

## #D-103 PRIVATE ROADS STANDARDS

### SUPPLEMENTAL STAFF REPORT

**SUMMARY:** This Supplemental Staff Report provides responses to issues that were raised at a Planning Commission meeting regarding amendments to the Renton Municipal Code Development Regulations (Title IV). It also includes additional information that staff has identified as being necessary to include in the analysis for amendments.

#### **General Description**

Currently, private streets may be allowed to serve up to six lots if two of the lots front a public street and a public street is not anticipated to be necessary for existing or future traffic and/or pedestrian circulation. Private streets have been installed in numerous developments as it is a cheaper alternative to a public street and because it requires less land area and therefore potentially increases lot yield for developers. Owners of lots served by these private streets are often unaware the street is not public and that they are responsible for continued maintenance; furthermore, there usually is not an organization (e.g., HOA) to establish a fund to pay for the maintenance, which makes the cost of repairs daunting after years of neglect.

In addition, private streets are generally undesirable because they do not provide elements such as sidewalk or landscaping, and are usually always dead-end streets, which reduce connectivity in residential neighborhoods.

In an effort to ensure that property owners are aware of their maintenance responsibilities as the owners of the private access facilities, and to reduce the number of such facilities within the City, the following summarized key revisions to RMC 4-6-060(J) are proposed:

- “Private Streets” will no longer be allowed (except by Planned Urban Developments); instead, “Shared Driveways” will be an option to access up to four lots; and
- Shared driveways will only be allowed to serve lots that are not created by the division of 10 or more lots; and
- Shared driveways shall not exceed 200 feet in length; and
- The developer shall record a maintenance agreement or covenant for the continued maintenance of the driveway.

**Planning Commission Issue:** Concern was raised about the effectiveness of an HOA to ensure continued maintenance. In addition, staff continued to have discussions about requiring the driveway to be within a tract versus an easement.

#### **Staff Response:**

Maintenance: Upon further discussion, staff agreed that a recorded joint use agreement or covenant would be more effective to ensure the continued maintenance of the shared driveway than requiring that an organization (e.g., HOA) be established to manage

maintenance. This does not prevent an HOA from being established, but it will provide both the City and affected landowners with sufficient recourse. The following language is the result:

- a. **Maintenance:** The applicant shall ensure the shared driveway can be continually maintained to minimum standards listed herein by the owners of the lots served by the driveway to the satisfaction of the Department of Community and Economic Development, prior to the recording of the short plat.
  - (i) A joint use ownership agreement or covenant, which is approved by the Administrator, shall be executed and recorded with the King County Assessor's Office prior to the issuance of permits. A copy of the recorded agreement shall be provided to the City. Such documents shall specify ownership rights and maintenance provisions, including: specifying the parcels to which the agreement shall apply; providing that the driveway shall be owned jointly by the participating parcels and that the ownership shall run with the land; providing for easements to access the driveway from each lot served and provide for access for maintenance; providing apportionment of construction and maintenance expenses; and providing a means for resolution of disputes, including arbitration and filing of liens and assessments; and
  - (ii) The joint use ownership agreement or covenant shall also be recorded on the face of the plat.

Easement versus Tract: The consensus among staff is that the shared driveway should be within a tract rather than an easement; however, some staff have recommended that an access easement also be placed upon the tract. The reasoning being that if all affected property owners have an equal interest in the tract, any one property owner has the ability to deny access to another. The easement would also specify that parking within the easement is prohibited except for emergency service vehicles. The following language is the result:

**4. Tract Required:** The shared driveway shall be wholly within a tract. The tract shall be shown and recorded on the face of the plat to be preserved in perpetuity. The owners of the subject lots shall have an equal and undivided interest in the ownership of the tract.

**5. Easement Required:** An access easement shall be shown to encumber the entirety of the tract and shall be recorded on the face of the plat to be preserved in perpetuity. The easement shall grant access to the public and shall prohibit any temporary or permanent physical obstructions within the easement including, but not limited to, the parking of non-emergency vehicles.

