OFFICE OF THE CITY MANAGER COUNCIL AGENDA

AGENDA

SPECIAL CITY COUNCIL MEETING
July 2, 2013
5:30 p.m.

313 Court Street
The Dalles, Oregon
Second Floor Conference Room

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. DISCUSSION ITEMS
   A. Discussion Regarding the Effects of HB 3479
4. ADJOURNMENT

Prepared by/
Julie Krueger, MMC
City Clerk

Julie Krueger

REVIEW OF
HISTORY AND PROVISIONS RELATING TO PARTITIONS

PREPARED BY MAYOR STEVE LAWRENCE

2007

Resolution 07-007 - Implementation Policy for LIDs

For Waivers of Local Improvement District Non-Remonstrance Agreements still in effect after review, a letter went to property owners offering them an opportunity to prepay to the City LID fund an amount equal to the cost of proposed improvements on a front footage basis, or participate in a later LID.

Annually, the City Council was to hold a public hearing to develop a five year Capital Improvement Plan for future residential LIDs. This never happened.

The 2007 Task Force recommended the City no longer use non-remonstrance agreements and recommended the City not initiate LIDs except in emergency or upon voluntary request of owners.

LUBA provision 6.110 Waiver of Right to Remonstrate

(amended after resolution 07-007) Only eliminates waivers for dwelling building permits or single family accessory structures. Keeps them for planning actions or requires a payment into the City's local improvement fund. The entire provisions relate to LIDs. (a partition is a planning action)

2010

Resolution 10-007 Sets street improvement guidelines for what streets. Recommendations or descriptions vary from full improvement to deferred, or status quo or partial or minimal.

2012

9-14-2012 Staff Report on Infill Recommendations

Describes current practice: Developer required to install 1/2 street for entire frontage or pay into LID fund. Includes someone who files for for a partition. (p. 3-4)

States "City has not expressly prohibited the City's use of non-remonstrance agreements (p. 5)
Discusses **Resolution 07-1276** which proscribes requiring a non-remonstrance agreement prior to permitting or land us approval. Discusses when payment would be due.
Recommendation of Staff : Recommends the obligation to pay for improvements or install "attaches" upon filing a partition or any further development with payment due in lump sum at development; before sale, at sale, when there is an LID or 10 years after. (p9)

Suggests that the Council resume annual review of LID prioritization plans (11)

10-31-2012 Memo from Garrett Chrostok

Again, proposes a staff recommendation for partitions that payment would be due upon the first occurance of one of four alternatives. Council rejected this proposal at its meeting 11-14-2012.
Council directed staff to prepare a new ordinance that provided:

1. Fee attaches at partition but is not due until an LID or development is sought;
2. Landowners on corner lots be assessed only on 1 side;
3. Decks and small additions cause no assessment;
4. Any partition must waive right to object to LID.

1-30-2013 Staff Proposal submitted to Council 2-11-2013

Makes proposal for partitions that if owner elects to defer payment at either time of approval of partition, building permit or formation of LID, they would have to sign a non-remonstrance agreement at the time of application approval (p.2)

Proposes adding <u>sale</u> to trigger for payment. (3)

Council instructs staff to bring back ordinance without sale in it. Never brought back.

3-15-2013 Dick Gassman Memo for LUDO Residential Partition Approval Amendment

Relates history and states, "currently non-remonstrance agreements are prohibited by City Ordinances for all forms of residential planning actions." "Currently --

minor partitions must fulfill their street improvement obligations at time of development application approval." They either have to install themselves if an approved design is in place or pay into an LID fund.

Memo goes on to say that under the proposed LUDO amendment the property owner for a partition will not have to install improvements or pay into LID fund, prior to receiving approval for residential partition (p. 2)

"If the applicant elects to defer his/her obligation, he/she must sign a non-remonstrance agreement prior to receiving approval for the partition."
Could be due if owner applies for a building permit or formation of LID (p.3)

4-4-13 Presentation to Planning Commission

Dick Gassman submits proposal for minor partitions to pay if:
1. LID initiated or
2. development of dwelling on property, at which point the applicant would:
   a. either put improvements in or;
   b. put into development fund and
   c. full property frontage would be "encumbered."

The proposal was defeated and commission wanted joint meeting with City Council and suggested council needed to address all related issues.

May 22, 2013 letter from Garrett to Senators

States that current LUDO requires partitioners must bring entire frontage up to standards if an approved engineering design in place or make a payment in lieu. Adopted by council at recommendation of task force in 2007.
Also states that City Council directed staff to move forward with LUDO amendment. (Minutes of February 11, 2013 indicate council wanted proposal to come back to Council.)

Undated letter to Sen. Ferrioli

"...there are large portions of our community without an approved design in place - some developers only have the payment in lieu option, which sparked the controversy ..."

The proposed LUDO amendment requires signing non-remonstrance agreement and makes payment due on construction or LID.

June 7, 2013 Letter to Kitzhaber from Nolan Young

Asks for veto
States "Prior to 2007, developers ...satisfied their local improvement obligation through the signing of a non-remonstrance agreement."
Community experimented with a somewhat unique approach ..to allow a fee in lieu."
2007 policy did not prove successful - it became burdensome on large lot owners.
2012 work session developed LUDA amendment:
- to install - pay the fee - or sign non-remonstrance agreement - "to receive partition approval."

June 19, 2013 Memo to Mayor and City Council

Removal of the "in lieu of payments" HB 3479 leaves the only option available to people who wish to partition is to install the improvements.
If there is no engineering and not willing to pay for engineering - no partition.
"We will be going to Planning Commission to propose amendments."

Memo by Garrett for 7-18-2013 meeting with Planning Commission.

"This memo presents a new concept for residential infill development - compliant with HB 3479B while meeting City's development objectives. Staff seeks comment and direction on this new approach.

Council had proposed an amendment which was submitted to DLCD in Feb. 2013, went through planning in April and scheduled for public hearing in May.

The new law ...prohibits The Dalles from requiring residential partitioners to make a payment in lieu or to sign non-remonstrance agreements as a condition of approval.

This proposal would allow developers to install improvements instead of the City. Responsibility to install or pay would attach at the partition stage. If engineering is in place, developer would pay or enter into "deferred development agreement."

If no engineering, only option is "deferred development agreement." To give owners notice that improvements required at permit.

June 20, 2013 Legal opinion to Nolan Young and Dick Gassman

Opinion considers John Dennee partition filed and Administrative Decision issued 8-9-2009. It required street, sidewalk and storm improvements paid into fund for both 10th and Morton Streets. (Condition #6)

Since HB 3479, there cannot be a waiver of remonstrance or payment in lieu into fund but nothing in bill prevents City from requiring installation of the street improvements as a condition of approval.

Following LUDO provisions cited:

Ludo 9.030.030 (A) (8) Partition Applications
The tentative plat shall include (8) Location of all existing and proposed streets - which shall meet requirements of Chapter 10 - construction detail required prior to issuance of permit.

Ludo 9.030.050 9B)(2)
Any required improvements not completed shall be subject to the Agreement of Improvement provisions 9.040.050(H)
(9.040.010 - refers to subdivisions or major replats only)
9.040.050 relates to subdivision application.

Ludo 9.030.050 (C)(1) Final Plat Approval (for partitions)
"The applicant has installed or agreed to install required improvements in accordance with Chapter 10, Improvements Required with Development.
(Definition of development includes dividing parcel into 2 or more lots.)
(This is copy attached to Memo which differs from LUDO book)

Ludo 10.030(A) Timing of Improvements
Refers to 9.040.060(H) which applies to subdivision plat review.

Ludo 10.060 (C)(1) Street Requirements
Where a development site abuts an existing public street not improved to City standards, the abutting street shall be improved to city standards along full frontage of the property concurrent with development or a non-remonstrance agreement for future street improvements (including Local Improvement Districts) shall be

signed by the property owner(s) and recorded with the deed, per the provisions of Section 6.110. (This is different than the book.)

Final Opinion: "Even with the invalidation of Condition #6, the 4 provisions of the LUDO cited are still valid."

Memo states as follows:
John Dennee has three options?
1. improve the abutting street;
2. enter into delayed (deferred?) development agreement with city for full installation;
3. gain approval for LID without any provision for prepayment of assessments into a fund.

Question: Can a decision be amended after the fact?

What is the intent of HB 3479?
What is the spirit of the law?
How can we work to allow partitions to go forward without onerous provisions?

If development costs are required when someone wants to build a residence, why not just inform them at the time of getting a building permit?

CITY of THE DALLES
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AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
July 2, 2013		

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Nolan K. Young, City Manager

DATE: July 2, 2013

ISSUE: Special meeting for discussion concerning issues for interpretation and implementation of LUDO provisions related to public street improvements and residential partitions, following passage of House Bill 3479.

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: See agenda staff reports for Council work sessions on October 1, 2012 and November 14, 2012, and Agenda Staff Report #13-017.

BACKGROUND: On February 11, 2013, following two work sessions discussing residential infill development policies and procedures, the Council voted to direct staff to prepare proposed changes to the City's Land Use and Development Ordinance ("LUDO"), as set forth in Alternative #1 in the Agenda Staff Report provided to the Council for the meeting. A copy of that staff report is included with this staff report (Attachment #1). Under the proposed amendments as directed by the Council, for a residential minor partition, the obligation for public street improvements would attach to the entire original frontage of the property to be partitioned, at the time the partition was approved. If the applicant for the minor partition chose to make a payment for the costs of the improvements, instead of installing the improvements, the applicant would have the option of making the payment at either (1) the time of approval of the partition, (2) any time between options 1 and 3 as identified in the staff report, or (3) upon the first occurrence of either building permit approval (additional dwelling unit approval if the lot

contains an existing residence) or formation of a local improvement district ("LID"). The payment was to be limited to the property affected and not the full original frontage. If the applicant elected to defer payment through either Option 2 or Option 3, they would be required to execute a non-remonstrance agreement at the time of approval of the minor partition. For new constructions and construction of an additional dwelling unit, the obligation for street improvements would attach and be due at the time of approval of a building permit.

As the Council members are aware, several local property owners approached Representative John Huffman requesting the legislature intervene to grant them relief from what they asserted were unfair and excessive financial obligations to receive approval for a minor residential partition. The property owners asserted that the proposed amendments to the LUDO prepared by staff did not correctly reflect the intent of the City Council. The proposed amendments were presented to the City Planning Commission on April 4th. A motion to recommend approval of the proposed amendments to the City Council did not pass. The Planning Commission did adopt a motion recommending the creation of a citizen task force to discuss standards, costs, and methods of determining the costs of development fees. Before the proposed LUDO amendments could be presented to the Council for their review, the legislature adopted House Bill 3479, which bill went into effect on June 18, 2013.

Under House Bill 3479, the City can no longer include the following elements as a condition of approval for a residential partition, for property located in a city in Wasco County with a population greater than 5,000:

1. An assessment as a charge in lieu of forming an LID.
2. An assessment as a prepayment against an assessment for a future LID.
3. Require the owner of the property to be partitioned to enter into a nonremonstrance agreement with respect to the future formation of an LID.

Enclosed with this staff report is a copy of my memorandum to the Council dated June 25, 2013 containing an analysis of the impact of House Bill 3479 (Attachment #2). Also enclosed is a copy of correspondence between the City Planning Director, Richard Gassman, and a property owner related to the property owner's request for information as to the impact of House Bill 3479 upon a potential land use partition of his property (Attachment #3). House Bill 3479 does not provide that a city is prohibited from including as a condition of approval that the applicant install public improvements at the time of approval for a minor residential partition. House Bill 3479 also does not appear to prohibit a city from including as a condition of approval for a residential minor partition, that an applicant enter into an agreement to install the improvements, as an alternative to installing the improvements at the time of approval of the minor partition.

Sections 9.030.030(8)(A), 9.030.050(B)(2), 9.030.050(C)(1), and 10.030(A) indicate there are three options available for an applicant to establish they have satisfied the requirements for approval of a final plat for a minor partition:

i. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Enter to an agreement with the City for installation of the street improvements for the full frontage of the property concurrent with the proposed development. This type of

agreement is commonly referred to as a "delayed development agreement". Under Section 9.040.060(H)(2), the agreement specifies the maximum period within which the required improvements shall be completed. The agreement provides that if the work is not completed with the period specified, the City may complete the work and recover the full cost and expense thereof from the applicant. The agreement also provides for a one year guarantee to the City for all the improvements, and also includes a provision for a performance guarantee.

3. Gain approval for the formation of an LID for the construction of the street improvements.

Section 10.060(C)(1) appears to indicate there are two options for an applicant to establish they have satisfied the requirements for approval of a final plat for a minor partition:

1. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Have the improvements constructed and paid for in accordance with the procedures for creation of a residential LID.

As noted in the memorandum dated June 20, 2013 for the City Manager and City Planning Director, a copy of which is enclosed (Attachment #4), it is my opinion that the above-listed provisions of the LUDO can be interpreted, such that following the passage of House Bill 3479, under the existing provisions in our LUDO, an applicant for a residential minor partition would have the following three options to satisfy their obligation concerning public street improvements:

1. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Enter into a delayed development agreement with the City for the installation of the street improvements for the full frontage of the property concurrent with the proposed development. As noted previously, a delayed improvement agreement contains many different provisions than those contained in a non-remonstrance agreement, which is a contractual arrangement which allows a developer to proceed with the development in exchange for consenting to an assessment imposed when the City installs local improvements at a later time through an LID.

3. Gain approval for the formation of an LID for the construction of the street improvements, using the process and procedures set forth in Resolution No. 2007-007 for residential LID's, without any provision for prepayment of assessments into a fund.

Should the Council desire to revise the options for an applicant for a residential minor partition in relationship to the obligation to either install or pay for public street improvements, those revisions should occur consistent with the process for amending the LUDO, which typically begins with the Planning Commission conducting a public hearing concerning proposed amendments as prepared by City staff, with the Planning Commission making a recommendation to the City Council concerning the proposed amendments. The Council had requested that a

joint work session be held with the Planning Commission to provide an opportunity for a joint discussion concerning the potential revision of the LUDO provisions concerning residential minor partitions and the obligation to install public street improvements. Enclosed with this staff report is a memorandum dated June 19, 2013 from the City Manager discussing House Bill 3479, and a proposed memorandum that was prepared with the expectation it would be presented to the Planning Commission on July 18th, which is currently anticipated to be a joint work session with the City Council (Attachment #5).

BUDGET IMPLICATIONS: Unknown at this time.

ALTERNATIVES:

A. ***Staff Recommendation***. The Council proceed to conduct the joint work session with the Planning Commission on July 18th, and use that opportunity to express any concerns and suggested revisions for the policies and procedures which the City should use for minor residential partitions and the obligation to install public street improvements, and use the process set forth in the LUDO for amendments to change any policy or procedure concerning minor residential partitions and the obligation to install public street improvements.

B. For an applicant who has a current residential partition application pending with the City Planning Department, if the applicant believes that the provisions of the LUDO concerning residential partitions and public street improvements are ambiguous or unclear, the applicant can submit a written request for an interpretation to the Planning Director under Section 1.090 of the LUDO. If the applicant is not satisfied with the Planning Director's interpretation, the applicant can file an appeal of the interpretation with the Planning Commission.

C. The Council could provide direction to staff that the LUDO provisions are to be interpreted such that an applicant is not required to either install the improvements or enter into a deferred development agreement at the time of approval of the minor partition. Such an interpretation appears to conflict with existing LUDO requirements, and the legality of such an action is questionable, and is not an action that staff would recommend the Council to take.

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AGENDA STAFF REPORT
CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
February 11, 2013	Discussion Items 12, A	13-017

TO: Honorable Mayor and City Council

FROM: Garrett Chrostek, Administrative Fellow

THRU: Nolan K. Young, City Manager

DATE: January 30, 2013

ISSUE: Discussion of Proposed Changes to Infill Development Policies and Procedures.

