

**MINUTES**

**PLANNING COMMISSION MEETING**

October 5, 2023

5:30 p.m.

City Hall Council Chambers  
313 Court Street, The Dalles, Oregon 97058  
Via Zoom / Livestream via City Website

**PRESIDING:** Cody Cornett, Chair

**COMMISSIONERS PRESENT:** John Grant, Philip Mascher, Maria Peña, Mark Poppoff,  
Nik Portela

**COMMISSIONERS ABSENT:** Addie Case

**STAFF PRESENT:** Director Joshua Chandler, City Attorney Jonathan Kara,  
Special Counsel Josh Soper, Secretary Paula Webb

**CALL TO ORDER**

The meeting was called to order by Chair Cornett at 5:30 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Cornett led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

It was moved by Grant and seconded by Portela to approve the agenda as submitted. The motion carried 6/0; Cornett, Grant, Mascher, Peña, Poppoff and Portela voting in favor, none opposed, Case absent.

**APPROVAL OF MINUTES**

It was moved by Portela and seconded by Poppoff to approve the minutes of September 7, 2023 as submitted. The motion carried 6/0; Cornett, Grant, Mascher, Peña, Poppoff and Portela voting in favor, none opposed, Case absent.

**PUBLIC COMMENT**

*Jann Oldenburg, 2151 Radio Way, The Dalles*

Ms. Oldenburg stated she was following up on City Council's direction to Planning Commission to oversee new regulations and review of Short Term Rentals (STRs). Her understanding was

the Commission would review them in September. Director Chandler replied the Planning Commission no longer oversees Short Term Rentals. STRs were removed from the portion of The Dalles Municipal Code (Code) the Commission oversees: Title 10, Land Use and Development. A Short Term Rental discussion item will go before City Council at the October 23, 2023 meeting.

Ms. Oldenburg then asked about local dog parks. She stated the gated, fenced area behind the Chamber of Commerce is closed. One dog park remains near Mid-Columbia Fire and Rescue. Ms. Oldenburg suggested an addition to the dog park rules, "No treats, no toys." She asked if the park was handled by the Fire Department or the City. Director Chandler replied he would have to look further into the dog park.

Chair Cornett stated the Planning Commission was not the appropriate place for this discussion. He suggested Parks and Recreation.

### **QUASI-JUDICIAL PUBLIC HEARING**

APL 034-23, Wasco Electric Cooperative, 730 Pomona Street and Adjacent to 3021 W. 7<sup>th</sup> Street, 2N 13E 32 AA tax lots 1300, 1400, 1600, 1700, 1801 and 1900

Request: Appeal of the ministerial approval on August 18, 2023 of Minor Partition 423-23, Wasco Electric Cooperative, to replat six tax lots into two reconfigured parcels. This Appeal pertains to right-of-way improvements required with this development.

Chair Cornett read the rules of a public hearing. He then asked if any Commissioner had ex parte contact, conflict of interest, or bias, which would prevent an impartial decision. Hearing none, he opened the public hearing at 5:42 p.m.

Senior Planner Kaitlyn Cook provided the staff report and presentation, Attachment 1. Planner Cook introduced Josh Soper, Special Counsel for the City.

In response to Commissioner questions, Senior Planner Cook replied:

- A Delayed Development Agreement (DDA) is an agreement between the City and Applicant to install improvements by an agreed upon date. Specific conditions apply.
- A Minor Partition in a residential zone is not required to develop improvements.
- The Code states improvements can be required with development and with a partition application. A partition replat constitutes development.
- Improvements are required only on the two points outlined in the Applicant's appeal.

Paul Titus, Interim General Manager, Wasco Electric Cooperative, PO Box 1700, The Dalles

Mr. Titus stated Wasco Electric Cooperative is a non-profit electric utility serving rural areas in Wasco, Sherman and parts of Gilliam, Wheeler and Jefferson counties. To maintain safety, service and reliability, Wasco Electric is working to acquire property adjacent to the warehouse and operation facilities. There is no immediate development planned, this is to consolidate lots.