## **Impact Analysis**

### Effect on rate of growth, development, and conversion of land as envisioned in the Plan

It is nearly impossible to make an accurate assessment of how the proposed revisions will affect the rate of growth in the City. The proposed reduction of lots that may be accessed from a shared driveway (formerly a private street) suggests there would automatically be a reduced rate of growth due to the potential reduction in density of future subdivisions. However, the current standards do not allow the use of private streets outright (the City has discretion to deny their use) and therefore not every property that has the potential to be subdivided is eligible for access via a private street. Furthermore, the ineligibility to provide access to more than four lots does not necessarily preclude the division of land (public streets can potentially be used). The proposed revisions would have a negligible effect on the City's rate of growth.

Conversely, the revisions would contribute to a higher standard of development by limiting the creation of private access drives. Current standards allow an inarguably lesser quality form of vehicular access to lots, and they do not provide other elements that public streets provide (sidewalks, bike lanes, on-street parking, landscaping, etc.), which contribute to the quality of development and life of affected residents. By still allowing lots to be accessed via "private streets" (albeit fewer), relatively small areas of land will continue to be divided when other alternatives are not viable. However, the decreased lot yield of a division based on private access might cause developers to secure additional land in order to attain a lot yield that would justify a public road, or developers might consider creating a Planned Urban Development, which would create a higher quality of development in either scenario. In addition, requiring that an organization be created to secure funding for continued maintenance would allow these private drives to not fall into disrepair.

The potential effect on the rate of growth aside, the conversion of land as envisioned by the Plan should not change as a result of the proposed revisions.

### Effect on the City's capacity to provide adequate public facilities

Not applicable

### Effect on the rate of population and employment growth

The potential reduction in density that might otherwise be achievable if the number of lots that may be accessed via a "private street" were not reduced from six to four will have a negligible effect on the rate of population and employment growth.

### Whether Plan objectives are being met as specified or remain valid and desirable

While no Plan objective is specifically related to private streets, several Plan objectives specify the kind of residential development that is desirable. Therefore, because private streets do not contribute to the type of development that is specified as being desirable in the Plan and the proposed text amendments further limit the creation of private streets, the following objectives remain valid and are being furthered:

Objective CD-C: Promote reinvestment in and upgrade of existing residential neighborhoods through redevelopment of small, underutilized parcels with infill development, modification and alteration of older housing stock, and improvements to streets and sidewalks to increase property values.

Objective CD-D: New development should have an interconnected road network that supports multi-modal transportation.

Objective CD-E: New development and infill patterns should be consistent with a high quality urban form.

Objective CD-O: Promote development of attractive, walkable neighborhoods and shopping areas by ensuring that streets are safe, convenient, and pleasant for pedestrians.

Objective CD-P: Develop a system of residential streets, sidewalks, and alleys that serve both vehicles and pedestrians.

Effect on general land values or housing costs

The proposed amendments will likely have an insignificant effect on land values and housing costs.

Whether capital improvements or expenditures are being made or completed as expected

Not applicable

Consistency with GMA, the Plan, and Countywide Planning Policies

The proposal is consistent with the planning goals of the GMA, specifically:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner; and

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

The proposal is also consistent with the Countywide Planning Policies, specifically:

DP-7 Plan for development patterns that promote safe and healthy routes to and from public Schools; and

DP-44 Adopt design standards or guidelines that foster infill development that is compatible with the existing or desired urban character.

The proposal is consistent with the Policies of the Comprehensive Plan, specifically:

Policy CD-25. Streets, sidewalks, and pedestrian or bike paths should be arranged as an interconnecting network. Dead-end streets and cul-de-sacs should be discouraged. A grid or “flexible grid” pattern of streets and pathways, with a hierarchy of widths and corresponding traffic volumes, should be used.

Policy CD-44. Development should be designed (e.g. site layout, building orientation, setbacks, landscape areas and open space, parking, and outdoor activity areas) to result in a high quality development as a primary goal, rather than to maximize density as a first consideration.

Effect on critical areas and natural resource lands

Not applicable

Effect on other considerations

None

**Staff Recommendation**

Amend RMC 4-4-060J and delete 4-4-060K as described in order to effectively limit the use of private access drives and, when suitable for proposed development or short plat, require a maintenance agreement be recorded.

**Implementation Requirements**

Adopt an ordinance amending the "Private Street Standards" in RMC 4-6-060J, and delete RMC 4-6-060K "Shared Driveways – When Permitted."