BACKGROUND: Under existing City policy, property owners are responsible for bringing streets up to City standards. This policy is consistent with every other community Staff is familiar with. Once a street meets City standards, the City takes responsibility for street maintenance—whereas under-developed streets, those not meeting City standards, receive only minimal maintenance as such repairs are generally inefficient. There are several miles of sub-standard streets in The Dalles that will eventually need to come up to City standards.[1]

Historically, property owners engaging in partitions (creation of up to three lots) and construction of a new residential dwelling within existing neighborhoods containing under-developed streets (collectively referred to as "residential infill development") satisfied their street obligations through non-remonstrance agreements. Non-remonstrance agreements function as an automatic yes vote for an LID. Yet, two problems arose with the City's use of non-remonstrance agreements; (1) some agreements were not readily discoverable by subsequent

[1]It should be noted that residential infill development is a matter of addressing residual under developed streets as current City policy requires full street improvements for newly constructed streets within city limits and those streets that come into the City through annexations.

buyers creating issues of surprise (the electronic lien docket has helped with this issue) and (2) resistance by some property owners subject to non-remonstrance agreements resulted in delays to LID formation even though there were sufficient "yes" votes. This was particularly true among property owners that assumed their non-remonstrance agreement from the previous owner.

In response to public opposition to the non-remonstrance agreement, Council appointed an LID Task Force in 2007. After studying the issue, the Task Force made three recommendations pertinent to tonight's discussion; (1) eliminate use of the non-remonstrance agreement, (2) allow property owners to defer their LID assessment obligations until sale of the property, and (3) set a uniform rate for street improvements and offer multi-frontage relief.

The recommendations of the Task Force gave rise to the City's current policies and procedures for residential infill development. Currently, non-remonstrance agreements are proscribed by City ordinance for all forms of residential planning actions. Instead, property owners engaging in residential infill development must fulfill their street improvement obligations at the time of development application approval. To satisfy their obligation, the property owner can either install the improvements themselves if there is an approved design in place or make a pre-payment into an LID fund. The pre-payment is determined by multiplying the frontage of the lot by the uniform rate in place at the time of payment, with multi-frontage relief, for the entire frontage of the original lot. Once a property owner pre-pays (or installs the improvements themselves), that property becomes "free and clear" of future street LID assessments even if the future LID assessment is more than the amount of pre-payment. This approach eliminated the surprise to future owners caused by the non-remonstrance agreement and was designed to facilitate formation of LIDs by providing an incentive for pre-payment. However, the policy required a large upfront expenditure to execute a simple partition, creating the present barrier to residential infill development.

The past two work sessions have focused on the issue of how and when property owners engaging in residential infill development satisfy their street improvements obligations. The major tension in addressing residential infill development is balancing the protections afforded future buyers versus the burden placed on current property owners pursuing infill development versus the City's interest in ensuring needed improvements are installed in an orderly fashion.

At the last work session, there was apparent agreement among the Council that for **partitions,** the obligation for street improvements should attach to the entire original frontage at the time of partition approval. If the landowner elects to make a payment in lieu of installing improvements, the property owner would have the option of making payment at either (1) time of approval, (2) any time between options 1 and 3, or (3) upon the first occurrence of either building permit approval (additional dwelling unit approval if the lot contains an existing residence) or formation of an LID. The payment would be limited to the property affected and not the full original frontage. If the landowner elects to defer payment through options (2) or (3), they would be required to execute a non-remonstrance agreement at the time of application approval that could be redeemed by pre-paying or satisfying their LID assessment. For **new constructions and construction of an additional dwelling unit,** the obligation for street improvements would attach and payment would be due at the time of permit approval. Under no circumstance would there be an attachment of street improvement obligations for devising, inheriting, or selling

property and such activities would not trigger a payment due. However, any existing obligation would remain attached to the property.

Staff developed proposed changes to the Land Use and Development Ordinance (attached) that reflects this approach to residential infill development for Council's preliminary review.

ALTERNATIVES:

1. Direct Staff to bring the proposed changes in an ordinance form to a future Council meeting as an Action Item.
2. Direct Staff to amend the proposed changes and bring them in an ordinance form to a future Council meeting as an Action Item.
3. Set a date for another discussion item or work session to further discuss residential infill development.
4. Direct staff to continue the current approach to residential infill development.

STAFF RECCOMENDATION: Staff recommends Alternative Two. Specifically, Staff recommends adding sale of the property as a trigger for a payment due.

Sale of the property is recommended as a trigger to a payment due because Staff is reluctant to rely so heavily on non-remonstrance agreements. The City's past experiences with non-remonstrance agreements revealed that future buyers generally do not understand their obligations under a non-remonstrance agreement, have difficulty accounting for the agreement when making real estate purchasing decisions, and do not tend to consult Staff prior to assuming a non-remonstrance agreement. This holds true even among commercial property owners. Further, the cost of the obligations inherited by the future property owner under a non-remonstrance agreement is not the only issue. Property owners also feel disenfranchised on account of their inability to vote on the timing of the LID—particularly after they've just purchased a new property. For these reasons, non-remonstrance agreements have not increased the predictability of an LID, which can lead to wasted Staff time when LIDs are delayed.

Staff would prefer that property owners satisfy their obligations prior to formation of an LID and prior to a new owner acquiring the property. Such a policy eliminates most of the problematic aspects of the non-remonstrance agreement, promotes formation of LIDs as property owners are financially invested in improvements, and can lead to some cost savings for the City in financing the improvements. Therefore, Staff recommends including sale of the property as a trigger for payment. With sale of the property as a trigger, only the property owner entering the non-remonstrance agreement is subject to that agreement and the property owner retains the advantage of avoiding a large upfront outlay as the street improvement obligation can be satisfied through proceeds from the sale.

Current Proposed Changes	Partition of vacant land	Partition of land with existing structure	New Construction or Addition of Dwelling Unit	Devising/ Inheriting/ Sale of Property
Attachment (frontage of whole original lot)	Upon approval for a partition	Upon approval for a partition	Upon approval for a building permit	No attachment
Payment Due (frontage of lot affected)	Property owner's option: (1) At time of development approval, (2) Anytime between options (1) and (3), **or** (3) At the *first occurrence* of either: (a) Building permit approval, **or** (b) LID formation (cannot remonstrate)	Property owner's option: (1) At time of development approval, (2) Anytime between options (1) and (3), **or** (3) At the *first occurrence* of either: (a) Additional dwelling unit permit approval, **or** (b) LID formation, (cannot remonstrate)	Time of development approval	No payment obligation, unless an obligation attached prior to transfer

Attachment #1

Staff Recommend.	Partition of vacant land	Partition of land with existing structure	New Construction or Addition of Dwelling Unit	Devising/ Inheriting/ Sale of Property
Attachment (frontage of whole original lot)	Upon approval for a partition	Upon approval for a partition	Upon approval for a building permit	No attachment
Payment Due (frontage of lot affected)	Property owner's option: (1) At time of development approval, (2) Anytime between options (1) and (3), **or** (3) At the *first occurrence* of either: (a) Building permit approval, **or** (b) Sale of property, **or** (c) LID formation (cannot remonstrate)	Property owner's option: (1) At time of development approval, (2) Anytime between options (1) and (3), **or** (3) At the *first occurrence* of either: (a) Additional dwelling unit permit approval, **or** (b) Sale of property, **or** (c) LID formation, (cannot remonstrate)	Time of development approval	No payment obligation, unless an obligation attached prior to transfer

Attachment #1

PROPOSED ORDINANCE REVISIONS
FOR RESIDENTIAL INFILL POLICY

Section 6.110

WAIVER OF RIGHT TO REMONSTRATE

(A) Application for Residential Dwelling Unit(s) and Certain Planning Actions Not Including a Partition Involving Residential Development

Effective February 12, 2007, an applicant who submits a request for a single family dwelling building permit or a single family accessory structure will not be required to execute a waiver of remonstrance agreement for the formation of a local improvement district. Waivers of remonstrance shall be required for planning actions and for other building permit applications if the proposed development would increase any traffic flow on any street not fully improved to City standards. Waiver of remonstrance agreements executed prior to February 12, 2007, shall be processed under the provisions of Resolution No. 07-007, establishing an implementation policy for the City Council for local improvement districts under General Ordinance No. 91-1127.

In the event the Director has determined, pursuant to a review of the applicable criteria set forth in Section 3 of Resolution No. 07-007, that installation of full street improvements (including paving, curb, gutter, sidewalk, sanitary sewer, water, and where applicable, storm sewer), is not required at the time of development, the applicant submitting the request for the building permit for a new residential unit or units, or for a planning action, shall pay the amount established by the City annually on a front footage basis, into the City's local improvement fund, subject to any provision for multi-frontage lot relief.

(B) Application for Partition Involving Residential Development

In the case of an application for a partition of a vacant parcel of property, or a partition of a parcel of property upon which an existing residential structure exists, under the provisions of Section 9.030, when the applicant has not paid for the cost of applicable street improvements (including paving, curb, gutter, sidewalk, sanitary sewer, water, and where applicable, storm sewer) under the options described in Section 9.030.050(B)(2)(b)(1)(a) and (b), in the event the City adopts a resolution declaring an intent to form a local improvement district ("LID") to construct the required improvements, which LID includes the property subject to the partition application, for the purpose of determining whether there are sufficient remonstrances to suspend the formation of the proposed LID, the owner(s) of the subject property at the time of consideration of the resolution declaring the intent to form the LID, shall not be entitled to remonstrate against the proposed LID, pursuant to the waiver of remonstrance executed under Section 9.030.050(B)(2)(b).

9.030.050 Final Partition Plat Review
B. Review of Final Partition Application

2. ~~Any required improvements not completed shall be subject to the Agreement for Improvements provisions in *Section 9.040.050(H): Installation of Required* Improvements.~~

2. (a) For a partition of property which does not result in the creation of a residential dwelling, any required street improvements (including paving, curb, gutter, sidewalk, sanitary sewer, water, and where applicable, storm sewer) shall be subject to the Agreement for Improvement provisions in *Section 9.040.060(H): Installation of Required Improvements.*

(b) For a partition of a vacant parcel of property which is zoned for residential development, or a partition of a parcel upon which an existing residential structure is located, the applicant shall be responsible for the costs of installation of any required street improvements as described above in subsection (a), for the full frontage of the parcel which is being partitioned. The obligation to pay for the costs of these required street improvements attaches as of the date when the final partition plat is recorded. Prior to approval of the final plat, the applicant shall have executed a waiver of remonstrance for the required street improvements, which waiver shall reflect the costs of the improvements for the entire frontage of the parcel which is the subject of the partition.

(1) The applicant for the partition shall have three options for the payment of the cost of the required street improvements, which are listed below:

(a) Pay the costs of the improvements as of the date the final partition plat is recorded.

(b) Pay the costs of the improvements at any time between the occurrence of the events described in subsections (a) and (c).

(c) Pay the costs of the required street improvements upon the first occurrence of either the following events:

(1) In the case of the partition of a vacant parcel, issuance of a building permit for construction of a residential dwelling unit; and in the case of the partition of a parcel with an existing residential structure, issuance of a building permit for an additional residential dwelling unit.

2) Adoption by the City Council of a resolution announcing the intention to proceed with the formation of a local improvement district ("LID"). for the construction of the required street improvements, which LID includes the parcel upon which was the subject of the partition application.

C. Final Plat Approval. Prior to final approval, the City shall be assured that:

1. For a partition application which does not result in the creation of a residential dwelling unit, the applicant has installed, agreed to install for nonresidential development, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of *Chapter 10: Improvements Required with Development.* Improvements that may be required include street, street lights or other signals, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the partition application.

2. For a partition of a vacant parcel which is zoned for residential development, or a partition of a parcel of property upon which an existing residential structure is located, the applicant's responsibility for the costs of installing required street improvements shall occur in accordance with the provisions of Section 9.030.050(B)(2).

Note: The current subsections (C)(2) through)(5) would be renumbered (3) through (6).

Attachment #2

CITY OF THE DALLES
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MEMORANDUM

TO: Mayor and City Council

FROM: Gene Parker, City Attorney GP

DATE: June 25, 2013

RE: Analysis of House Bill 3479

During last night's Council meeting, Mayor Lawrence expressed an interest in receiving an analysis from me as to the impact and scope of House Bill 3479. The bill establishes restrictions on conditions of approval which the City may impose upon an application for a partition of residentially zoned property. In my opinion, the following are the most significant aspects of the legislation:

1. Section 1 of the legislation, which contains the language indicating which property owners may be affected by the legislation, refers to "the owner of property that is located in a city in Wasco County with a population greater than 5,000". A literal interpretation of this language would seem to indicate that the bill does not apply to a property owner seeking to partition residential property which is located outside of the City limits. It is unlikely that this was the intent of the persons who promoted the legislation, and who testified before the Legislature. One of the citizens who testified in support of the legislation owns property outside of the City limits, within the Urban Growth Boundary. The proposed amendments to address House Bill 3479 which staff have been working upon to present to the Planning Commission do not include different rules for property which is within the City limits, and property outside of the City limits.

2. Section 1 of the legislation also has language indicating that it applies in the case of "a subsequent application for a permit in furtherance of the partition". It is not precisely clear what this language means. Dave Hunnicut, the primary author of the legislation, advised members of the Senate Committee who considered the legislation, that the bill was intended to apply to residential partitions. The City's Land Use and Development Ordinance ("LUDO") does not provide for any further permit to be filed to obtain the final approval of a minor partition. Staff has taken the position that the provisions of the legislation do not apply to an application for a building permit.

3. Section 1(1) and 1(2) of the legislation clearly define what conditions the City cannot impose for approval of residential partition. Those prohibited conditions include a charge in lieu of forming a local improvement district; a prepayment against an assessment for a future LID; and a requirement for execution of a nonremonstrance agreement. The legislation does not specifically address what other types of conditions of approval which the City can impose upon a residential partition. It is my opinion there are several other conditions of approval for a residential partition in the City's LUDO which have not been invalidated as a result of the passage of House Bill 3479.

   Enclosed with this memorandum is a copy of a memorandum which I prepared for the City Manager and Planning Director, which outlines the conditions of approval in the LUDO which I believe are still in effect. The memorandum outlines my opinion as to how the City should apply those remaining conditions to a current application for a minor partition which has been approved.

Attachment #3

26 June 2013
2804B
E. 10th Street
The Dalles, OR 97058

Dick Gassman
Director of Planning & other public obtacles
City of The Dalles
313 Court Street, The Dalles, OR 97058

Regarding: Partition

Dear Dick,
Please consider this partition idea that I've worked on over the last few years. A reminder Dick, that when I bought 2804 E. 10th in 2002, I was given paperwork signed by Daniel Roberts (then director or acting director of public works) stating that I could divide this .91 acre lot into 3 lots, that I confirmed with planning at which time planning was in the basement of City Hall. You'll remember that all of the sewer and water service and connection fees were identified in that paperwork. Then a lot of water under the bridge, and then the challenges of wording the ordinance with City Council and staff, leading to the planning commission hearing and subsequently the Governor signing House Bill 3479 into law this June.

Now I'm living with rumors and newspaper articles and fears and angst from people all over town; from the Mayor and past Mayors and neighbors, to comments from Nolan and Gene Parker at City Council and their advertized comments in print.

Which leads me to locate **ONE** solution. And so once again I turn to you. The question being; what is the law today specifying the complete answer to the quest for a lot partition in the urban growth boundary of The Dalles Oregon; particularly for my own home and property? I'm not after any postures or predictions. Just what can I do today that is governed by law. Please recall that my primary home has its own well and septic as is the case with the 2011/2012 constructed accessory dwelling. I clearly have been held in limbo since 2007 awaiting a legal determination over this partition issue and the development of clearly defined ordinance.

Thank you.
Sincerely,

RG Hager

Randolph Hager

Attachment #3

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490
Planning Department

June 28, 2013

Randy Hager
2804 B East 10th Street
The Dalles, OR 97058

Re: Partition

Dear Randy,

You have inquired about the current status of the rules relating to minor partitions in The Dalles after the passage of HB 3479. I have attached a copy of your letter and a copy of HB 3479 for reference.

First, a careful reading of HB 3479 reveals that it relates only to property in a city in Wasco County. Your property on East 10th is not inside the city limits of The Dalles, therefore the provisions of that bill do not apply to your property. As a result, the rules for minor partitions have not changed.

The final conditions for approval of a minor partition can only be determined by submitting an application. However, in the past, for those properties that are situated on unimproved streets and seek to partition, we have required full improvement. Full improvement usually means the installation of sewer and water utilities and a street with sidewalks, curbs and half street pavement. Again, the exact details depend on a variety of factors and can only be determined through a formal process.

If you are required to put in improvements as a condition of approval, that condition can be met in one of the methods provided for in the LUDO. In general you have the option of installing the improvements, paying the estimated costs of the improvements, agreeing to put in the improvements and providing financial guarantees for the estimated costs, or forming a local improvement district to install the improvements.