MINUTES

Planning Commission Meeting

October 5, 2023

Page 3 of 17

Kirk Fatland, Planner, Tenneson Engineering, 3775 Crates Way, The Dalles

Mr. Fatland stated the Applicant is willing to develop improvements on Parcel 2 when development has been determined. The Applicant is not disputing improvements. This is a property line adjustment; they are not creating new lots or new development. Mr. Fatland distributed Attachment 2 to the Commission, stating the Applicant disagreed with Staff's definition of development.

Mr. Fatland stated their proposal is to amend the decision to say right-of-way (ROW) improvements abutting Parcel 2 only shall be installed or a DDA signed.

Director Chandler said, "If the question is development, why was this not addressed in the appeal?" Mr. Fatland replied they appealed the entire finding.

Director Chandler quoted the appeal, "...to provide for orderly development of an effective pedestrian network." The appeal said nothing regarding whether or not this is development. Director Chandler requested Special Counsel Soper's interpretation.

Counsel Soper read the appeal, "The Applicant is appealing Finding 19 of the staff report, which addresses TDMC 10 10.10.040 D. In particular, the applicant contests the staff finding that the 120.76 feet of frontage along W. 7th Street and the 20.87 feet of frontage along Pomona Street are necessary to 'provide for orderly development of an effective pedestrian network.'" Counsel Soper stated he read that to say the Applicant contests the language after "in particular." It appeal did not say the Applicant was contesting whether the proposal constitutes development or not.

Mr. Fatland asked, "Would it be wise for the Planning Commission to go against their Code whether or not we appealed it?" Counsel Soper replied no. Under the City's Code, the Planning Commission decision is limited to the scope of the appeal.

Counsel Soper added it was his understanding the Delayed Development Agreement met the Applicant's request. Mr. Fatland replied, partially. That makes sense for Parcel 2, the larger parcel where most of the improvements would be required. We are asking for the exception for Parcel 1.

Counsel Soper stated the scope of the appeal was the development on W. 7<sup>th</sup> and Pomona Streets. He asked if that was Parcel 1 or Parcel 2. Mr. Fatland replied, Parcel 1. The Applicant's suggestion was to modify [Condition of Approval 1.] f., "All ROW improvements abutting Parcel 1 and 2 shall be installed..." so that the improvement or DDA applied only to Parcel 2. This leaves the City in a position to request these improvements if development does occur. Mr. Fatland said, from our perspective, no development is occurring per your Code.

Counsel Soper reiterated for benefit of the Commission, the scope of the appeal is the two sentences previously read, related to improvements on W. 7<sup>th</sup> Street.

Commissioner Portela requested clarification. Is Parcel 1 doing something without a permit or Parcel 2? Planner Cook replied, Parcel 1. Staff found no evidence of a land use approval for a storage facility of recreational vehicles or other products.

Mr. Fatland stated he stood by the language in the appeal. The intent was to appeal the entire Finding 19, and then specify for the Commission, in their opinion, the wider pedestrian network is not served by these particular improvements.

Mr. Titus said it went back to the impact it would have on the small portion along Pomona Street, which would still have the same look after improvements on Parcel 1, and the need of the existing sidewalk with no large impacts to its current configuration. It is not changing the use of Parcel 1. Wasco Electric would retain ownership of Parcel 2 while considering future development and necessary improvements, which would be appropriate for a DDA.

Chair Cornett asked if Parcel 2 would remain unchanged. Mr. Fatland replied the size will increase.

Chair Cornett stated since there is no site plan for Parcel 2, or a plan for what is to happen, the Commission must assume the intent is to develop both lots beyond the actual definition of development. The subject application is a minor partition and is considered development. Mr. Fatland replied development would happen later.

Chair Cornett noted development is not what prompts improvements; the minor partition prompts improvements. Mr. Fatland disagreed. Chair Cornett replied that was not the subject of the appeal. Mr. Fatland again disagreed, stating it did not appear to the Applicant that the Code allowed the Planning Commission to require improvements on either parcel.

Chair Cornett referred to the definition of development: "Making a material change in the use or appearance of a structure or land." Is increasing the size of the land a material change? Mr. Fatland replied, "No. It is on paper, but material to me means in reality, not on the ground." The bottom of that definition talks of grading and filling. To me, that is clarifying what is above.

Commissioner Poppoff asked if the Applicant intended to pave over or grade the parcel. Mr. Fatland replied it is just figuring the property lines in order to begin on a site plan and determine the Cooperative's next steps.

