) then contradicts the previous subsection by stating that Table 310-1 only applies to single-family detached dwellings. With all the contradictions, plan review staff currently ignores this section of the UDC in review of building permit applications for a RM zoned property.

**12. Departmental Policy or Action:**

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director of Development Services)

**Date of policy/action:** 11/20/2008    **Effective Date of policy/action:** 11/20/2008

The Director finds that the following policy and UDC interpretation is valid and to be followed by Planning and Development Services staff.

A.    **HSP requirement for new RM subdivisions** - RM-zoning requires an approved HSP for all the lots that make up the development. The HSP must be reviewed and meet the requirements of mixed residential for percentage of housing types. This HSP must be submitted with the platting process for review and approval and be then included with the application package for the first building permit(s). In accordance with §35-310.06(a) the HSP shall be recorded with the plat and subsequent amendments may be approved through the amending plat process. The HSP shall provide the following information:

1.    Gross density
2.    Site zoning district(s), a HSP is not required for PUD districts.
3.    Percentage of lots to be reviewed under R-3 zoning, if applicable.
4.    Lots must meet the 80%/20% criteria of §35-310.06(a).
5.    Legal description of all lots, if not available from the attached plat.
6.    Existing and proposed easements.
7.    Building footprints.
8.    Minimum zoning setbacks.
9.    Driveway locations.
10.   Building heights.
11.   Indication of street frontage requirements and minimum lot width.
12.   Owner/Developer Name and Address.
13.   Engineer Name and Address.
14.   Plat name and ID number.

A proposal for all one type of development on ten or more lots is an automatic disapproval of the HSP and disapproval of the plat or building permit. As there is no requirement to provide the mixed housing type for projects of one to nine lots in size, the Department will not require a HSP for subdivision plats of one to nine lots in size. A HSP

shall be required in conjunction with new subdivision plats in the RM districts of ten lots or greater in size.

**B. HSP requirement for platted RM subdivisions** - A platted development with 10 lots or less is not required to submit a HSP for review and approval for platting or building permits, and may be designed and developed as one type of development; however the mixture of housing types is required when there are ten or more lots. To facilitate the review for compliance with requirement for mixed housing types, a HSP shall be required for platted RM subdivisions with ten or more lots. Platted subdivisions zoned RM with 9 or less lots shall therefore not require the HSP.

When the property(s) is/are already platted, then the HSP must be submitted with the first building permit to PDSD for review and approval for the development on 10 or more lots. In such cases the Director may approve any subsequent amendments to the HSP. The building review section of Plans and Permits is expected to keep a copy of the approved HSP for reference by plan examiners during subsequent building permit applications submitted for review. Subsequent development must meet the Department approved HSP for percentage of development types.

**Revised Table of Housing Site Plan and Housing Type Requirements**

<i>Number of Lots</i>	<i>Lot Status</i>	<i>Housing Site Plan Requirement</i>	<i>Mixture of Housing Types Requirement</i>
1 through 9	Platted or unplatted	No	No
10 or more	Platted or unplatted	Yes	Yes

**C. Minimum lot sizes, multiple lot development** - Minimum lot sizes of Table 310-1 are not enforceable for RM zoning for a multiple lot RM development where development other than single family detached is requested, since:

1. R-3 can be developed by right on RM zoned property without rezoning if there are 7 lots or more. R-3 can be developed as 3,000 square feet minimum, and sometimes down to 2,000 square feet as per 35-310.05; less than that of the RM districts including RM-4.
2. Minimum lot sizes in Table 310-1 only apply to conventional single family detached housing, by the note to column B and C, and as per 35-310.06(a)(2).
3. By 35-310.06, only the density requirements of Table 310-1 are applicable for RM zoning if developed as non-single family detached.
4. Density requirements will still be applied during review using the gross area definition for multi-lot subdivisions, meaning that the area includes streets and open spaces. Using this definition, the density requirement of the RM development will still be required to be met even though some or no lots meet the minimum lot size. For multiple lot development, if the density is met then the minimum lot size need not be enforced.

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D. **Minimum lot sizes, single lot development** - Minimum lot sizes are not enforceable for a single RM-zoned lot being developed, as long as single family detached housing is not proposed. If the proposed housing type is duplex, triplex, townhomes, attached single family etc, then the minimum lot size of Table 310 does not apply. However, the density requirement of Table 310-1 does apply, as well as other UDC code issues such as open space requirements, UDC and IRC required setbacks, any parking requirements, etc. In affect, for a particular proposed building size, there is - by default - a "minimum lot" that the proposed project can be built upon, though it may be less than Table 310-1.

E. **Single family Detached Development in RM zoning districts** - RM-zoning with single family detached housing requires a minimum lot size. Any single lot zoned RM that proposes a single family detached dwelling unit shall meet the minimum lot size of Table 310-1, whether that lot is a single lot development, or that lot is part of a multi-lot development. Zero-lot line homes shall meet the minimum lot size.

F. Other items in Table 310-1 should be followed unless modified by further sections of the code.



Roderick Sanchez, AICP, CBO

Director, Planning & Development Services Department