The City Council has indicated an intent to change the minor partition rules but put that on hold until the legislature finished with HB 3479. The Council's interest in a change will be reviewed again, beginning with a joint work session of the Council and Planning Commission on July18. Whether the public will be allowed to participate in that discussion is up to the Council and Planning Commission. If that work session determines that changes in the LUDO are needed, there will be public hearings held at a later date.

I hope this answers the issues you raise in your letter.

Sincerely,

Richard Gassman
Director

77th OREGON LEGISLATIVE ASSEMBLY–2013 Regular Session

Enrolled
House Bill 3479

Sponsored by Representative HUFFMAN

CHAPTER .....

AN ACT

Relating to city fees; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. When the owner of property that is located in a city in Wasco County with a population greater than 5,000 and that is zoned for residential use files an application for a partition, as defined in ORS 92.010, or a subsequent application for a permit in furtherance of the partition, for the property, the city may not, as a condition of approval of the application:

(1) Assess:

(a) A charge in lieu of forming a local improvement district; or

(b) A prepayment against an assessment for a future local improvement district; or

(2) Require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

SECTION 2. Section 1 of this 2013 Act is repealed on July 1, 2023.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

MEMORANDUM

TO: Nolan Young, City Manager
Dick Gassman, Planning Director

FROM: Gene Parker, City Attorney GP

DATE: June 20, 2013

RE: Minor Partition #298-09
Recommendations concerning Condition of Approval #6 concerning payment for public improvements

On August 9, 2009, the City issued a Notice of Administrative Decision for MIP #298-09 for John Dennee to partition an existing lot into two lots. The Notice of Administrative Decision included the following condition of approval:

6. Street, sidewalk, and storm improvements will need to be paid into the fund for both 10th & Morton Street. The property owner will get a credit for Multi-frontage lot relief on Parcel #1.

On June 18 2013, the Governor signed House Bill 3479, which provides that the City, as a condition of approval for a residential partition, cannot assess a charge in lieu of forming a local improvement district, or assess a prepayment against an assessment for a future local improvement district, or require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

It is my understanding that Mr. Dennee has contacted the Planning Office, and expressed a desire to proceed with the completion of the final plat for the minor partition prior to July 1, 2013. You have requested an opinion concerning the City's options regarding the approval of the final plat, particularly what impact House Bill 3479 has on Condition of Approval #6 for the minor partition. In this memorandum, I will summarize the applicable provisions of the City's Land Use and Development Ordinance (hereinafter referred to as "LUDO"), which were in effect up until February 12, 2007, and the provisions that would have been in effect at the time of approval of MIP #298-09, and the impact of House Bill 3479 on the conditions of approval contained in MIP #298-09.

LUDO PROVISIONS IN EFFECT PRIOR TO 2/12/2007

Attached to this memorandum are copies of several provisions of the LUDO concerning minor partitions. Section 9.030.030(A)(8) includes language that "New streets or improvements to

existing streets shall meet the requirements of *Chapter 10: Improvements Required with Development"*. Prior to 2005, Section 9.030.050 of the LUDO contained the following provisions concerning review of the final minor partition plat application, and final plat approval for the minor partition:

B. Review of Final Partition Plat Application.

1. Within 14 days after receiving the final partition plat application, the Director shall review it for compliance with the above submittal requirements. If an application if found incomplete, the Director shall notify the applicant within 7 days and state what is needed for a complete application.

2. Any required improvements not completed shall be subject to the Agreement for Improvement provisions in *Section 9.040.050(H): Installation of Required Improvements.*

C. Final Plat Approval. Prior to final approval, the City shall be assured that:

1. The applicant has installed or agreed to install required improvements in accordance with the provisions of *Chapter 10: Improvements Required with Development.*

It should be noted that the reference to the LUDO in Section 9.040.050(H) contained a clerical error, and the reference should have been to Section 9.040.060(H). In 2005, Section 9.030.050(C)(1) was amended to include an additional sentence that specifically described the type of improvements that were required to be constructed in conjunction with approval of the minor partition. Attached to this memorandum is a copy of page 21 from General Ordinance No. 05-1261, which sets forth the amendment in Section 68 of the ordinance.

Section 10.030 concerning the timing of public improvements, a copy of which is attached, provides that except for sidewalks, all improvements required by the standards in this section shall be installed pursuant to the provisions of Section 9.040.060(H): Installation of Required Improvements. Section 10.060(C)(1), a copy of which is attached, provided that where a development site abutted an existing public street not improved to City standards, the abutting street was required to be improved to City standards along the full frontage of the property concurrent with development, or the applicant would have to sign a non-remonstrance agreement for future street improvements,

In summary, prior to February 2007, for an applicant to obtain final approval of a minor partition plat, the applicant would have to choose between the following options to address the requirements for public improvements, when the development site abutted an existing public street which was not up to City standards:

1. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Execute a non-remonstrance agreement for the full street improvements.

3. Enter into an agreement with the City for installation of the street improvements for the full frontage of the property concurrent with the proposed development.

4. Gain approval for the formation of a local improvement district for the construction of the street improvements.

LUDO AMENDMENTS AFTER 02/12/2007
IN EFFECT AT TIME OF APPROVAL OF MIP #289-09

In 2007, following recommendations from a citizen's task force concerning the City's policies regarding the use of non-remonstrance agreements, the City Council adopted an implementation policy for the formation of residential local improvements districts, which is set forth in Resolution No. 07-007, a copy of which is attached to this memorandum. The City Council also adopted General Ordinance No. 07-1276, a copy of which is attached, which amended Section 10.060(C)(1) concerning improvements of streets to City standards, to read as follows:

1. Where a development site abuts an existing public street not improved to City standards, the abutting street shall be improved to City standards along the full frontage of the property concurrent with the development, or the improvements shall be constructed and paid for in accordance with the implementation policy for local improvements set forth in Resolution No. 07-007.

As part of the adoption of Resolution No. 07-007, the City created what became known as the "pay into the fund option", which allowed applicants to pay the costs of the required street improvements into a fund, in lieu of installing the improvements. This policy change was the basis for the inclusion of Condition of Approval #6 in MIP #289-92.

The effect of the adoption of these LUDO amendments and creation of the implementation policy for residential LID's appears to be that the options for an applicant to be able to obtain final approval of a minor partition were changed to the following:

1. Install the required improvements upon the abutting street to City standards.

2. Have an LID formed under the Council's new policy for residential LID's

3. Pay the costs of the improvements into a fund, with the ability for corner lot relief.

EFFECT OF ADOPTION OF HOUSE BILL 3479

The effect of House Bill 3479 appears to be that option #2 listed above for the Pre-2007 LUDO provisions (waiver of remonstrance), and option #3 listed above for the Post-2007 LUDO provisions (pay into the fund) are no longer available as a method to show compliance to obtain approval for the final plat. It should be noted that there is no language in House Bill 3479 indicating the City cannot require the installation of the street improvements as a condition of approval for minor partition, and that there is no language in the legislation restricting the ability of the City to establish other conditions for approval of a minor partition.

RECOMMENDED RESPONSE FOR ADDRESSING CONDITION OF APPROVAL #6 FOR MIP #289-09

With the passage of House Bill 3479, the City can no longer impose a charge in lieu of forming an LID, or a charge in the form of a prepayment against an assessment for a future LID, or require an applicant to execute a non-remonstrance agreement as a condition of approval for a minor partition. Condition of Approval #6 is not enforceable. Although Condition of Approval #6 is not enforceable, it is my opinion that this does not invalidate the entire decision. The key issue is to determine how the City should proceed at this point in light of Mr. Dennee's desire to obtain approval of the final partition plat.

Under Section 1.060 of the LUDO, which contains the severability clause for the entire LUDO, if any section, paragraph, sentence, clause, or phrase is found to be invalid by any Court of competent jurisdiction, that decision shall not affect the validity of the remaining provisions of the LUDO. Although this provision only refers to a provision in the LUDO being determined to be invalid by a court, I believe it is reasonable to apply the principle set forth in this provision to the adoption of House Bill 3479, which has effectively determined that certain provisions of the LUDO are now invalid.

As I mentioned before, House Bill 3479 appears to only invalidate certain provisions of the City's LUDO, primarily the provisions dealing with the requirement to execute a non-remonstrance agreement or to prepay the costs of the improvement into a fund, as a condition of approval for the final minor partition plat. It is my opinion that many of the provisions cited in this memorandum, specifically Sections 9.030.030(8)(A), 9.030.050(B)(2), 9.030.050(C)(1), 10.030(A), and 10.060(C)(1) are still valid.

There is a general rule of statutory and ordinance interpretation and construction that if language in ordinances or statutes appear to have conflicting provisions, that conflict should not mean that the provisions are ineffective or invalid, if there is a reasonable manner in which to address the apparent conflict. It is my opinion that such a reasonable manner exists. Sections 9.030.030(8)(A), 9.030.050(B)(2), 9.030.050(C)(1), and 10.030(A) indicate there are three options available for an applicant to establish they have satisfied the requirements for approval of

a final plat for a minor partition:

1. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Enter into an agreement (effectively a delayed development agreement) with the City for installation of the street improvements for the full frontage of the property concurrent with the proposed development.

3. Gain approval for the formation of a local improvement district for the construction of the street improvements.

Section 10.060(C)(1) appears to indicate there are two options for an applicant to establish they have satisfied the requirements for approval of a final plat for a minor partition:

1. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Have the improvements constructed and paid for in accordance with the procedures for creation of a residential LID.

Even with the invalidation of Condition of Approval #6, the four provisions of the LUDO cited previously which are still valid require that the issue of street improvements be addressed. In my opinion, these somewhat conflicting provisions can be harmonized, such that Mr. Dennee would have the choice among the following three options:

1. Improve the abutting street to City standards along the full frontage of the property concurrent with the proposed development.

2. Enter into a delayed development agreement with the City for installation of the street improvements for the full frontage of the property concurrent with the proposed development.

3. Gain approval for the formation of a local improvement district for the construction of the street improvements, using the process and procedures set forth in Resolution No. 2007-007 for residential LID's, without any provision for prepayment of assessments into a fund.

Another potential option would be for Mr. Dennee to wait and see what happens with the proposed amendments which will be presented to the Planning Commission, and wait until the Council has conducted public hearings upon any proposed amendments, and made a determination as to how they want to proceed to address the issue of installation and payment for street improvements in connection with residential minor partitions.

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058
(541) 296-5481

NOTICE OF ADMINISTRATIVE DECISION

MIP 298-09

John Dennee

DECISION DATE: August 16, 2010

APPLICANT: John Dennee

REQUEST: To divide one lot into two smaller lots.

LOCATION: 2651 East 10th Street, further described as 1N 13E 2DA tax lot 3500.

COMPREHENSIVE PLAN AND ZONING DESIGNATIONS: "RH" Residential Medium/High Density

PROPERTY OWNER: John Dennee

AUTHORITY: City of The Dalles Land Use and Development Ordinance 98-1222.

DECISION: Based on the findings of fact and conclusions in the staff report of **MIP 298-09,** the request by the **John Dennee** to partition one lot into two smaller lots is hereby **approved with the following conditions:**

1. Two copies of recorded plat must be received in the Community Development Department office within one year of the date of the notice of decision for this partition to be effective.
2. Utility and access easements will need to be shown on a revised plat.
3. All utilities (water, sewer, and power) and all existing structures will need to be shown on the preliminary plat.
4. The existing access on East 10th Street will be required to be shown on the preliminary partition plat.
5. Base water and sewer services will not be required to be installed prior to signing the final plat. An agreement will be required to be signed that states that the property owner will install the required base services at the time of either a building permit on the new lot or when Morton Street is improved, whichever comes first.
6. Street, sidewalk, and storm improvements will need to be paid into the fund for both 10th & Morton Street. The property owner will get a credit for Multi-frontage lot relief on Parcel #1.

7. Additional access points will not be allowed onto East 10th Street. This will need to be noted on the final plat.
8. A 10 foot public Utility Easement (PUE) will be required on the East 10th & Morton Street frontages.
9. The preliminary partition plat will need to show Parcel #2 shadow -plated at 70% of the maximum density for the RH zone.

Signed this 16th day of August, 2009, by

Daniel C. Durow, Director
Community Development Department

TIME LIMITS: The period of approval is valid for the time period specified for the particular application type in Ordinance No. 98-1222. All conditions of approval shall be fulfilled within the time limit set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time. Failure to fulfill any of the conditions of approval within the time limits imposed can be considered grounds for revocation of approval by the Director.

Please Note! No guarantee of extension or subsequent approval either expressed or implied can be made by the City of The Dalles Community Development Department. Please take care in implementing your approved proposal in a timely manner.

APPEAL PROCESS: The Director's approval, approval with conditions, or denial is the City's final decision, and may be appealed to the Planning Commission if a completed Notice of Appeal is received by the Director no later than 5:00 p.m. on the 10th day following the date of the mailing of the Notice of Administrative Decision. The following may file an appeal of administrative decisions:

1. Any party of record to the particular administrative action.
2. A person entitled to notice and to whom no notice was mailed. (A person to whom notice is mailed is deemed notified even if notice is not received.)
3. The Historic Landmarks Commission, the Planning Commission, or the City Council by majority vote.

A complete record of application for administrative action is available for review upon request during regular business hours, or copies can be ordered at a reasonable price, at the City of The Dalles Community Development Department. Notice of Appeal forms are also available at The Dalles Community Development Office. The fee to file a Notice of Appeal is $380.00. **The appeal process is regulated by Section 3.020.080: Appeal Procedures of Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.**

Enrolled
House Bill 3479

Sponsored by Representative HUFFMAN

CHAPTER .....

AN ACT

Relating to city fees; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. When the owner of property that is located in a city in Wasco County with a population greater than 5,000 and that is zoned for residential use files an application for a partition, as defined in ORS 92.010, or a subsequent application for a permit in furtherance of the partition, for the property, the city may not, as a condition of approval of the application:

(1) Assess:

(a) A charge in lieu of forming a local improvement district; or

(b) A prepayment against an assessment for a future local improvement district; or

(2) Require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

SECTION 2. Section 1 of this 2013 Act is repealed on July 1, 2023.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Section 9.030

PARTITIONS, MINOR REPLATS, and LOT LINE ADJUSTMENTS

9.030.010 Purpose

This Section describes the requirements and review procedures for applications for Partitions, Minor Replats, and Lot Line Adjustments. (For a description of the difference between Partitions and Subdivisions see *Section 9.010: Background and Purpose.*

9.030.020 Plat and Survey Requirements

In addition to the requirements contained in this Chapter, plats and survey maps are also subject to the requirements of ORS 92.050 and 209.250.

9.030.030 Partition Applications

A. In addition to the requirements of *Section 3.010: Application Procedures,* the person filing the application must be the owner or a person having a legal interest in the land to be partitioned. If the application includes land in more than one ownership, the application must be submitted jointly by all of the owners or persons having a legal interest in the property. All applications for partitions shall also be accompanied by a tentative partition plat and any other required graphics. The tentative plat shall be sufficiently accurate to ensure proper review and shall not exceed 18in. by 24 in. An 11 in. by 17 in. copy of the tentative plat shall also be provided. The tentative plat shall include the following information where applicable:

1. Names of the applicant, owner, engineer, and surveyor as appropriate.

2. Date, scale, and north arrow.

3. Property line boundaries of all contiguous land in the same ownership as the area encompassed in the application.

4. Sufficient description to define location and boundaries of the area to be partitioned, replatted, or adjusted.

5. Location of existing structures.

6. Number and type of dwelling units proposed where known and appropriate.

7. Location and width of all existing or proposed public or private rights-of-way, including any reserve strips and parking areas.

8. Location of all existing and proposed streets, curbs, and sidewalks. (New streets or improvements to existing streets shall meet the requirements of *Chapter 10: Improvements Required with Development.* Construction detail drawings are not required for application approval, but will be required prior to issuance of any required permit.)

9. Location of all existing and proposed public and private utilities, including, but not limited to water, sewer, storm drainage, power, gas, cable TV, and telephone. (New public utilities shall meet the requirements of *Chapter 10: Improvements Required with Development.* Construction detail drawings are not required for application approval, but will be required prior to issuance of any required permit.)

10. Proposed parcel layout indicating dimensions, parcel lines and lot areas of parcels.

11. Approximate location of any potential physical and environmental constraints for review per the provisions of *Chapter 8: Physical and Environmental Constraints.* Such constraints include, but are not limited to slopes of the land, erosion control, flood ways, flood plains, natural drainage ways, and geological hazard areas.