Commissioner Mascher thought it clear the Applicant was willing to make improvements when a material change happened to the property. He asked why it was important to secure improvements now, when it was agreed improvements would eventually take place. Director Chandler replied the City was not asking for improvements now. The DDA was in front of the Applicant. Whether or not the City wants improvements, the Code requires them. The options are to install improvements now, or enter into a DDA.

Commissioner Mascher asked if the DDA had fixed timelines. Director Chandler replied it is an agreement negotiated between the Applicant and the City. It requires an engineer's estimate of the costs required for improvements. The Applicant would either provide cash to the City for improvements, or provide a surety bond to ensure, in the event the Applicant does not provide improvements, the City has funds available to develop improvements.

Commissioner Portela clarified the Applicant's intent was to secure the DDA only on Parcel 2.

Mr. Fatland provided further context regarding the parcels. A public entity, Wasco Electric, owns one parcel, the other parcel is privately owned. The parcels are viewed differently based on ownership.

Chair Cornett noted the application had no indication of potential development. Based on the definition of development in the Code, "Making a material change in the use or appearance of a structure or land," development prompts the improvements. Property ownership does not change requirements of the Code.

Chair Cornett added it was interesting that the property owner of Parcel 1 was not on the appeal or in attendance. Mr. Fatland replied one applicant was driving the appeal. In the end, all parties must sign the final plat.

Chair Cornett replied to Mr. Fatland's point. The Appellant is saying a public entity such as Wasco Electric has the ability to make the improvements, whereas the private person may not have the ability to make the improvements. Mr. Fatland stated they are in different situations. One is trying to use the property while the other is trying to stay the same. Chair Cornett noted the property owner of Parcel 1 is not the person saying they do not want to make improvements.

Chair Cornett invited further testimony; there was none.

Chair Cornett closed the public hearing at 6:29 p.m.

Commissioners Poppoff stated there was no problem delaying this until the Applicant developed the property. Commissioner Mascher agreed. Commissioner Portela stated a DDA should be in place for both parcels.

It was moved by Grant and seconded by Portela to adopt Resolution PC 619A-23, a resolution denying the Appeal 034-23 and affirming the Community Development Director's conditional approval of Minor Partition 423-23, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report. The motion carried 4/0; Cornett, Grant, Peña and Portela voting in favor, Mascher and Poppoff opposed, Case absent.

## **RESOLUTIONS**

### **Resolution PC 619A-23: Denial of APL 034-23, Wasco Electric Cooperative**

It was moved by Portela and seconded by Grant to adopt Resolution PC 619A-23, Wasco Electric Cooperative, and affirming the Community Development Director's conditional approval of Minor Partition 423-23, requesting approval to replat those certain parcels depicted in Assessor's Map Number 2N 13E 32 AA as Tax Lots 1300, 1400, 1600, 1700, 1801, and 1990 into two reconfigured parcels. Property is located at 730 Pomona Street and 3021 West 7<sup>th</sup> Street, in The Dalles, Oregon. The motion carried 4/0; Cornett, Grant, Peña and Portela voting in favor, Mascher and Poppoff opposed, Case absent.

## **STAFF COMMENTS / PROJECT UPDATES**

Director Chandler said the October 19 Planning Commission meeting will include a continuation of APL 033-23 for Meadow Outdoor Advertising.

The November 2 meeting will continue discussion of the Housing Needs Analysis, recommending approval and forwarding to City Council.

In late November or early December, Staff will return with the Recreational Vehicle Park Code. Prior to this meeting, Staff will submit a new draft to the State for their review.

Tony's Building: Abatement is complete and hazardous materials have all been removed. Demolition started Monday with disconnection of the joints and members that hold the Tony's Building to the next building. Where possible, materials in the structure are salvaged. A newspaper from the 1950s was found in the roof. Back then, a three bedroom, two bath home was \$7,500.

**COMMISSIONER COMMENTS / QUESTIONS**

Commissioner Portela noted the progress made on the Recreation Building. Director Chandler added it was an exciting project; it will be an outdoor music venue. A roof draining system will allow for year-round use.

**ADJOURNMENT**

Chair Cornett adjourned the meeting at 6:40 p.m.

