



Rule Interpretation Determination

Determination #: 2019-002

Title: Right-of-Way Width Dedication by an Amending Plat RID

Drafted by: *Land Development Engineering*

Rule in Question: UDC 35-441, 35-506(g) and Local Government Code Sect. 212.016

Department Action: This RID is for clarification purposes and does not require a Unified Development Code (UDC) amendment. The department concurs with staff's position as presented below and subsequently will be applying the code interpretation as outlined herein. This amendment to the process will streamline and allow applicants to dedicate additional right-of-way width and to modify existing property lines adjacent to an existing street as part of an amending plat as per Section 35-441 of the UDC when such dedication is required elsewhere by the UDC, such as 35-506(g) – Major Thoroughfare Plan, and 35-502(d) – TIA and Rough Proportionality. Projects eligible to utilize the amending plat to dedicate right-of-way width will not have the option of limited review and shall be fully canvassed by all official reviewing agencies and departments of the City. Additionally, all SAWS and CPS fees typically required by code for an amending plat will be assessed in accordance with applicable codes and fee schedules.

A handwritten signature in blue ink, appearing to read "MPSH", written over a horizontal line.

Michael Shannon, PE, CBO
Development Services Director

A handwritten date "4-16-19" in blue ink, written over a horizontal line.

Date

Effective Date of Determination: Immediately

Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.

Staff Analysis: Staff's position is that UDC Section 35-441(a) should be interpreted to allow for utilization of an amending plat option for right-of-way dedication to existing street widths, which we find consistent with state law, Local Government Code, Section 212.016(11). Currently Section 35-441(a) has a total of fifteen (15) purposes listed for which a plat may be formally amended without submittal for a new plat. The department interpretation has been that right-of-

way width dedication requires the submittal of a new plat and cannot be captured under an amending plat. This requirement incurs to the applicant significant project delays and additional cost for engineering and platting fees. Staff proposes that right-of-way width dedication be interpreted as an acceptable purpose for amending a plat when such dedication is a requirement placed upon a development at either the platting or the building permit stage under UDC Article V, sections 35-502 and 35-506. Consultations with both the Transportation & Capital Improvements Department (TCI) and the City Attorney's Office (CAO) have concluded that such interpretation is both legal and beneficial to the City and will facilitate and streamline the process for development stakeholders.

Section 35-441(a) of the UDC states the following;

(a) Applicability. Pursuant to V.T.C.A. Local Government Code §212.016, a plat may be amended, and the director may issue an amending plat, if the amending plat is signed by the applicants only and is solely for one (1) or more of the following purposes:

Furthermore, the Local Government Code §212.016(11) states the following;

(11) To re-plat one or more lots fronting on an existing street if:

(A) the owners of all those lots join in the application for amending the plat;

(B) the amendment does not attempt to remove recorded covenants or restrictions;

(C) the amendment does not increase the number of lots; and

(D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

The CAO has concluded concerning this statute as follows;

“After reviewing Local Government Code §212.016(11) and other references within the Local Government Code, we conclude that the statute in question permits amendments that are dedications on either side of an existing street including additional right-of-way dedications for the purpose of pavement-widening, right or left turn lanes, drainage improvements, or streetscape improvements. All dedications must have appropriate canvassing by applicant and a determination if the dedication will conflict with underlying easements. At a minimum, SAWS, CPS, and TCI should be included in the canvassing in addition to other agencies depending upon the nature of the dedication. However, the Amending Plat statute does not permit dedications of new streets or the lengthening of existing streets, nor does it permit the extension of municipal facilities to serve such dedications. Such amendments may require a re-plat pursuant to UDC Section 35-430.”

Staff Position and Interpretation:

Staff finds it is both lawful and beneficial for the City to allow for dedication of additional right-of-way width to existing streets through the amending plat process when such dedication is required under the UDC for approval of a building permit application and the developing parcel is already platted. Staff proposes that this interpretation should be incorporated into current process immediately.

Future UDC Amendments:

None Required – Interpretation is implied in UDC 35-441(a) (11) which is taken directly from Local Government Code §212.016(11).