12. All areas proposed for dedication to the public and their proposed uses including, but not limited to street rights-of-way, drainage ways, easements, trails and paths, parks and open spaces, and reserve strips.

13. Location and use of adjacent driveways and structures within the appropriate distance as specified in *Section 6.050.040: Access Standards.*

14. Identification of significant natural features including, but not limited to rock outcroppings, creeks, streams, ponds, riparian areas, and existing native, ornamental, and orchard trees having a trunk diameter of 14 in. or more at a point 5 feet above the natural grade.

15. Where it is evident that the subject parcel can be further partitioned the applicant shall show, either on the tentative plat or as an attachment, that the land partition will not preclude efficient division of land in the future, per the requirements of *Section 9.020.020 (C)(8): Redevelopment Plans.*

B. The Director may waive any of the requirements where determined that the information is unnecessary to properly evaluate the proposed development. The Director may also require any additional information, if determined necessary, to evaluate the proposal.

9.030.040 Partition Application Review

A. Review Procedure. Partition applications shall be processed as administrative actions, per the provisions of *Section 3.020.040: Administrative Actions.*

B. Review Criteria. Partition applications shall be reviewed to assure:

1. The tentative plat meets the Wasco County recording requirements.

2. The proposal is consistent with the purposes of this Chapter, relevant development standards of this Ordinance, policies and density requirements of the Comprehensive Plan, Public Works standards and policies, and any other applicable policies and standards adopted by the City Council.

3. Approval does not impede future development of property under the same ownership or on adjacent lands planned for urban densities, including provision of City services and access from a public street.

C. Period of Approval. Approval of a partition application shall be valid for a period of 1 year from the effective approval date. If no final partition plat is submitted within 1 year, the partition application shall become void and a new application required.

9.030.050 Final Partition Plat Review

A. Application Requirements. Applications for final partition plat approval shall meet the following requirements:

1. The final partition plat shall conform to the approved tentative partition plat, as well as the provisions of *Section 9.020: Land Division Standards* and any conditions of approval.

2. The partition plat shall be prepared in accordance with ORS Chapters 92 and 209 by an Oregon licensed land surveyor and conform to Wasco County's plat standards.

3. An Oregon licensed land surveyor shall survey and monument all parcels. All monuments on the exterior boundary and all parcel corner monuments of a partition shall be placed before the partition is offered for recording.

4. The plat shall include or be accompanied by:

   a) A notarized signature of the owner declaring the ownership and consenting to recording of the plat.
   b) Legal descriptions of areas proposed for dedication including, but not limited to, street rights-of-way, drainage ways, easements, and reserve strips (legal descriptions shall meet the approval of the City Engineer).
   c) A notarized copy of any deeds dedicating land to the City signed by the grantor.
   d) A description, sealed by a registered professional engineer, of streets, driveways, utilities, and improvements proposed to be made or installed, as well as a time within which such improvements are to be completed.
   e) All easements and adjacent streets shall be placed on the plat.
   f) A designated space for approval signatures in accordance with *Subsection (C)(4)* below shall be placed on the plat.

B. Review of Final Partition Plat Application.

1. Within 14 days after receiving the final partition plat application, the Director shall review it for compliance with the above submittal requirements. If an application is found incomplete, the Director shall notify the applicant within 7 days and state what is needed for a complete application.

2. Any required improvements not completed shall be subject to the Agreement for Improvement provisions in *Section 9.040.050 (H): Installation of Required Improvements.*

C. Final Plat Approval. Prior to final approval, the City shall be assured that:

1. The applicant has installed or agreed to install required improvements in accordance with the provisions of *Chapter 10: Improvements Required with Development.*

2. Public assessments, liens, and fees with respect to the partition area have been paid, or a segregation of assessments and liens has been applied for and granted by the City Council.

3. The City Engineer shall review a signed and notarized deed for any areas proposed for dedication to the City prior to the final signing of the partition plat.

4. The partition plat shall be signed by the Director, City Engineer, Wasco County Clerk, Wasco County Treasurer, Wasco County Assessor, Wasco County Surveyor.

5. Approval does not relieve the applicant from other applicable provisions of this and other City Ordinances, or from the provisions of the Oregon Revised Statutes.

D. Recording of Final Plat. When all required signatures have been obtained on the final partition plat, the applicant shall record the plat and any required covenants with the Wasco County Clerk, and submit 2 copies of the recorded plat and any covenants to the Director.

E. Effective Date. Authorization of the final partition plat shall become effective when the plat is officially recorded.

F. Building Permits. No building permit shall be issued for any parcel until the final partition plat is recorded and the required copies are provided to the Director.

9.030.060 Minor Replat Review

A. Review Procedure. Applications for minor replats shall be processed per the provisions of *Section 9.030.030: Partition Application Review.*

B. Final Minor Replats. A final minor replat shall be prepared by a licensed surveyor and meet the applicable requirements of *Section 9.030.050: Final Partition Plat Review.*

9.030.070 Lot Line Adjustment Procedure

A. Applications. In addition to the applicable requirements of *Section 3.010: Application Procedures,* applications for lot line adjustments shall include a survey map prepared by a licensed surveyor indicating the existing and proposed lot lines.

B. Review Procedure. Lot Line Adjustment applications shall be processed as ministerial actions, per the provisions of *Section 3.020.030: Ministerial Actions.*

C. Review Critcria.. A lot line adjustment shall be approved if the following criteria are met:

1. The lot line adjustment shall not result in the creation of an additional unit of land.

2. The lot line adjustment shall not create a nonconforming use, structure or building.

3. Any unit of land reduced in size by the lot line adjustment shall comply with all applicable development district regulations.

4. Any nonconforming development on lots subject to a lot line adjustment shall not have the degree of nonconformity increased as a result of the lot line adjustment.

5. The availability of both public and private utilities and required access shall not be adversely affected by a lot line adjustment.

D. Conditions of Approval. Approvals shall be subject to the following minimum conditions:

1. Deeds, based on a metes and bounds legal description, for all adjusted lots resulting from the lot line adjustment shall be recorded with the Wasco County Clerk's Office.

2. A Certified Boundary Survey map that reflects the approved lot line adjustment shall be filed with Wasco County. Prior to the filing of the survey map with Wasco County, the map shall be reviewed by the City and signed by the Director and the City Engineer.

3. Two copies of the recorded deeds and filed survey map shall be provided to the City following recordation.

Section 9.040

SUBDIVISIONS AND MAJOR REPLATS

9.040.010 Purpose

This Section describes the requirements and review procedures for Subdivision applications, and applications for Major Replats.

9.040.020 Plat and Survey Requirements

In addition to the requirements contained in this Chapter, plats and survey maps are also subject to the requirements of ORS 92.050 and 209.250.

9.040.030 Subdivision Applications

A. Application Requirements. In addition to the requirements of *Section 3.010: Application Procedures*, the person filing the application must be the owner or a person having a legal interest in the land to be included in the subdivision. If the development is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having a legal interest in each of the separately owned properties to be included. Additionally, the application shall be accompanied by the following:

1. Four sets of full-sized blue or black line drawings of the tentative plat, with a sheet size not to exceed 18 in. by 24in., sheet size of any other graphics shall not exceed 24 in. by 36 in. Where necessary, an overall plan with additional detail sheets may be submitted.

2. One set of the graphics shall be reduced to fit on 11 in. by 17 in. sheets of paper. Graphics and related names/numbers must be legible on this sheet size.

3. One copy of the project narrative, per the requirements of *Subsection (C)* below, on 8.5 in. by 11 in. sheets.

B. Graphics Requirements. Subdivision applications shall include the following graphic information where applicable.

1. An existing land use map. (A map that extends between 250 to 2000 feet beyond the site. The map includes building footprints and makes a distinction between single-family, multi-family, commercial and industrial uses, as well as other significant features such as roads, drainage ways, parks and schools. The Director shall determine the coverage of the land use map based on potential impacts of the development proposal.)

2. Tentative subdivision plat and other graphics drawn to scale and containing sheet titles, date, north arrow, and legend placed in the same location on each sheet and containing the following:

   a) Name and address of owner(s) of record, applicant, engineer, and registered land surveyor who prepared the plat.
   b) Sufficient description to define location and boundaries of the development site.
   c) Location and use of adjacent driveways and structures within the appropriate distance as specified in *Section 6.050.040: Access Standards*
   d) Number of lots and their dimensions including frontage, depth, and area in acres.
   e) General location of existing and proposed structures including building types and heights, gross density per acre and proposed use restrictions. An indication of approximate building envelopes may be required where necessary to evaluate building relationships.
   f) General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic uses.
   g) Location and width of all existing or proposed public or private rights-of-way, including any reserve strips and parking areas.
   h) Existing and proposed general circulation system including bikeways, driveways, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate.
   i) Existing and proposed general pedestrian circulation system, including its interrelationship with the vehicular circulation system and indicating proposed treatments of points of conflict.
   j) Existing and proposed utility systems including, but not limited to sanitary sewer, storm sewer, drainage ways, water, cable TV, power, natural gas, telephone, and street lights as appropriate.
   k) Approximate location of any potential physical and environmental constraints for review per the provisions of *Chapter 8: Physical and Environmental Constraints.* Such constraints include, but are not limited to slopes of the land, erosion control, flood ways, flood plains, natural drainage ways, and geological hazard areas.

l) Identification of significant natural features including, but not limited to rock outcroppings, creeks, streams, ponds, riparian areas, and existing native, ornamental, and orchard trees having a trunk diameter of 14 in. or more at a point 5 feet above the natural grade.

m) Topographic contours at intervals appropriate to the size and scale of the map, with an accuracy of plus or minus 1 foot.

n) Drainage and Grading Plan. Where the grade of any part of the subdivision is less than 3% or exceeds 10%, or where the subdivision abuts existing developed lots, a conceptual grading and drainage plan may be required to show features adjacent to or within a reasonable distance from the subdivision that would affect the subdivision and adjacent areas. If a grading plan is required, it shall show how runoff or surface water from individual lots will be managed and the ultimate disposal of all subdivision surface waters.

o) Approximate location and widths of proposed easements and/or dedications for drainage, sewage, or other public utilities.

p) Location of waterways, and drainage ways, showing top of existing banks and channel depth, and if requested, a separate sheet showing cross sections at 50-ft intervals of all such water courses for review in accordance with *Chapter 8: Physical and Environmental Constraints.*

3. The Director may waive any of the above requirements when determined the information required by this Section is unnecessary to properly evaluate the proposed development. The Director may also require additional information, if determined necessary, to adequately evaluate the proposal.

C. Narrative Requirements. A written statement accompanying the subdivision application shall include:

1. Proposed uses and development objectives.

2. A statement of improvements to be constructed or installed and date of their anticipated completion, including, but not limited to:

a) Provisions for domestic water supply including source, quality, and approximate quantity.

b) Provisions for sewage treatment and disposal, storm drainage, and flood control.

c) Provisions for improvements and maintenance of common areas if proposed.
d) Proposed landscaping.
e) Proposed streets, curbs, sidewalks and street lighting.
f) Proposed fire protection.

3. A general description of intentions concerning timing, responsibilities, and assurances for all public and non-public improvements, such as irrigation, private roads and drives, landscape, and maintenance.

4. General data not included on the tentative plat such as:

a) Total number and type of dwelling units.
b) Parcel size in square feet.
c) Proposed lot coverage of buildings and structures where known.
d) Gross densities per acre.
e) Total amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas).
f) Total amount and type of nonresidential construction.

9.040.040 Subdivision Application Review

A. Review Procedure. Subdivision applications shall be reviewed as administrative actions, per the provisions of *Section 3.020.040: Administrative Actions.*

B. Review Criteria. Subdivision applications shall be reviewed to assure consistency with the state statutes, the Comprehensive Plan, this and other City Ordinances, and the applicable provisions of *Chapter 5: Zone District Regulations, Chapter 6: General Regulations, Chapter 7: Parking Standards, Chapter 8: Physical and Environmental Constraints, Chapter 9:Land Divisions,* and *Chapter 10: Improvements Required with Development.*

C. Period of Approval and Extension. Approval of a subdivision application shall be valid for a period of 2 years from the effective approval date. If the applicant has not submitted a final subdivision plat within 2 years (with appropriate assurances for improvements, if applicable), approval shall expire. The Director may grant, at the applicant's request, a one-time extension of up to 1 year if, in the Director's opinion, conditions related to the project and surrounding area have not changed. The applicant must request an extension in writing at least 45 days prior to approval expiration.

9.040.050 Construction Drawings and Specifications for Public Improvements

Construction drawings and specifications for public improvements are not required prior to subdivision application approval but are required prior to final subdivision plat review. This allows a developer to seek subdivision application approval prior to investing in public improvement engineering. No public improvements shall be laid out or constructed prior to City Engineer approval of construction drawings and specifications. Construction drawings and specifications for public improvements shall include the following:

A. Plans and Specifications. Plans and specifications for public improvements shall clearly indicate the following:

1. Location of existing rights-of-way.

2. Existing streets, sidewalks, curbs and utilities.

3. Parking lot striping and pavement cross section.

4. Perimeter curb location and details.

5. Utility service types, sizes, locations and details (including hydrants, manholes, clean-outs, vaults, meters, etc.), including location, elevation, size, and detail of storm lines, inlets/catch basins, manholes, cleanouts, parking, drive pads, distance to drive pads on adjacent property, curb and sidewalk, retaining walls, and retaining wall drainages.

6. Location and details of cross connection control devices.

7. Fence and gate locations and details.

8. Street and parking lot lighting locations and details.

9. Site drainage and grading plan and construction details sufficient to evaluate whether runoff generated from improvements is collected on site and disposed of in a manner which eliminates sheet flow of storm water onto sidewalks, public rights-of-way and abutting private property.

10. Location and type(s) of existing and proposed street trees.

11. Erosion control plan and/or traffic control plan as required by the City Engineer.

12. Where City street, curb, sidewalk or utility extensions are required, provide complete plan, profile, and construction detail drawings and specifications, prepared and stamped by a licensed professional engineer for the proposed improvements within public easements rights-of-way.

B. Engineering Estimates. Itemized engineering estimates for the proposed improvements sealed by a licensed professional engineer.

C. Contractor Information. Proof of licensing, bonding and insurance is required for the contractor(s) installing public improvements.

D. Field Adjustments. A letter signed by the developer, engineer, and contractor acknowledging that field adjustments to approved plans require the approval of the City Engineer.

9.040.060 Final Subdivision Plat Review

A. Application Requirements. Applications for final subdivision plat approval shall meet the following requirements:

1. The final plat and 2 additional copies which meet Wasco County's survey and subdivision plat standards shall be submitted to the Director.

2. The final plat shall substantially conform to the approved tentative subdivision plat and construction drawings and specifications for public improvements, and shall conform with *Section 9.020: Land Division Standards*, except where modified by a Planned Development approval (see *Section 9.050: Planned Development)*. The plat shall contain or be accompanied by the following information:

a) Name of the subdivision.
b) Date, north arrow, scale, legend, and existing features such as highways and railroads.
c) Legal description of subdivision boundaries.
d) Reference and bearings to adjoining recorded surveys.
e) Exact location and width of streets and easements intersecting the boundary of the subdivision.
f) Subdivision, block, and lot boundary lines. Numbering of lots and blocks shall be as follows:

(1) Lot numbers shall begin with the number "1" and be numbered consecutively in each block. Number sequence are to generally follow the same system as sections are numbered in a township.

(2) Block numbers shall begin with the number "1" and be numbered consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out, and placed so as to not obliterate any figure. Block and lot numbers in an addition to a subdivision of the same name shall continue the numbering in the original subdivision. Block numbering sequence shall be the same system as sections are numbered in a township.