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Submitted by/  
Paula Webb, Secretary  
Community Development Department

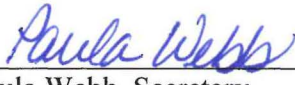
SIGNED:



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Cody Cornett, Chair

ATTEST:



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Paula Webb, Secretary  
Community Development Department



# City of The Dalles Planning Commission

THURSDAY, OCTOBER 5, 2023 | 5:30 PM

1

Appeal No. 034-23  
of MIP No. 423-23

**Appellant:** Wasco Electric Cooperative

**Address:** 730 Pomona Street and 3021 W. 7<sup>th</sup> Street

**Zoning District:** General Commercial "CG"

2



## Current Uses

- Parcel 1: unimproved lot
- Parcel 2: Wasco Electric Coop.

## Proposal

- Parcel 1: 1.973 Acres
- Parcel 2: 3.293 Acres

LINE	BEARING	DISTANCE	REMARKS
L1	S 27°13'27\"	82.50'	(PER R10, 02.83 R3,RSARH)
L2	N 78°21'58\"	66.88'	(PER R10, 99.92 RB)
L3	S 77°42'58\"	28.87'	(PER R10)



## Three Comments Received

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- 9/27/23 – Tenneson Engineering
- 9/27/23 – Gabe Duus
- 10/03/23 – Brian Lauterbach

5

## Project Timeline

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### Minor Partition No. 423-23:

- Site Team: March 9, 2023
- Approved with Conditions: August 18, 2023

### Appeal No. 034-23

- Appeal Filed: August 28, 2023
- Appeal Deemed Complete: August 30, 2023
- Notice of Appeal sent: September 7, 2023
- Timeline extension request: September 13, 2023
- *Planning Commission hearing:* October 5, 2023

6

## Minor Partition No. 423-23 Condition of Approval

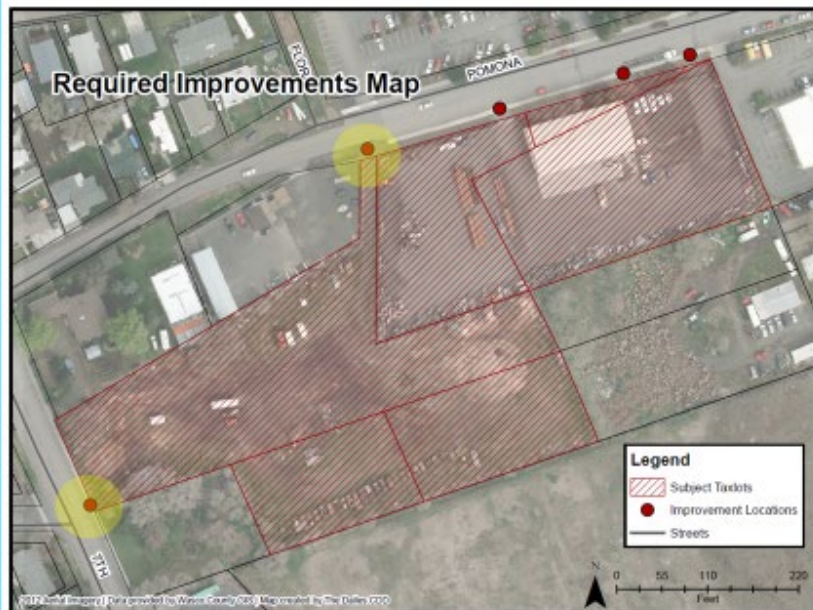
### 1. Conditions Requiring Resolution Prior to Final Plat Approval:

F. All right-of-way improvements abutting Parcels 1 and 2 be installed.

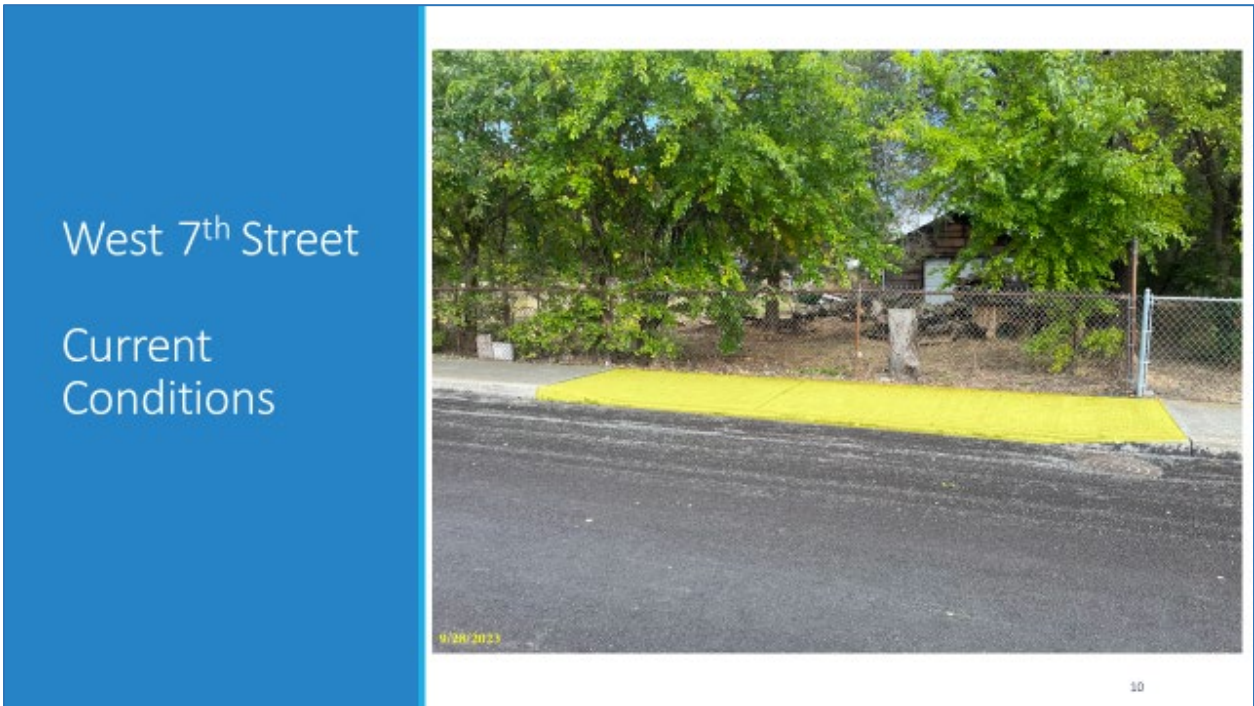
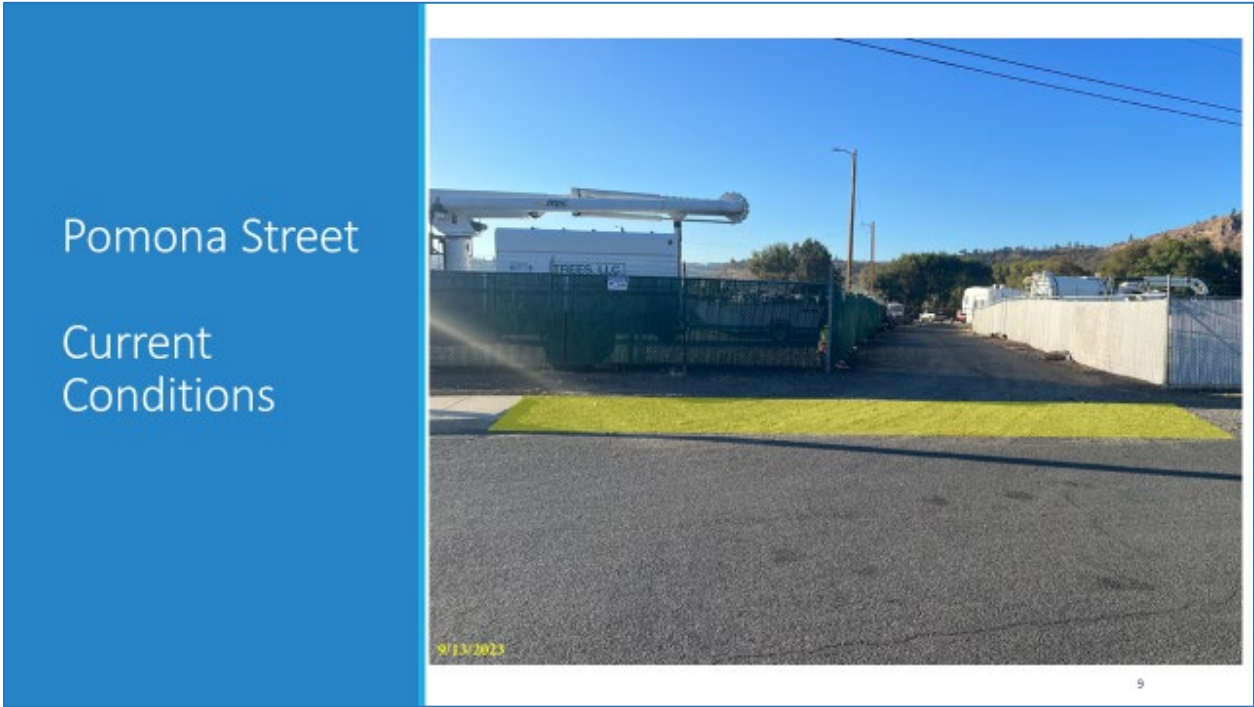
**MIP 423-23 Finding #19 outlines the required improvements.**

