RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

Type of RID		Requested Response Time		DSD Assigned RID # 002
Customer RID	☒	24 hours	☐	
Internal Staff RID	☐	5 working days	☒	
		As time available	☐	

1. Project Name: Wind Gate Ranch U-1A PUD

2. Project Number: PUD Plan #04006 & Plat # 040066
(Plat #, Zoning Case #, etc.)

3. Project Street Address: Wind Gate Pkwy. & Culebra Rd.
(If not available nearest intersection of two public streets)

4. Applicant Name: Overby Descamps Engineers

5. Applicant Address: 11815 Warfeild
San Antonio, Texas 78216

6. Applicant Telephone #: (210) 828-3520

7. Applicant e-mail Address: na

8. Rule in Question:
(Section and/or policy of UDC, Building Code, Master Plan, etc)

35-506 Transportation and Street Design
(d)Cross-Section and Construction Standards
(1) Interior Streets

The subdivider shall dedicate all interior Streets within the subdivision based upon the following tables:

(g) Dedication of Arterial
(1) Adjacent streets.

The subdivider shall dedicate right-of-way width and provide pavement width in accordance with the following table and typical sections in subsection (d) of this Section.

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

Date: 4/29/2004 **Contact:** Ed Descamps, P.E.
Contact Telephone #: (210) 828-3520

The applicant's position is that UDC only requires street dedication but no construction. More specifically, the claim is that because the term construction is absent when the term "dedication"(standing alone) is used in connection with cited UDC provisions, city staff's interpretation to include construction is not applicable.

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

Date: 3/29/04 Contact: Edward Guzman **Contact Telephone #** (210) 207-7892

Of the two provisions being challenged 35-506(d)(1) references dedication with no text indicating construction. However 35-506(g)(1) refers to dedication of ROW and the provision of pavement width". Historically the staff finds that the City has always required dedication as a requirement of ROW dedication unless construction was waived due to unique circumstances and such waiver was granted by approval of a variance requested by the applicant and approved by the Planning Commission during the platting process.

11. Staff Position:
(Including date position presented internally and name of city staff person formulating position)

Date: 04/07/07 **Contact:** Bill Telford **Contact Telephone #:** (210) 207-7879

Staff maintains a position that (1) the UDC in 35-506(g)(1) requires construction since the provision of providing pavement width cannot be met without construction. Staff further finds that the historical action of the Planning Commission has been to interpret both of the applicant's cited provisions as requiring construction and have not waived the requirement to construct a dedicated street without a variance request from the applicant.

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: 4/12/04 **Effective Date of policy/action:** 4/12/04

The Director of Development Services finds that the staff position accurately represents both the UDC and the past history of the Planning Commission to require dedication and construction of all arterials appearing on the City's Major Thoroughfare Plan.

Based on this finding the Director finds that the applicant has three options to purse:

1. Submit the plat with dedication and construction plans for the developer to construct the street.
2. Submit the plat with a variance request to the Planning Commission to waive construction of the arterial.

3. Submit the plat with a variance request asking for a development agreement that would allow the owner to construct the arterial at a within a specified time by means of posting a bond and full plans for construction.

The Director further reasserts the position that the policy of requiring both dedication and construction is properly denoted under Section 35-506, (g) Dedication of Arterial, (1) Adjacent streets and that it shall therefore continue to be enforced by the staff. To further clarify the provision the Director directs that during the annual UDC amendment and update process that the provisions of Section 35-506, (g) Dedication of Arterial, (1) Adjacent Streets be amended by adding the following underlined text:

(g) Dedication of Arterial
(1) Adjacent streets.

The subdivider shall dedicate right-of-way and construct the required street to the ~~width and provide~~ pavement width and construction standards in accordance with the following table and typical sections in subsection (d) of this Section.

Florencio Peña, ~~Director~~
Development Services Department