(3) Block numbers may be omitted where blocks are of irregular shape. When block numbers are omitted, lots shall be numbered consecutively throughout the subdivision. Lots in an addition to the subdivision of the same name shall continue the numbering of the original subdivision.

g) Street rights-of-way, center lines with dimensions to the nearest 0.01 ft, bearings or deflection angles, radii, arc, points of curvature, curve data, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds with basis for bearings.

h) Name and width of proposed and existing width of any existing right-of-way, and width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to center line dimensions, the radius and center angle shall be indicated.

i) Easements, denoted by fine dotted lines clearly identified and, if already of record, their recorded reference. If an easement is not definitely located or recorded, there shall be a written statement of the easement. The easement's width, length, bearing, purpose and sufficient ties to locate it with respect to the subdivision shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication. The City Attorney shall approve wording of all easements.

j) Locations and widths of waterway and drainage ways, and other water courses for review in accordance with *Chapter 8: Physical and Environmental Constraints.*

k) Location and widths of railroad rights-of-way and reserve strips at the end of stub streets or along the edge of partial-width streets on the subdivision boundary.

l) Parcels to be dedicated shall be distinguished from lots intended for sale, with acreage and alphabetic symbols for each parcel.

m) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land.

n) The following certificates, acknowledgments, and other requirements established by State law. Such certificates may be combined where appropriate:

(1) Certificate, signed and acknowledged by the owner(s) of record of the land to be subdivided, offering for dedication of all parcels of land for public use; and offering for dedication of rights of access to and from prescribed streets, lots, and parcels of land.

(2) Certificate of the registered or licensed surveyor who prepared the survey and final subdivision plat.

(3) Certificate for execution by the Director or Chair of the Planning Commission as appropriate.

(4) Certificate for execution by the City Engineer.

(5) Certificate for execution by the County Surveyor.

(6) Certificate for execution by the Wasco County Clerk, including available space for Clerk recording information.

(7) Certificate for execution by the Wasco County Assessor.

(8) Certificate for execution by the Wasco County Tax Collector.

(9) Certificate for execution by the Wasco County Court, where appropriate.

B. Additional Materials. The following additional information shall be submitted to accompany the final subdivision plat:

1. Three copies of all proposed covenants, conditions, and restrictions (CC&Rs), or a written statement signed by the applicant that no such restrictions will be established.

2. Title guarantee by a title company doing business in Wasco County, showing names of persons whose consent is necessary for preparation of the final plat and for any dedication to public use, and their interests therein. This guarantee shall certify, for benefit and protection of the City, that persons therein named are all of the persons necessary to give clear title to streets and other easements therein to be offered for dedication.

3. Statement by the Postal Service to verify location of proposed mail delivery facilities as shown on the final subdivision plat or accompanying sheet, and location to be approved by the City Engineer.

4. A description of the entity receiving a dedication for public use (City, County, Homeowners Association, Special District, etc.). If a Homeowners Association is receiving the dedication, then articles of incorporation must be included.

C. Dedications and Public Utility Requirements.

1. The following items shall be offered for dedication for public use at the time the final subdivision plat is filed.

   a) Parcels of land shown on the final subdivision plat as intended for public use.
   b) Streets, pedestrian ways, drainage channels, easements, and other rights-of-way shown for public use on the final subdivision plat.
   c) Rights of access to and from streets, lots, and parcels of land shown on the final subdivision plat as intended to be dedicated.

2. Evidence of unencumbered and clear title shall be submitted prior to approval of the final subdivision plat for all land proposed to be dedicated for public use, including but not limited to rights-of-way, drainage ways, open space, and easements.

3. Environmental assessments shall be conducted in accordance with *Section 10.110(F): Environmental Assessments.*

D. Designation and Conveyance of Reserve Strips. Reserve strips 1 ft wide across the ends of stubbed streets adjoining unsubdivided land or along half streets adjoining unsubdivided land may be required. These strips shall be designated on the final subdivision plat. The reserve strip shall be included in the dedication granting to the City right to control access over the reserve strip to assure continuation or completion of the street. These reserve strips shall overlay the dedicated street right-of-way.

E. Monumentation Requirements.

1. Monuments shall be set according to provisions of State law.

2. In making the survey, the surveyor shall set sufficient permanent monuments prior to recording so that the survey or any part thereof may be retraced according to standards required by the County Surveyor. Setting of interior monuments may be delayed with approval of the approving authority as provided in subsection (4) below.

3. The minimum requirements for monumentation and accuracy for a subdivision plat or partition plat shall comply with State law.

4. Interior "post monumentation" may be permitted by the approving authority at the time of approval of the tentative subdivision plat or upon special request prior to filing the final subdivision plat, provided that:

a) The applicant has shown it is necessary and practical to delay interior monumentation.

b) The applicant agrees to furnish a bond or cash deposit to the City in an amount equal to 150% of the estimated cost of performing the work for interior monuments.

c) The applicant signs an agreement with the project surveyor, County Surveyor and City Engineer. The agreement shall state the amount of the bond or cash deposit to be furnished at the time of submitting the final subdivision plat, how the surveyor is to be paid for the work of establishing the interior monuments, and that the rules for post monumentation as provided in ORS Chapter 92 shall be followed; establishes a date when monumentation will be completed; and, sets out other particulars that may be necessary to insure complete monumentation at a later date.

F. Review of Final Subdivision Plat Application. Within 14 days after receiving an application for final subdivision plat, the Director shall review it for compliance with the above submittal requirements If an application is found incomplete, the Director shall notify the applicant and state what is needed for a complete application.

G. Coordination by Director. The Director shall coordinate review of the final subdivision plat as required above. Upon notification by each agency that the final subdivision plat is satisfactory, the Director shall circulate the original copy of the final subdivision plat for the following signatures as appropriate: City Council, Commission Chair, City Engineer, County Assessor, County Surveyor, County Clerk, County Tax Collector, County Treasurer, and County Court. The City Engineer may make field checks to verify that the map is sufficiently correct on the ground and may enter the property for this purpose.

H. Installation of Required Improvements. Before the signature of the City Engineer is obtained, the applicant shall install required improvements, agree to install required improvements, or have gained approval to form an improvement district for installation of required public street, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the subdivision application approval. This condition is required for acceptance and approval of the final subdivision plat. These procedures are more fully described as follows:

1. **Install Improvements.** The applicant may install the required improvements for the subdivision, in accordance with the requirements of *Section 9.040.050: Construction Drawings and Specifications for Public Improvements* and *Chapter 10: Improvements Required with Development* prior to recording the final subdivision plat.

2. **Agree to Install Improvements.** The applicant may execute and file an agreement with the City specifying the maximum period within which required improvements shall be completed. The agreement shall state that if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense thereof from the applicant. The agreement shall also provide a 1 year guarantee to the City on all improvements. A performance guarantee, as provided below in *Subsection (I)*, shall be required as part of the agreement. The agreement may provide for the construction of the improvements in increments and for an extension of time under specified conditions. Assurances shall be made that franchise utility service will be provided as required by *Subsection (K)* below.

3. **Form Improvement District.** The applicant may have all or part of the public improvements constructed under an improvement district procedure. Under this procedure the applicant shall enter into an agreement with the City proposing establishment of the district for improvements to be constructed, setting forth a schedule for installing improvements, and specifying the extent of the plat to be improved. The City reserves the right under the improvement district procedure to limit the extent of improvements in a subdivision during a construction year and may limit the area of the final subdivision plat to the area to be improved. A performance guarantee, as provided below in *Subsection (I)*, shall be required under the improvement district procedure.

I. Performance Guarantee. Where required by the provisions of this ordinance, the applicant shall provide a performance guarantee to assure full and faithful performance thereof, in one of the following forms:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.

2. In lieu of the surety bond, the applicant may:

   a) Deposit with the City Finance Director cash money to be released only upon authorization of the City Engineer.
   b) Supply certification by a bank or other reputable lending institution that money is being held to cover the cost of required improvements to be released only upon authorization of the City Engineer.

c) Supply certification by a bank or other reputable lending institution that a line of credit has been established to cover the cost of required improvements, to be utilized only upon authorization of the City Engineer.

d) Provide bonds in a form approved by the City Attorney.

3. Such assurance of full and faithful performance shall be for a sum determined by the City Engineer as sufficient to cover the cost of required improvements, including related engineering and incidental expenses.

4. If the applicant fails to carry out provisions of the agreement and the City has expenses resulting from such failure, the City shall call on the performance guarantee for reimbursement. If the amount of the performance guarantee exceeds the expense incurred, the remainder shall be released. If the amount of the performance guarantee is less than the expense incurred, the applicant shall be liable to the City for the difference, plus the cost of collections.

J. Public Improvements. *See Section 9.030.050: Final Partition Plat Review (C)(1).*

K. Franchise Utility Service. Prior to approval of the final subdivision plat, the applicant shall install or provide financial assurances to the satisfaction of the Director that electrical power, natural gas, cable television, and telephone service is or will be provided for each lot unless specifically exempted during the review of the subdivision application.

L. Removal of Existing Services. Existing public utilities or service connections not required, in the judgment of the City Engineer, for the proposed subdivision shall be removed prior to filing of the plat.

M. Recording the Final Subdivision Plat. When all required signatures have been obtained on the final subdivision plat, the applicant shall record the subdivision plat and any required covenants with the Wasco County Clerk.

N. Effective Date. Authorization of the final subdivision plat shall become legally effective when 2 copies of the recorded subdivision plat and any covenants, conditions and restrictions are received by the Department.

9.040.070 Major Replats

Applications for major replats shall be reviewed and processed per the provisions of the subdivision application, public improvement, and final subdivision plat procedures in *Sections 9.040.020, 9.040.030, 9.040.040,* and *9.040.050* above.

Chapter 10

IMPROVEMENTS REQUIRED WITH DEVELOPMENT

10.010 Purpose

This chapter provides general information regarding improvements required with residential, commercial, public and quasi-public, and industrial development. It is intended to clarify timing, extent, and standards for improvements required in conjunction with development. Where not amended by the City, requirements shall be the same as those adopted by the Oregon Chapter of the American Public Works Association (APWA).

10.020 General Construction Standards

General construction standards which apply to improvements required with development shall be set by the City Engineer and made available to the developer. These standards shall include, but are not limited to: public notification requirements for construction, the protection of existing utilities, damage to structures or roadways, the pre-construction meeting requirement for all major projects, requirements for materials and workmanship, testing, as-built drawings, warranty of public improvements against defects, and the final inspection and acceptance of all public improvements.

10.030 Timing of Improvements

A. General. Except sidewalks which are described below in **Subsection (B)**, all improvements required by the standards in this Section shall be installed per the provisions of *Section 9.040.060(H): Installation of Required Improvements.*

B. Sidewalks. The timing of the installation of sidewalks shall be as follows:

1. Sidewalks and planted areas along arterial and collector streets shall be installed with street improvements.

2. Sidewalks along local streets shall be installed per the requirements of any final plat approval, in conjunction with development of a particular site unless postponed with City approval and a signed waiver of remonstrance for the future improvement is deed recorded per the provisions of *Section 6.110: Waiver of Right to Remonstrate*, or with street improvements, except as noted in (C) below.

3. Where sidewalks on local streets abut common areas, drainage ways, or other publicly owned areas, the sidewalks and planted areas shall be installed with street improvements.

C. Phased Development. Where specific approval for a phasing plan has been granted for a planned development and/or subdivision, improvements may similarly be phased in accordance with that plan.

10.040 Pedestrian Requirements

A. Sidewalks. Sidewalks shall typically be required along both sides of all arterial, collector, and local streets as follows. The approving authority may reduce the sidewalk requirement to one side of the street where significant topographic barriers exist (such as west Scenic Drive), or in other non-residential areas where the developer can demonstrate that sidewalks are not necessary on both sides of the street.

1. **Local.** Sidewalks shall be a minimum of 5 feet wide, and shall be separated from curbs by a planting area that provides at least 5 feet of separation between sidewalk and curb.

2. **Collectors.** Sidewalks along collector streets shall be a minimum of 5 feet wide and may be required to be separated from curbs by a planting area a minimum of 5 feet wide between the sidewalk and curb.

3. **Arterials.** Sidewalks along arterial streets may be required to be separated from curbs by a planted area a minimum of 10 feet wide between the sidewalk and curb, and landscaped with trees and plant materials approved by the City. The sidewalks shall be a minimum of 5 feet wide if separated from the street by a 10 foot planting area; otherwise the sidewalk shall be 10 feet wide.

B. Connectivity. Safe and convenient pedestrian facilities that strive to minimize travel distance to the greatest extent practicable shall be provided in conjunction with new development within and between new subdivisions, planned developments, commercial developments, industrial areas, residential areas, and neighborhood activity centers such as schools and parks, as follows:

1. For the purposes of this section, "safe and convenient" means pedestrian facilities that are reasonably free from hazards which would interfere with or discourage pedestrian travel for short trips, that provide a direct route of travel between destinations, and that meet the travel needs of pedestrians considering destination and length of trip.

2. To meet the intent of (B) above, separated pedestrian rights-of-way connecting non-through streets or passing through unusually long or oddly shaped blocks shall be a minimum of 18 feet wide. When these connections are less than 220 feet long (measuring both the on-site and the off-site portions of the path) and they directly serve 10 or fewer on-site dwellings, the paved improvement shall be no less than 6 feet wide. Connections that are either longer than 220 feet or serve more than 10 on-site dwellings shall have a minimum 10 foot wide paving width, or wider as specified in *Section 10.050(C): Pedestrian and Bicycle Facilities Widths.*

3. Internal pedestrian circulation shall be encouraged in new developments by clustering buildings, constructing convenient pedestrian walkways, and/or constructing skywalks where appropriate. Pedestrian walkways shall be provided in accordance with the following standards:

   a) The on-site pedestrian circulation system shall connect the sidewalk on adjacent street(s) to the main entrance of the primary structure on the site to minimize out-of-direction pedestrian travel.
   b) Walkways shall be provided to connect the on-site pedestrian circulation system with existing or planned pedestrian facilities which abut the site but are not adjacent to the streets abutting the site.
   c) Walkways shall be as direct as possible and avoid unnecessary meandering.
   d) Walkway/driveway crossings shall be minimized, and internal parking lot circulation design shall maintain ease of access for pedestrians from abutting streets and pedestrian facilities.
   e) Walkways shall be separated from vehicle parking or maneuvering areas by grade, different paving material, or landscaping. They shall be constructed in accordance with the sidewalk standards adopted by the City Engineer. (This provision does not require a separated walkway system to collect drivers and passengers from cars that have parked on site unless an unusual parking lot hazard exists).

C. Trail Linkages. Where a development site is traversed by or adjacent to a future trail linkage identified within The Dalles Transportation System Plan, Comprehensive Plan, or Riverfront Plan, improvement of the trail linkage shall occur concurrent with development. Dedication of the trail to the Public shall be provided in accordance with *Section 10.110(C): Future Trail Linkages.*

D. Pedestrian Network. To provide for orderly development of an effective pedestrian network, pedestrian facilities installed concurrent with development of a site shall be extended through the site to the edge of adjacent property(ies).

E. Off-Site Improvements. To ensure improved access between a development site and an existing developed facility such as a commercial center, school, park, or trail system, the approving authority may require off-site pedestrian facility improvements concurrent with development.

10.050 Bicycle Requirements

A. Bike Lanes. On-street bike lanes shall be required on all new arterial and major collector streets, and with improvements and widening of such streets, and constructed at the time of street improvements.

B. Connectivity. Safe and convenient bicycle facilities that strive to minimize travel distance to the greatest extent practicable shall be provided in conjunction with new development within and between new subdivisions, planned developments, commercial developments, industrial areas, residential areas, and neighborhood activity centers such as schools and parks. To provide for orderly development of an effective bicycle network, bicycle facilities installed concurrent with development of a site shall be extended through the site to the edge of adjacent property(ies).

1. For the purposes of this section, "safe and convenient" means bicycle facilities which are reasonably free from hazards that would interfere with or discourage bicycle travel for short trips, provide a direct route of travel between destinations, and meet the travel needs of bicyclists considering destination and length of trip.

2. Bicycle/pedestrian rights-of-way connecting non-through streets or passing through unusually long or oddly shaped blocks shall be a minimum of 18 feet wide.

C. Pedestrian and Bicycle Facilities Widths. Adequate widths for pedestrian/bicycle facilities shall be provided in accordance with the following standards:

1. 8 foot bike paths should be used where long term bicycle and pedestrian usage is expected to be relatively low (a neighborhood facility rather than a community-wide facility) and with proper alignment to ensure adequate sight distance.

2. 10 feet shall be used as a standard width for two-way bike paths.

3. 12 foot bike paths shall be provided in areas with high bicycle volumes or multiple use by bicyclists, pedestrians and joggers.