#### 4-6-060(J) ~~PRIVATE STREET~~ **SHARED DRIVEWAY** STANDARDS:

1. **When Permitted:** ~~Private streets are~~ Shared driveways may be allowed for access to four (4) ~~six (6)~~ or fewer residential lots or up to four (4) dwelling units, provided:

- a. At least one (1) ~~two (2)~~ of the four (4) ~~six (6)~~ lots abuts a public right-of-way with at least fifty (50) linear feet of property; and
- b. The subject lots are not created by a subdivision of 10 or more lots; and ~~private streets will only be permitted if~~
- c. A public street is not anticipated by the Department of Community and Economic Development to be necessary for existing or future traffic and/or pedestrian circulation through the short plat subdivision or to serve adjacent property; and
- d. The shared driveway would not adversely affect future circulation to neighboring properties; and
- e. The shared driveway is no more than 200 feet in length; and
- f. **Maintenance:** The applicant shall ensure the shared driveway can be continually maintained to minimum standards listed herein by the owners of the lots served by the driveway to the satisfaction of the Department of Community and Economic Development, prior to the recording of the short plat.
  - (i) A joint use ownership agreement or covenant, which is approved by the Administrator, shall be executed and recorded with the King County Assessor's Office prior to the issuance of permits. A copy of the recorded agreement shall be provided to the City. Such documents shall specify ownership rights and maintenance provisions, including: specifying the parcels to which the agreement shall apply; providing that the driveway shall be owned jointly by the participating parcels and that the ownership shall run with the land; providing for easements to access the driveway from each lot served and provide for access for maintenance; providing apportionment of construction and maintenance expenses; and providing a means for resolution of disputes, including arbitration and filing of liens and assessments; and
  - (ii) The joint use ownership agreement or covenant shall also be recorded on the face of the plat.

2. **Minimum Standards:** ~~Such Shared driveways private streets~~ shall consist of a minimum ~~of a~~ twenty-six foot (26') wide easement tract with a twenty foot (20') pavement width. The shared driveway ~~private street~~ shall may

~~be required to~~ provide a turnaround ~~per 4-6-060H. meeting the minimum requirements of this Chapter.~~ No sidewalks are required for ~~shared driveways private streets~~; however, drainage improvements pursuant to City Code are required (~~i.e., collection and treatment of stormwater~~), as well as an approved pavement thickness (minimum of four inches (4") asphalt over six inches (6") crushed rock). The maximum grade for the ~~shared driveway private street~~ shall not exceed fifteen percent (15%), except for within approved hillside subdivisions. ~~The land area included in private street easements shall not be included in the required minimum lot area for purposes of subdivision.~~

**3. Signage Required:** Appurtenant traffic control devices including installation of ~~traffic and street name~~ "no parking" signs, as required by the Department of Community and Economic Development, shall be provided by the subdivider. Lots served by the shared driveway shall be addressed to the public street to which the shared driveway connects. ~~The street name signs will include a sign labeled "Private Street."~~

**4. Tract Required:** The shared driveway shall be wholly within a tract. The tract shall be shown and recorded on the face of the plat to be preserved in perpetuity. The owners of the subject lots shall have an equal and undivided interest in the ownership of the tract.

**5. Easement Required:** An access easement ~~will be required to create the private street~~ shall be shown to encumber the entirety of the tract and shall be recorded on the face of the plat to be preserved in perpetuity. The easement shall grant access to the public and shall prohibit any temporary or permanent physical obstructions within the easement including, but not limited to, the parking of non-emergency vehicles.

**6.5. Timing of Improvements:** The ~~shared driveway private street~~ must be installed prior to recording of the plat unless approved for deferral. ~~deferred.~~ (Ord. 5100, 11-1-2004; Ord. 5517, 12-14-2009; Ord. 5702, 12-9-2013)

#### **~~K. SHARED DRIVEWAYS – WHEN PERMITTED:~~**

~~A shared private driveway may be permitted for access up to a maximum of four (4) lots. Up to three (3) of the lots may use the driveway as primary access for emergencies. The remainder of the lots must have physical frontage along a street for primary and emergency access and shall only be allowed vehicular access from the shared private driveway. The private access easement shall be a minimum of sixteen feet (16') in width, with a maximum of twelve feet (12') paved driveway. Minimum turnaround requirements for emergency access to lots can be found in subsection H of this Section. (Ord. 5517, 12-14-2009)~~