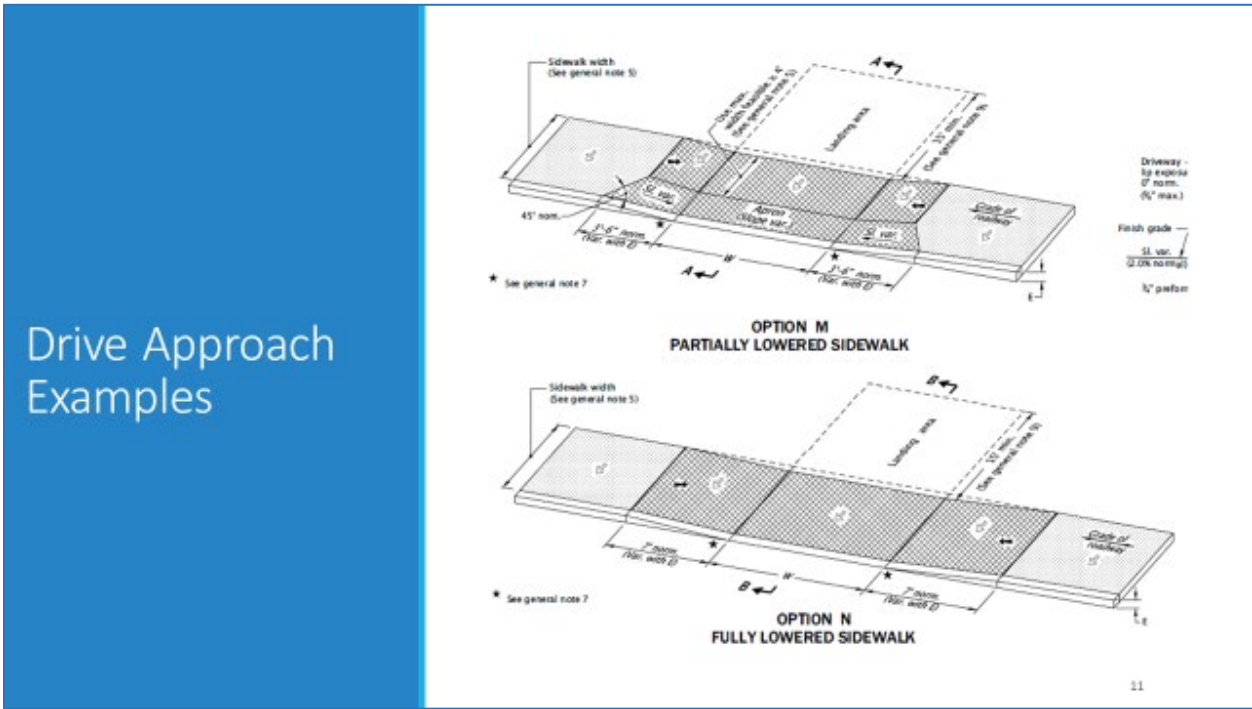
7

### Required Improvements



8





## Drive Approach Examples

### Requiring Improvements Prior to Final Plat Approval

#### C. Final Plat Approval

- 1. For a partition of nonresidentially zoned property, on which no existing residential structure is located, the applicant has installed, or executed a deferred development agreement, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of Chapter 10.10 - Improvements Required with Development, or the applicable provisions of Chapter 2.12 concerning reimbursement districts. 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.