10.060 Street Requirements

A. Traffic Studies. Traffic studies shall be required of all development proposals with the potential for significant trip generation. Unless specifically waived by the City Engineer, development proposals for 16 or more single or multi-family dwellings, and any commercial, industrial, or public or quasi-public development proposal shall be considered as having the potential for significant trip generation. The traffic study shall be conducted in accordance with the following:

1. A proposal establishing the scope of the traffic study shall be submitted for review to the Director. The study requirements shall reflect the magnitude of the project in accordance with accepted traffic engineering practices. Large projects should assess all nearby key intersections. Once the scope of the traffic study has been approved, the applicant shall present the results with an overall site development proposal. The study shall be sealed and signed by a Licensed Professional Engineer specializing in traffic.

2. If the traffic study identifies level-of-service conditions less than the minimum standard established in The Dalles Transportation Master Plan, improvements and funding strategies mitigating the problem shall be considered concurrent with a development proposal.

3. Location of new arterial streets shall conform to The Dalles Transportation Master Plan, and traffic signals should generally not be spaced closer than 1500 feet for reasonable traffic progression.

B. Pass-Through Traffic. Local residential streets are intended to be designed to discourage pass-through traffic. (NOTE: For the purposes of this section, "pass-through traffic" means the traffic traveling through an area that does not have a local origination or destination.) To discourage pass-through traffic the following street designs shall be considered, as well as other designs intended to discourage traffic:

1. Straight segments of local streets should be kept to less than a quarter mile in length, and include design features such as curves and "T" intersections.

2. Local streets should typically intersect in "T" configurations rather than 4-way intersections to minimize conflicts and discourage through traffic.

3. Non-through streets should not exceed 440 feet nor serve more than 16 dwelling units.

C. Improved to Standards. Development sites shall be provided with access from a street improved to City standards in accordance with the following:

1. Where a development site abuts an existing public street not improved to City standards, the abutting street shall be improved to City standards along the full frontage of the property concurrent with development, or a non-remonstrance agreement for future street improvements (including Local Improvement Districts) shall be signed by the property owner(s) and recorded with the deed, per the provisions of *Section 6.110: Waiver of Right to Remonstrate.*

2. Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, these may be approved by the approving authority where essential to the reasonable development of the property. A typical example of an allowed half street improvement would be for a residential rear lot development option (see *Section 9.020.030: Residential Rear Lot Development*). Approval for half-street improvements may be allowed when other standards required for street improvements are met and when the approving authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed.

3. To ensure improved access to a development site consistent with policies on orderly urbanization and extension of public facilities the approving authority may require off-site street improvements concurrent with development.

D. Orderly Development. To provide for orderly development of adjacent properties, public streets installed concurrent with development of a site shall be extended through the site to the edge of the adjacent property(ies) in accordance with the following:

1. Temporary dead-ends created by this requirement to extend street improvements to the edge of adjacent properties shall always be installed with turn-arounds, unless waived by the Fire Marshal.

2. In order to assure the eventual continuation or completion of the street, reserve strips may be required in accordance with *Section 9.040.060(D): Designation and Conveyance of Reserve Strips.*

3. Drainage facilities, and erosion control measures as appropriate, shall be provided to properly manage storm water run-off from temporary dead-ends.

E. Connectivity.

1. The street system of any proposed development shall be designed to coordinate with existing, proposed, and planned streets outside of the development as follows:

a) Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to access abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turnaround unless specifically exempted by the City Engineer. The restoration and extension of the street shall be the responsibility on any future developer of the abutting land.

b) Residential streets shall connect with surrounding streets to permit the convenient movement of traffic between neighborhoods or facilitate emergency access or evacuation. Connections shall be designed to minimize pass through traffic on local streets. Appropriate design and traffic controls such as four-way stops, 'T' intersections, roundabouts, and traffic calming measures are the preferred means of discouraging through traffic.

c) Arterial and Collector streets shall meet at 4-way 90° intersections unless a different intersection design is specifically authorized by the City Engineer.

F. Street Names. Except for extensions of existing streets, no street names shall be used that will duplicate or be confused with names of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area and be subject to approval of the Director.

G. Alleys. Alleys are encouraged as functionally efficient for rear loading on all types of property, and may be required by the approving authority to:

1. Provide for continuation of existing alleys.

2. Provide for rear lot vehicle access to properties fronting on arterial and collector streets.

H. Unusual Situations. Where standards do not exist to address unusual situations, the approving authority may require as a condition of development the approval of special design standards recommended by the City Engineer.

I. Private Streets. Private streets, though discouraged in conjunction with land divisions, may be considered within a development site provided all the following conditions are met:

1. Extension of a public street through the development site is not needed for continuation of the existing street network or for future service to adjacent properties.

2. The development site remains in one ownership, or adequate mechanisms are established (such as a homeowners' association invested with the authority to enforce payment) to ensure that a private street installed with a land division will be adequately maintained.

3. Private streets are designed to the City standards contained in *Section (J)* below.

4. Where a private street is installed in conjunction with a land division, construction standards consistent with City standards for public streets shall be utilized to protect the interests of future homeowners.

J. Location, Grades, Alignment and Widths. Location, grades, alignment, and widths for all public streets shall be considered in relation to existing and planned streets, topographical conditions, public convenience and safety, and proposed land use. Where topographical conditions present special circumstances, exceptions to these standards may be granted by the City Engineer provided the safety and capacity of the street network is not adversely effected, and requests for exceptions are adequately justified and prepared and sealed by a licensed professional engineer. The following standards shall apply:

1. Location of streets in a development shall not preclude development of adjacent properties. Streets shall conform to planned street extensions identified in The Dalles Transportation Master Plan and/or provide for continuation of the existing street pattern or network in the surrounding area.

2. Grades shall not exceed 6 percent on arterial streets, 10 percent on collector streets, and 12 percent on local streets.

3. Centerline radii of curves shall not be less than 500 feet on arterial streets, 300 feet on collector streets, and 80 feet on local streets.

4. Streets shall be designed to intersect at angles as near as practicable to right angles and shall comply with the following:

   a) Alignment shall be as straight, and gradients as flat as practical. Substantial grade changes shall be avoided at intersections. Where conditions make the grade requirements in Subsections (b) and (c)) below cost prohibitive, the City Engineer may allow grades up to 6% with a corresponding adjustment in related design factors. Requests for such exceptions shall be accompanied by a justification prepared and sealed by a licensed professional engineer.

   b) The intersection of an arterial or collector street with another arterial or collector street shall have a minimum of 100 feet of straight (tangent) alignment perpendicular to the intersection. Maximum design grade is 2% in this area.

   c) The intersection of a local street with another street shall have a minimum of 50 feet of straight (tangent) alignment perpendicular to the intersection. Maximum design grade is 3% in this area.

   d) Where right angle intersections are not possible, exceptions can be granted by the City Engineer provided that intersections not at right angles have a minimum angle of 60 degrees and a corner radius of 20 feet along the right-of-way lines of the acute angle.

   e) Intersections with arterial streets and established truck routes shall have a minimum curb corner radius of 20 ft.

   f) All other intersections shall have a minimum curb corner radius of 15 feet.

5. Right-of-way and improvement widths and standards shall be as specified as follows:

Attachment #4

The Dalles **Residential Street Standards** Matrix

Residential Street Type	Volume (Ave. Daily Trips)	Speed (MPH)	Street Width (Feet)	Sidewalk/ Planter Strip (Includes Curb)	ROW (Feet)
Alley		15	18 (no parking)	None	20-25
Lane (limited to 16 or fewer lots and/or 440 linear feet)	0-150	20	28 (8+12+8 non-striped)	11 feet each side	50
Neighborhood Street (requires traffic study)	150-500	25	32 (8+16+8 non-striped)	11 feet each side	54
Residential Street	500-1,000	25	36 (8+10+10+8 striped)	11 feet each side	58
Minor Collector (Residential)	1,000-3,000	25-30	38-40 (8+11/12+11/12+8 striped)	12.5 feet each side	64
Private Road			20 (no parking)	11 feet each side	42

The Dalles **Arterial, Collector and Industrial/Commercial Street Standards** Matrix

Street Type	Speed (MPH)	Bike Lanes	Street Width (Feet)	Sidewalk/ Planter Strip	ROW
Three Lane Arterial	25-35	Required (6+6)	50 (6+12+14+12+6 no parking) or 66 (8+6+12+14+12+6+8)	12-20 feet each side	90
One Way Arterial	25	Required (6)	46 (8+12+8+6+8)	10.5-15.5 feet each side	67-77
Major Collector	25-35	Required (6+6)	52 (8+6+12+12+6+8)	5.5-12 feet each side	63-76
Industrial Major Collector	25-35	Required (6+6)	40 (6+14+14+6 no parking)	10 feet each side (sidewalk may be one side only)	60
Minor Collector (and Commercial/Industrial Local)	25-30	None	38-40 (8+11/12+11/12+8)	10-11 feet each side	60

Note: All streets in this matrix will be striped.

Attachment #4

10.070 Public Utility Extensions

A. General. All development sites shall be provided with public water, sanitary sewer and storm drainage, except as specified in Subsection (F) below. The developer is responsible for extending these required services to and through the development site.

B. Construction. Where necessary to serve property as specified in Subsection (A) above, required public utility installations shall be constructed concurrent with development.

C. Off-Site Extensions. Off-site public utility extensions necessary to fully serve a development site and adjacent properties shall be constructed concurrent with development.

D. Extension Through The Site. To provide for orderly development of adjacent properties, public utilities installed concurrent with development of a site shall be extended through the site to the edge of adjacent property(ies).

E. Standards. All public utility installations required with development shall conform to City standards.

F. Private Utility Facilities. Private on-site water, sanitary sewer and storm drainage facilities may be considered when proposed buildings are not within 300 feet of utility main lines and provided all the following conditions exist:

1. Extension of a public facility through the site is not necessary for the future orderly development of adjacent properties.

2. The facilities are designed and constructed in accordance with the Uniform Plumbing Code and other applicable codes, and written permission for such facilities is obtained from the Public Works Director prior to commencement of work.

3. A non-remonstrance agreement for future utility improvements (including Local Improvement Districts) is signed by the property owner(s) and recorded with the deed, per the provisions of *Section 6.110: Waiver of Right to Remonstrate*, and all federal, state and local regulations are complied with.

4. The County Sanitarian has approved all septic systems.

5. The Oregon Health Division has approved any wells on the site.

6. All runoff associated with the proposed development is collected and properly disposed of on site.

10.080 Public Improvement Procedures

It is in the best interests of the community to ensure that public improvements installed in conjunction with development are constructed in accordance with all applicable City policies, standards, procedures, and ordinances. Therefore, prior to commencement of installation of public water, sanitary sewer, storm drainage, street, bicycle, or pedestrian improvements for any development site, developers shall contact the Department to receive information regarding adopted procedures governing plan submittal, plan review and approval, permit requirements, inspection and testing requirements, progress of the work, and provision of easements, dedications, and as-built drawings for installation of public improvements. All work shall proceed in accordance with those adopted procedures, and all applicable City policies, standards, and ordinances. The developer shall warranty all public improvements against defect for one year from the date of final acceptance by the City.

Whenever any work is being done contrary to the provisions of this and other City Ordinances, the Director or City Engineer may order the work stopped by notice in writing served on the persons engaged in performing the work or causing the work to be performed. The work shall stop until authorized, by the Official serving the original stop work order, to proceed with the work or with corrective action to remedy substandard work already completed. Failure to heed a stop work order shall be punishable by a fine of $250.00. Each day the stop work order is not complied with shall constitute a separate fine.

10.090 Final Inspection Procedure

1. **As-Built Drawings.** The owner, Developer or Agent shall have an Engineer prepare, at his own expense, a complete set of as-built drawings of any public improvement project from information provided by the Inspector and Contractor. The City shall be provided with one copy of the completed as-built drawings in either AutoCAD format on 3 ½" double sided, high-density disks, or 1 copy of india ink on mylar.

2. **Warranty.** The Contractor shall warrant all public improvements against any defects in the materials and workmanship provided for a period of one year from the date of the City's final acceptance of the work. The Contractor shall remedy any defects in the work provided, and pay for any damages resulting therefrom, which shall appear within the one year warranty period. The City will give notice of observed defects with reasonable promptness. In the event that the Contractor or its surety should fail to make such repairs, adjustments or perform other work that may be made necessary by such defects, the City may do so and charge the Contractor, or its surety, the cost thereby incurred.

3. **Final Inspection and Acceptance.** The City Engineer will conduct a final inspection of all public improvement projects to ensure they meet City Standards before the City formally accepts them for ownership, operation or maintenance. The Contractor shall notify the City Engineer at least 48 hours in advance of the need for such an inspection. The following items will be properly recorded and copies on file with the Department of Public Works before the City Engineer will conduct the final inspection:

   a) Inspection Records and Documentation including video, for gravity lines, and test reports.
   b) As-Built Drawings.
   c) Total Construction Cost.
   d) Easements and, if appropriate, homeowners association information.
   e) Written releases from adjacent property owners where Contractor's operations have not been kept within easements or rights-of-way for any reason.
   f) Final Plat or Partition
   g) Warranty.

   If the final inspection proves satisfactory, the City Engineer will formally recommend acceptance of construction. If not, the City Engineer will prepare a "punch list" for the Contractor detailing additional work required prior to final acceptance and will re-inspect the project following the Contractors certification that he has completed the work required by the "punch list." Upon final acceptance, the City will assume ownership and accept operation and maintenance responsibilities for the public improvements.

10.100 Franchise Utility Installations

These standards are intended to supplement, not replace or supersede, requirements contained within individual franchise agreements the City has with providers of electrical power, telecommunication, cable television, and natural gas services (hereafter referred to as "franchise utilities").

A. General.

1. Where a land division is proposed, the developer shall provide franchise utilities to the development site. Each lot created with a subdivision shall have an individual service available or secured in accordance with provisions of *Section 9.040.060(J): Franchise Utility Service* prior to approval of the final plat.

2. Where necessary, in the judgment of the Director of Public Works, to provide for orderly development of adjacent properties, franchise utilities shall be extended through the site to the edge of adjacent property(ies), whether or not the development involves a land division.

3. Where a land division is not proposed, the site shall have franchise utilities required by this section provided in accordance with the provisions of *Section 9.040.060(J): Franchise Utility Service* prior to occupancy of structures.

B. Location. Franchise utilities shall be placed in the public right-or-way, or on private property in a dedicated utility easement.

C. Natural Gas and Cable TV. The developer shall have the option of choosing whether or not to provide natural gas or cable television service to the development site, providing both of the following conditions exist:

1. Extension of franchise utilities through the site is not necessary for the future orderly development of adjacent property(ies);

2. The development is non-residential.

D. Distribution Facilities. All franchise utility distribution facilities installed to serve new development shall be placed underground except as provided below. The following facilities may be installed above-ground:

1. Poles for street lights and traffic signals, pedestals for police and fire system communications and alarms, pad mounted transformers, pedestals, pedestal mounted terminal boxes and meter cabinets, concealed ducts, substations, or facilities used to carry voltage higher than 35,000 volts.

2. Overhead utility distribution lines may be permitted upon approval of the City Engineer when unusual terrain, soil, or other conditions make underground installation impracticable. Location of such overhead utilities shall follow rear or side lot lines wherever feasible.

E. Developer Responsibility. The developer shall be responsible for making necessary arrangements with franchise utility providers for provision of plans, timing of installation, and payment for services installed. Plans for franchise utility installations shall be submitted concurrent with plan submittal for public improvements to facilitate review by the City Engineer.

F. Street Lighting. The developer shall be responsible for street lighting along all public streets and/or intersections improved in conjunction with the development in accordance with the following:

1. The developer shall coordinate with the City Engineer to determine street lighting requirements. The street light plan shall be designed by the serving electric utility to provide illumination meeting the requirements in the following table (or the requirements of the National Electric Code, with the approval of the City Engineer). Avoid layouts that place hydrants and standpipe connections in shadow.

RECOMMENDED LIGHTING LEVELS, IN FOOT-CANDLES

	COMMERCIAL	INDUSTRIAL	RESIDENTIAL
Arterial Street	2.0	1.4	1.0
Major Collector Street	1.2	0.9	0.6
Minor Collector Street	0.9	0.6	0.4
Local Street	0.6	See note below.	See note below.
Pedestrian Ways	1.0	1.0	0.5

NOTE: The City will only require the developer to light intersections in industrial and residential areas. Illuminate to a minimum of .4 foot-candles at 135 feet each way from the intersection centerline. The developer may choose to provide additional lighting; however, the City will not accept responsibility for the power bills for such extra lights.

2. The developer shall make all necessary arrangements for trenching, installation of conduit, wiring and pole bases with the serving utility prior to beginning construction of street lighting systems.

3. Standard street light installations are as follows:

   a) A 23 foot aluminum pole with cobra head fixture and a 200 watt high pressure sodium lamp, or as adopted by the Northern Wasco County PUD (PUD) and approved by the City Engineer. Wood poles may be used in areas where overhead distribution lines exist or are approved by the City Engineer under *Section (D)(2)* above.

   b) A 14' aluminum pole with "china hat" fixtures spaced 100' apart, or as adopted by the PUD and approved by the City Engineer, may be installed in residential areas at the developers discretion ONLY if the developer or homeowner's association assumes responsibility for associated power bills.

   c) Period lighting in the historic districts. Period pole and fixture as adopted by the PUD and approved by the Director.

4. The City Engineer shall coordinate actual installation of poles, fixtures and lamps with the serving utility when there are sufficient occupants or traffic loads on the public street to warrant their installation.

10.110 Land For Public Purposes

A. Easements. Easements for public sanitary sewer, water, storm drain, and pedestrian and bicycle facilities shall be provided whenever these facilities are located outside a public right-of-way in accordance with the following:

1. When located between adjacent lots, easements shall be provided on one side of a lot line.

2. The minimum easement width for a single utility is 15 feet. The minimum easement width for two adjacent utilities is 20 feet. The easement width shall be centered on the utility to the greatest extent practicable unless otherwise required or approved by the City Engineer. Wider easements may be required for unusually deep facilities, or for facilities on steep grades.

B. Drainage Ways and Water Courses. Where a development site is traversed by a drainage way or water course, the drainage way shall be protected and a drainage way dedication shall be provided to the Public.

C. Future Trail Linkages. Where a development site is traversed by, or adjacent to, a future trail linkage identified within The Dalles Comprehensive Plan, Transportation Master Plan, or Riverfront Plan, dedications of suitable width to accommodate the trail linkage shall be provided. This width shall be determined by the Director, considering the type of trail facility involved.

D. Dedication of Rights-of-Way and Easements. Where rights-of-way and/or easements within or adjacent to development sites are nonexistent or of insufficient width, dedications may be required. The need for and widths of those dedications shall be as identified in this Chapter or determined by the City Engineer.

E. Recording Dedications. Where easement or dedications are required in conjunction with land divisions, they shall be recorded on the plat. Where a development does not include a land division, easements and/or dedications shall be recorded on standard document forms provided by the City Attorney.

F. Environmental Assessments. Environmental assessments shall be provided by the developer for all lands to be dedicated to the public or City. An environmental assessment shall include information necessary for the City to evaluate potential liability for environmental hazards, contamination, or required waste cleanups related to the dedicated land. An environmental assessment shall be completed prior to the acceptance of dedicated lands in accordance with the following:

1. The initial environmental assessment shall detail the history of ownership and general use of the land by past owners. Upon review of the information provided by the grantor, as well as any site investigation by the City, the Director will determine if the risks of potential contamination warrant further investigation. When further site investigation is warranted, a Level I Environmental Assessment shall be provided by the grantor.

2. Level I Environmental Assessments shall include data collection, site reconnaissance, and report preparation. Data collection shall include review of Oregon Department of Environmental Quality records, City and County fire department records, interviews with agency personnel regarding citations or enforcement actions issued for the site or surrounding sites that may impact the site, review of available historic aerial photographs and maps, interviews with current and available past owners of the site, and other data as appropriate. Site reconnaissance shall include a walking reconnaissance of the site checking for physical evidence of potentially hazardous materials that may impact the site. Report preparation shall summarize data collection and site reconnaissance, assess existing and future potential for contamination of the site with hazardous materials, and recommend additional testing if there are indications of potential site contamination. Level I Environmental Assessment reports shall be signed by a licensed professional engineer skilled in the performance of such work.

3. If a Level I Environmental Assessment concludes that additional environmental studies or site remediation are needed, no construction permits shall be issued until those studies are submitted and any required remediation is completed by the developer and/or owner. Additional environmental studies and/or required remediation shall be at the sole expense of the developer and/or owner. The City reserves the right to refuse acceptance of land identified for dedication to public purposes if risk of liability from previous contamination is found.

10.120 Mail Delivery Facilities

A. Location. In establishing placement of mail delivery facilities locations of sidewalks, bikeways, intersections, existing or future driveways, existing or future utilities, right-of-way and street width, and vehicle, bicycle and pedestrian movements shall be considered. The final location of these facilities shall meet the approval of the City Engineer and the Post Office. Where mail delivery facilities are being installed in conjunction with a land division, placement shall be indicated on the plat and meet the approval of the City Engineer and the Post Office prior to final plat approval.

B. Sidewalk. Where mail delivery facilities are proposed to be installed in areas with an existing or future curbside sidewalk, a sidewalk bypass/widening shall be provided that maintains the required design width of the sidewalk around the mail delivery facility. If the right-of-way width will not accommodate the sidewalk bypass/widening, a sidewalk easement shall be provided adjacent to the right-of-way.

C. Construction Specifications. Mail delivery facilities and the associated sidewalk bypass/widening (if necessary) around these facilities shall conform with the City's standard construction specifications. Actual mailbox units shall conform with the Post Office standards for mail delivery facilities.

D. Installation. Installation of mail delivery facilities is the obligation of the developer. These facilities shall be installed concurrently with the public improvements. Where development of a site does not require public improvements, mail delivery facilities shall be installed concurrently with private site improvements.

Section 64. Section 8.040.030(A) shall be amended by adding the following language: "If the size of a proposed development is increased, or the location of a proposed development is changed, a new impact statement may be required."

Section 65. Section 8.050.040 shall be amended by adding a new subsection (G) as follows: "Documentation. Prior to initiating any cut or fill in excess of 10 cubic yards, the applicant shall submit documentation showing the amount and location of each cut or fill."

Section 66. Section 9.020.020 shall be amended by adding a new subsection (D) as follows: "Annexation. Whenever a new lot is created inside the Urban Growth Boundary but outside the City limits, the City may require annexation or the signing of a consent to annexation and a waiver of the one year limitation on consent to annexation."

Section 67. Section 9.030.040(B) shall be amended by adding a new subsection (4) as follows: "The plans for public improvements meet the requirements contained in the provisions of Section 9.040.060 H: Installation of Required Improvements.

Section 68. Section 9.030.050©(1) shall be amended to read as follows: "The applicant has installed, agreed to install, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of Chapter 10: Improvements Required with Development. Improvements that may be required include street, street lights or other signals, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the partition application."

Section 69. Section 9.040.030 (A)(1) shall be amended by substituting the words "at least" for "not to exceed".

Section 70. Section 9.050.040(B) shall be amended by deleting the word "concept".

Section 71. Section 10.030 shall be amended by adding a new subsection (D) as follows: "Annexation. As part of any development, including but not limited to new construction, land division, extension of City services, rezone, or a change of use, of a parcel inside the Urban Growth Boundary but outside the City limits, the City may require annexation or the signing of a consent to annexation and a waiver of the one year limitation on consent to annexations."

Section 72. Section 10.060(J)(5) shall be amended to read as follows: "Right-of-way and improvement widths and standards shall be as specified below, or as modified in subsection 6:

Section 73. Section 10.060(J) shall be amended by adding a new subsection (6) as follows:

6. Modification of right-of-way standards.
   a) When a new right-of-way is created adjacent to existing right-of-way that does not match City standards, the City Engineer may modify the standard width for safety purposes and to achieve the greatest consistency feasible.

COPY

RESOLUTION NO. 07-007

A RESOLUTION ADOPTING AN IMPLEMENTATION POLICY FOR CITY COUNCIL FOR LOCAL IMPROVEMENT DISTRICTS UNDER GENERAL ORDINANCE NO. 91-1127 PROVIDING FOR LOCAL IMPROVEMENTS

WHEREAS, General Ordinance No. 91-1127 establishes procedures for forming local improvement districts; and

WHEREAS, General Ordinance No. 07-1277 amended Section 3 of General Ordinance No. 91-1127 to provide the City Council shall adopt by resolution a written implementation policy for residential Local Improvement Districts initiated by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:

Section 1. Review of Existing Non-remonstrance agreements.

A. Immediately following the adoption of this resolution, City staff will review all Waivers of Local Improvement District Non-Remonstrance Agreements which have been previously signed. Those agreements which have not been previously recorded with the Wasco County Clerk, which were signed by an individual or individuals who are not the current owner(s) of the property to be included in a proposed local improvement district, will be deemed null and void. A letter of determination and a copy of the non-remonstrance agreement will be sent to the current property owner(s). For waiver of remonstrance agreements not previously recorded with the Wasco County Clerk, which were signed by an individual or individuals who are the current owner(s) of the property, the agreement will be recorded at the City's expense.

B. For all waivers of remonstrance agreements remaining after the review in Section 1(A), a letter will be sent to the affected property owner(s) offering them an opportunity to pre-pay to the City LID fund an amount equal to the cost of the proposed improvements calculated on a front footage basis, as adjusted by multi-frontage relief in an amount established by the City Council. The letter will also include a provision for pre-payment to be made at any time, and that the City recommends that pre-payment be made at the time the property is sold in the future, and a reminder to the property owner(s) to disclose this information to any potential buyer.

C. At which time the City Council initiates a local improvement district as set forth in the provisions contained in Section 2 through 5, the Council may require the owners of properties for which a waiver of remonstrance agreement has been

signed, to participate in the local improvement district as set forth in Section 5, unless the district is defeated as provided in the City's Local Improvement District Ordinance.

Section 2. Public Hearing. On an annual basis, the City Council will hold a public hearing to develop a five year Capital Improvement Plan for potential residential Local Improvement Districts. The plan will be made available to the public and be available on the City's website prior to the public hearing, and after adoption of the Plan. The prioritization of the projects with the Capital Improvement Plan will be based upon the criteria identified in Section 3 as applied at the discretion of the City Council.

Section 3. Criteria for Projects. In establishing the Five Year Capital Improvement Plan and specifically identifying projects to be done in the first year of the Plan, the City Council shall apply the following criteria:

A. The presence of a gravel street surface or failing and substandard existing roadway surfaces.
B. The percentage of properties that have developed and either signed a waiver of remonstrance agreement, a delayed improvement agreement, or pre-paid cash in lieu of installing the public improvements in question.
C. Completed and/or pending development in the general area of the proposed local improvement district that would make the improvements the next logical step in extension of the area's street network.
D. Proximity to fully developed areas.
E. Traffic safety concerns.
F. The benefit to the overall area and community traffic flow.
G. Health concerns (i.e., dust from gravel streets, narrow streets, deteriorated roadways, etc.).

Section 4. Informational Meeting. City staff members will hold an informational meeting with potentially affected property owners in a subdivision or a neighborhood where the formation of a local improvement district is being considered, at least thirty (30) days prior to the City Council initiating the process to establish a local improvement district. The meeting will be conducted to discuss potential improvements and allow the property owners to propose any specific variations from the standard specifications used by the City for construction of public improvements.

Section 5. Council Options for Proceeding with Districts. If after implementing the local improvement district process as set forth in this Resolution, the Council determines that a majority of the property owners who have not signed a waiver of remonstrance agreement (which majority is defined as 51% of the total number of property owners to be included in the proposed LID), have filed a written remonstrance with the City expressing their opposition to the proposed LID, the Council at its discretion shall take one of the following actions:

A. Place the local improvement district on hold for a period of one to five years.

B. Proceed with formation of the local improvement district which would include only those properties where a non-remonstrance agreement has been signed by the property owner(s), if the criteria listed in Section 3 of this policy supports proceeding with formation of the district. The local improvement district for the remaining properties would be placed on hold as provided for in Section 5(A).

C. Proceed with the formation of the local improvement district with assessments for those who oppose the project being placed on hold for five years, which means the assessments would not be imposed for a period of five years from the date of formation of the local improvement district.

Section 6. Multi-frontage Lot. If a single lot has frontage on more than one street, it will only be assessed for public improvements for the average of all frontages.

Section 7. Changes in Policy. No change in or amendment to this policy will be allowed without the City Council first conducting a public hearing upon the proposed change or amendment.

Section 8. Effective Date. This resolution shall be effective thirty (30) days after the date of adoption of the resolution.

PASSED AND ADOPTED THIS 12TH DAY OF FEBRUARY, 2007.

Voting Yes, Councilor: Wood, Wilcox, Broehl, Dick, Kovacich
Voting No, Councilor: None
Absent, Councilor: None
Abstaining, Councilor: None

AND APPROVED BY THE MAYOR THIS 12TH DAY OF FEBRUARY, 2007.

~~Bobb Van Cleave, Mayor~~
Jim Broehl, Mayor pro-tem
Attest:

Julie Krueger, MMC, City Clerk

GENERAL ORDINANCE NO. 07-1276

AN ORDINANCE AMENDING CERTAIN SECTIONS OF GENERAL ORDINANCE NO. 98-1222 CONCERNING WAIVERS OF RIGHT TO REMONSTRATE

THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Section 6.110 of General Ordinance No. 98-1222, WAIVER OF RIGHT TO REMONSTRATE, is amended to read as follows:

Effective February 12, 2007, an applicant who submits a request for a building permit which involves the new construction of a residential unit(s) and/or any request involving a planning action which would increase traffic flow on any street not fully improved to City standards, will not be required to execute a waiver of remonstrance agreement for the formation of a local improvement district. Waiver of remonstrance agreements executed prior to February 12, 2007, shall be processed under the provision of Resolution No. 07-007, establishing an implementation policy for the City Council for local improvement districts under General Ordinance No. 91-1127.

In the event the Director has determined, pursuant to a review of the applicable criteria set forth in Section 3 of Resolution No. 07-007 that installation of full street improvements (including paving, curb, gutter, sidewalk, sanitary sewer, water, and where applicable, storm sewer) is not required at the time of development, the applicant submitting the request for the building permit for a new residential unit or units, or for a planning action, shall pay the amount established by the City annually on a front footage basis, into the City's local improvement district fund, subject to any provision for multi-frontage lot relief.

Section 2. Section 10.0300(B)(2) shall be amended to read as follows:

2. Sidewalks along local streets shall be installed per the requirements of any final plat approval, in conjunction with development of a particular site unless postponed with City approval.

Section 3. Section 10.060(C)(1) shall be amended to read as follows:

1. Where a development site abuts an existing public street not improved to City standards, the abutting street shall be improved to City standards along the full frontage of the property concurrent

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with the development, or the improvements shall be constructed and paid for in accordance with the implementation policy for local improvements set forth in Resolution No. 07-007.

PASSED AND ADOPTED THIS 12TH DAY OF FEBRUARY, 2007.

Voting Yes, Councilor: Wood, Dick, Broehl, Kovacich, Wilcox
Voting No, Councilor: None
Absent, Councilor: None
Abstaining, Councilor: None

AND APPROVED BY THE MAYOR THIS 12TH DAY OF FEBRUARY, 2007.

Robb Van Cleave, Mayor
Jim Broehl, Mayor pro-tem
Attest:

Julie Krueger, MMC, City Clerk

1.060 Severability

The provisions of this Ordinance are severable. If any section, paragraph, sentence, clause, or phrase is found to be invalid by any Court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance.

1.070 Repeal

The following Ordinances, together with all amendments thereto are hereby repealed:

A. "The City of The Dalles Zoning Ordinance No. 80-986", adopted May 13, 1980.

B. "The City of The Dalles Subdivision Ordinance No. 937", adopted August 4, 1975.

C. "The City of The Dalles Mobile Home Parks and Recreational Vehicle Parks Ordinance No. 943", adopted May 17, 1976.

1.080 Correction

This Ordinance may be corrected to cure editorial errors by Resolution of the City Council.

1.090 Interpretation

The provisions of this Ordinance shall be liberally construed to effect its purpose. These provisions are declared to be the minimum requirements to fulfill the stated objectives in the Purpose Statement in *Section 1.020* above. When the requirements herein imposed are less restrictive than any other comparable requirements imposed by this Ordinance, State or Federal Laws, or State or Federal Administrative Regulations, then the more restrictive shall govern.