## Requiring Improvements Prior to Final Plat Approval

### *C. Final Plat Approval*

- 1. For a partition of nonresidentially zoned property, on which no existing residential structure is located, the applicant has installed, or executed a deferred development agreement, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of Chapter 10.10 - Improvements Required with Development, or the applicable provisions of Chapter 2.12 concerning reimbursement districts. 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.**

13

## Interpretation at Issue

TDMC 10.10.040 D. states the following:

*“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).”*

14




**Pedestrian Network**

- Extends Sidewalk by 20.87 ft.
- Increase ADA compliance



15

**Pedestrian Network**



16

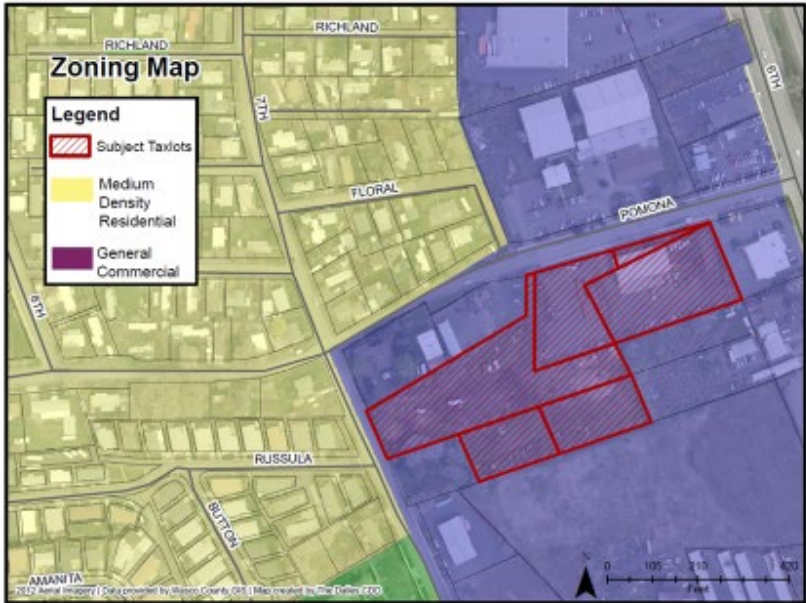
### Pedestrian Network

- Safe Routes to School Project
- The Dalles Transportation Plan Project



17

### Zoning Map



18

## Condition of Approval - Improvements

### ***MIP 423-23 Condition of Approval***

*All right-of-way improvements abutting Parcels 1 and 2 be installed.*

### ***APL- 034-23 Condition of Approval***

*All ROW improvements abutting Parcels 1 and 2 shall be installed, or an executed deferred development agreement (DDA) with the City consistent with Section 10.9.040.060 (I) be recorded, prior to final plat approval.*

19

## Commission Alternatives

- Staff recommendation:*** *Move to adopt Resolution No. PC 619A-23, a resolution denying Appeal 034-23 and affirming the Community Development Director's conditional approval of Minor Partition 423-23, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.*
- Make modifications, then move to adopt an amended Resolution No. PC 619A-23, a resolution denying Appeal 034-23 and affirming the Community Development Director's conditional approval of Minor Partition 423-23, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.
- Move to adopt Resolution No. PC 619B-23, a resolution granting Appeal 034-23 and overturning the Community Development Director's conditional approval of Minor Partition 423-23. Under this alternative, the Planning Commission is required to identify the specific criteria supporting its decision against Staff's Recommendation.

20



#### **10.10.040 Pedestrian Requirements**

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).

#### **10.2.020 Meaning of Specific Words and Terms**

Development. Making a material change in the use or appearance of a structure (internal and external) or land, creation of 3 or more units of land on a single parcel or adjoining pieces of property in a calendar year, changing the land use designation, or creating or terminating a right of access. Where appropriate to the context, development refers to the act of developing or the result of development. Development includes, but is not limited to, constructing, filling, grading, paving, excavating, and drilling.

#### Proposed Amendment:

f. All ROW improvements abutting Parcel 2 **only** shall be installed or an executed deferred development agreement with the City consistent with section 10.9.040.060 (l) be recorded prior to final plat approval.