Where the code language is ambiguous or unclear the Director is authorized to interpret the code. Requests for interpretation shall be submitted in writing on a form provided by the City. The Director shall make a written determination and mail or deliver a copy to the party requesting the interpretation. Appeals shall be heard by the Commission according to the provisions of *Section 3.020.080.*

Attachment #5

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481
FAX (541) 296-6906

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Nolan K. Young, City Manager NY

CC: Department Managers, Planning Commission

DATE: June 19, 2013

ISSUE: HB 3479

We have been informed that HB 3479 was signed by the Governor yesterday June 18, 2013. A copy of the bill is attached. This bill removes from the current LUDO the ability at the time of a residential partition to charge any prepayment or a chage in lieu of forming a Local Improvement District, or a requirement of the owner to enter into a remonstrance agreement. There is some question regarding what the words "*or a subsequent application for permit in furtherance of the partition*" means. City Attorney Gene Parker has expressed the opinion that it would relate to any other associated permits that would be required to complete the act of partitioning the property.

The legislation is somewhat similar in concept to the LUDO amendments proposed by Council to the Planning Commission in that both approaches effectively shift the burden for local improvements from the partition stage to the building permit phase. However, the primary difference is that the City no longer has the ability to require non-remonstrance agreements for a residential partition approval. Under the proposed LUDO amendments, non-remonstrance agreements were relied upon to secure the obligation for local improvements against the property and to notify subsequent purchasers of future liability.

The only change to our current development practices is to partitions in residential zones. Removal of the in lieu of payments leaves the only option available to people who wish to partition is to install the improvements. If engineering is not available or they are not willing to pay for the engineering needed to install the improvements (engineering required may include an entire block or more), then the partition would not be approved. We feel that this would stop infill development, which we believe is not the current intended Council policy. Therefore, we will be going to the Planning Commission at the earliest opportunity to propose amendments that will still maintain the balance between promoting infill development, allowing for the installation of full public works infrastructure needed to serve the property and minimize the surprise to future buyers of any obligation to install public infrastructure improvements. Attached is a proposed memo to the Planning Commission that will help implement the discussion for them to prepare LUDO amendments to be brought to the City Council.

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77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

Enrolled
House Bill 3479

Sponsored by Representative HUFFMAN

CHAPTER .....

AN ACT

Relating to city fees; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. When the owner of property that is located in a city in Wasco County with a population greater than 5,000 and that is zoned for residential use files an application for a partition, as defined in ORS 92.010, or a subsequent application for a permit in furtherance of the partition, for the property, the city may not, as a condition of approval of the application:

(1) Assess:

(a) A charge in lieu of forming a local improvement district; or

(b) A prepayment against an assessment for a future local improvement district; or

(2) Require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

SECTION 2. Section 1 of this 2013 Act is repealed on July 1, 2023.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

City of The Dalles
Planning Commission Staff Report
Amendments to the Land Use and Development Ordinance

Prepared by:	Garrett Chrostek, Administrative Fellow
Thru:	Dick Gassman, Planning Director
Procedure Type:	Discussion Item
Meeting Date:	July 18, 2013
Request:	Direction on compliance with HB 3479B
Properties:	All residential properties on under improved streets within the City of The Dalles's land use jurisdiction.
Applicant:	City of The Dalles Planning Department 313 Court Street The Dalles, OR 97058

BACKGROUND INFORMATION

HB 3479B,[1] which was signed into the law by the Governor on June 18, 2013 and is effective upon passage, preempts multiple provisions of the LUDO as it applies to residential partitions. The law also significantly alters the City's general approach to how residential infill development satisfies its local improvement (sewer, street/sidewalk, stormwater, water) obligations. In order to comply with the law and achieve the City's development goals (affordable for property owners, fair to subsequent purchasers, and reliable/manageable for the City), existing residential infill development procedures need

[1] A copy of that law is attached to this Staff Report.

to be reevaluated and several amendments to the LUDO are necessary. This Staff Report provides background on the general process for residential infill development and local improvements, the City's current residential infill procedures, the LUDO amendment that was presented to the Commission on May 4, 2013, and HB 3479B. This memo then presents a new concept for residential infill development that is compliant with HB 3479B while meeting the City's development objectives. Staff seeks comment and direction on this new approach so that the City can expeditiously facilitate residential infill development.

Residential Infill and Local Improvement Processes

The general rule throughout the state is that property owners are responsible for local improvements[2] and that those obligations should be satisfied at the time of lot creation.[3] Typically, property owners meet their responsibility by either installing the improvements themselves or, if it is not feasible for the developer to install the improvements at the time of development, by entering into a non-remonstrance agreement[4] to have the city install the improvements at a later time. The primary reason installation of improvements might not be feasible at the time of lot creation is that there is not an approved engineering design in place for the street. An engineering design is critical because without an approved design, streets, sidewalks, gutters, and pipes might not line up when streets are tied together resulting in exceedingly more costly re-installations.

Prior to 2007, property owners in The Dalles pursuing residential infill development (partitions and new constructions) on sub-standard streets lacking an approved engineering design satisfied their local improvement obligation by signing a non-remonstrance agreement. Relying exclusively on non-remonstrance agreements throughout the entire development process did not prove an effective policy as LID assessments typically ended up falling on subsequent residents of the property, who often were elderly, subject to a mortgage, or otherwise could not afford the assessments.

The City's Current Process

As LIDs did not offer a predictable or reliable means to finance local improvements[5], the City experimented with a somewhat unique approach based on the recommendations of a citizen Task Force. Specifically, where installing the improvements was not feasible, the

[2] Local improvements are a health and safety issue as it is a city's obligation to make sure properties are habitable (have sewer and water), address run-off issues (via stormwater drains), can be safely traversed by pedestrians (sidewalks), and are accessible to emergency responders (streets of width and quality meeting City code).

[3] Once a property satisfies its local improvement requirements, the City takes over maintenance of those improvements.

[4] A non-remonstrance agreement is a contractual arrangement that allows a developer to proceed with development in exchange for consenting to the assessment imposed when the City installs local improvements at a later time through a Local Improvement District ("LID").

[5] The City has been unable to initiate a residential LID for 16 years. Many other communities report similar results.

City allowed developers to pay a fee in lieu of a local improvement assessment based on uniform rates per foot of frontage for the specific improvements that the property lacked.[6]

The goal of this process was to collect fees from developers, which would then be used to pursue LIDs. The rationale was that LIDs would be more likely to occur if the money was collected upfront and that developers were in a better position to account for improvements than were subsequent residents.

However, the 2007 policy also did not prove successful. In practice, property owners were charged the uniform rate for the entire frontage of the original property to pursue any form of residential development. This made the policy particularly burdensome on large lot owners simply seeking to create a single additional lot. As some residential lots within the City's jurisdiction have several hundred feet of frontage (a typical residential lot on a fully developed block is roughly 50 feet of frontage), fees in lieu under the uniform rate formula could reach amounts in excess of $100,000. Accordingly, the City has collected very few payments in lieu since adoption of the 2007 policy and has not completed a single residential LID in that time.

Proposed LUDO Amendment

After two public work sessions, Council was prepared to consider a LUDO amendment to address the high costs associated with the payments in lieu for residential partitions. To receive partition approval under the proposed LUDO amendment, the residential partitioner must, at his/her election, either install the improvements, pay the fee in lieu, or defer improvements by signing a non-remonstrance agreement. If the improvements are deferred, the obligation for local improvements must be satisfied upon the first occurrence of either construction of a new dwelling, construction of an additional dwelling on the same lot, or formation of an LID. If installation of local improvements is not feasible at the construction phase, the developer would be assessed the fee in lieu for the portion of the original property subject to development.

This LUDO proposal accomplishes several beneficial objectives. First, the residential partitioner can complete a partition and sell the property without incurring any fee in lieu or otherwise expending any money on local improvements—provided the sale occurs prior to the formation of an LID. Second, the residential builder would only be responsible for the portion of the original property being developed and not the entire original frontage, which will reduce the amount of the fees. Third, as the non-remonstrance agreement is recordable against the property, the proposal also provides notice to subsequent buyers that the newly created lot is not "ready to build." Finally, the non-remonstrance agreement and the requirement that improvements be installed or paid for prior to the issuance of a

[6] The existing uniform local improvement rate for calculating the prepayment is currently set at $351.04 per foot of frontage broken down as follows: $175.85 for street/sidewalk, $59.15 for stormwater, $65.35 for sanitary sewer, and $50.70 for water inclusive of engineering. If a land owner pre-pays, he/she is relieved of future street obligations when an LID is formed even if the pre-payment is less than their proportional actual costs. Any savings to the landowner is picked up by the City.

building permit, provide the City assurance that the improvements will eventually be completed.

The proposed amendment language was submitted to DLCD in February 2013 for review, went through Planning Commission in April, and was scheduled for a public hearing before the Council in May. However, the City suspended this process after amendments to HB 3479 threatened to preempt the proposed LUDO amendment and disrupt other growth management practices in both The Dalles and throughout the state.

HB 3479

Representative John Huffman introduced HB 3479 on behalf of a group of property owners in The Dalles opposed to the proposed LUDO amendment. While the bill was subject to several amendments, the language ultimately enacted prohibits cities in Wasco County with population in excess of 5,000 persons (effectively only The Dalles) from requiring residential partitioners to make a payment in lieu or to sign non-remonstrance agreements as a condition of approval.

The direct implication of HB 3479B is that now the only way a residential partition can be approved under the current LUDO, and specifically Section 9.030.050(C)(1), is if the applicant installs the improvements. Because improvements can only be installed by property owners where there is an approved engineering design in place—to avoid costly problems of misaligned pipes, streets, and sidewalks—many property owners are effectively prohibited from pursuing a residential partition. Amendments to the LUDO and changes to the overall infill development scheme are thus necessary to address this barrier.

NEW PROPOSED PROCESS

As allowing development to move forward without improvements creates health and safety issues, and because it is unlikely that property owners will voluntarily pursue LIDs, Staff recommends a strategy that enables developers to install improvements instead of the City. More specifically, the approach laid out below provides additional tools to put engineering designs in place thereby facilitating the installation of improvements by developers at the time of construction. This strategy will reduce the costs of local improvements, will provide adequate notice for subsequent purchasers of property on underdeveloped streets, and ensure that local improvements are actually installed.

Partitions

Under the proposed approach, the responsibility to install or pay for improvements would attach at the partition stage. To receive partition approval on a street with an approved engineering design, the partitioner would be required to either install the improvement for the frontage of the original lot,[7] enter into a deferred development agreement for the entire

[7] Property owners could be required to notify neighbors of their plans to install improvements to encourage larger projects.

frontage, or some combination of installation and deferred development agreement for the entire frontage—whichever the property owner preferred. On streets lacking an approved engineering design, the only option would be the deferred development agreement. Deferred development agreements would not contain any non-remonstrance language, but would be used to provide notice to subsequent buyers that improvements are required as a condition of a building permit approval.

Building Permits

At the construction stage (new or additional dwelling unit), building permits would not be issued if an engineering design is not in place. To allow construction to move forward, the City would offer property owners the opportunity to initiate an engineering only LID or an engineering only reimbursement district.[8] The City would also apply any payments in lieu already collected towards engineering reimbursement districts and use the proceeds to complete the improvements on properties that pre-paid. Under either an engineering reimbursement district or an engineering LID, property owners would be assessed for the entire frontage of the original lot, districts would have to be at least one block in length (generally 300 ft.), and a district must connect to an existing approved engineering design.

If the development is proposed on a street with an approved engineering design, the property owner would be obligated to install the improvements[9], enter into a building permit deferred development agreement, or some combination—dependent upon circumstances. The obligation to install local improvements and the scope of the deferred development agreement would be limited to the frontage of the portion of the property where the development would occur.

The building permit deferred development agreement would only be permitted when the City would prefer that the developer hold off on installing improvements,[10] where the property is sufficiently distant from existing improvements,[11] or where the surrounding block lacks sufficient development density that it would not make sense to install the improvements.[12] This arrangement will keep improvement costs down for large lot property owners by allowing them to phase in improvements as they develop their properties. These thresholds (density/distance) would then serve as the trigger for when the property owner had to satisfy their responsibilities under the building permit deferred development agreement. Building permit deferred development agreements would be

[8] Engineering tends to be 10% to 20% of the costs of an improvement project. Engineering designs can be contracted out as long as final designs are approved by City engineering Staff. To capitalize on economies of scale, the City might consider doing one large engineering only LID covering several distinct districts.
[9] Property owners would be required to notify neighbors of their plans to install improvements to encourage larger projects.
[10] For example, the City might prefer that the developer of a property on a septic system hold off on street improvements until a sewer pipe is laid.
[11] For example a developer might be permitted to defer installing sidewalks if and until there is a sidewalk within 300 feet of the property.
[12] For example a developer might be permitted to defer installing sidewalks if the average frontage on the "block" where the property is located is greater than 100 feet and would be responsible for installing the sidewalk once that threshold is breached.

recorded against the property and include non-remonstrance language. If the property is already subject to a partition deferred development agreement, the City would release the prior agreement for the lot affected upon the execution of a building permit deferred development agreement.

The following is an outline of what this system would look like:

1.) Partition
   a. Approved engineering design on street
      i. Install improvements (frontage of original lot)
      ii. Deferred development agreement (frontage of original lot)
      iii. Combination of installation (some lesser amount than frontage of original lot) and deferred development agreement (the remainder of the frontage of original lot)
   b. No approved engineering design on street
      i. Deferred development agreement (frontage of original lot)
2.) Building permit
   a. Approved engineering design on street
      i. Install the improvements (frontage of lot developed)
      ii. Enter into a deferred development agreement (frontage of lot developed)
         1. Where City prefers improvements occur later
         2. Where property is sufficiently distant from improvements
         3. Where development density surrounding property is sufficiently low
      iii. Some combination of i, ii, and iii (frontage of lot developed)
   b. No approved engineering design on street
      i. Not eligible for building permit
         1. Property owner can initiate reimbursement district or engineering only LID

Steps Needed to Implement the Proposed Process

1. LUDO Amendments
   a. Review criteria for partitions and residential developments
      i. The current LUDO does not explicitly differentiate between residential development applications on streets with approved engineering designs and those without. This requirement would need to be incorporated into several sections of the LUDO.
   b. Non-remonstrance agreements
      i. Non-remonstrance agreements are not permitted for most forms of residential development. Section 6.110 would need to be amended and Resolution 07-007 would need to be repealed.
   c. Improved to standards

i. Section 10.060(C)(1) already imposes the requirement that streets be improved to City standards, this may need clarification to suggest that a deferred development agreement can satisfy this requirement.

d. Half-Streets
   i. Section 10.060(C)(2) states that half-streets are not preferred, but permitted under certain circumstances. Council might consider imposing a ¾ or full street requirement on the developer, to promote consistent development, and form mini reimbursement districts to allow the developer to recoup costs from benefiting neighbors.

e. Deferred development agreements (phased improvements)
   i. Section 9.040.060(H) allows land division to move forward with deferred development agreements where the improvements cannot be installed at the time of development.
   ii. However, Section 9.030.050(C)(1) needs to be amended to allow for final residential partition plats to be approved through the signing of a deferred development agreement.
   iii. 10.030 should be amended to allow for expanded use of deferred development agreements.

2. Reimbursement Districts
   a. Engineering
      i. The reimbursement district ordinance does not provide for engineering unless incorporated into a water or sewer project. The ordinance would need to be amended to allow for engineering only reimbursement districts. The ordinance might also be amended to set the application fee at 1% of total project costs up to $1,000. Currently, the application for a reimbursement district is a flat fee of $1,000. The time frame for reimbursement districts might also be expanded to provide more assurance that promoters recoup their costs.
   b. Street
      i. The reimbursement district ordinance does not provide for street projects. The ordinance would need to be amended to allow for street reimbursement districts.
   c. Storm
      i. The reimbursement district ordinance does not provide for storm projects. The ordinance would need to be amended to allow for storm reimbursement districts.
   d. 9.040.060 (H)
      i. This sub-section needs to be amended to allow partitions to move forward upon the approval of a reimbursement district.

3. Engineering only LIDs
   a. Engineering only LIDs are permitted under the current LID ordinance. However, Staff seeks Council approval prior to proposing any engineering only LIDs.

CONCLUSION

In several ways the process proposed in this memo is superior to the proposed LUDO amendment. Specifically, it is a more comprehensive approach that better facilitates reaching the desired end results—lowered overall development costs, notice to subsequent buyers, orderly installation of improvements, and compliance with HB 3479B. By placing such a strong emphasis on engineering, this system allows for better planning of development and allows property owners to take advantage of lower prices offered by private contractors.