

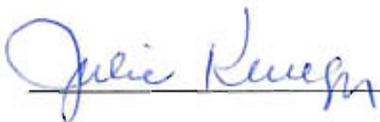
CITY COUNCIL WORK SESSION

November 14, 2012
5:30 p.m.
City Council Chamber
313 Court Street, The Dalles, Oregon

AGENDA

- I. CALL TO ORDER
- II. DISCUSSION REGARDING RESIDENTIAL INFILL DEVELOPMENT POLICIES AND PROCEDURES
- III. ADJOURNMENT

Prepared by/
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AGENDA STAFF REPORT CITY OF THE DALLES

WORK SESSION DATE	AGENDA LOCATION	AGENDA REPORT #
November 14, 2012		

TO: Honorable Mayor and City Council
FROM: Garrett Chrostek, Administrative Fellow
THRU: Nolan K. Young, City Manager *nkj*
DATE: October 31, 2012

ISSUE: Residential Infill Development Policies and Procedures

BACKGROUND: At the October 1, 2012 work session, staff presented five possible approaches to addressing residential infill development on under developed streets: 1.) enact a prohibition (moratorium), 2.) impose street improvements obligations as a condition to land use approvals and building permits, 3.) defer street improvements obligations until a later point in the development process, 4.) require nothing from developers and utilize LIDs, and 5.) require nothing from developers and employ other methods that encourage street improvements. Staff then recommended a hybrid of approaches 2 and 3 for partitions whereby the obligations for street improvements attach upon partition approval, but payment may be deferred. Council expressed a general interest in staff's recommendation, but requested additional clarification and additional opportunity to discuss the specifics of the recommendation. This staff report provides additional analysis and adds greater specificity to the previous recommendation.

POLICY GOALS:

1. Facilitate infill by minimizing the financial barriers to such development.
2. Ensure safe and well managed streets.
3. Develop a fair and uniform system for assessing payments for future street improvements.
4. Eliminate surprising future owners with assessment obligations.

ANALYSIS: In evaluating approaches 2 and 3, the previous Staff Report analyzed their various sub-issues in significant detail. Council also identified and discussed some additional sub-issues at the prior work session. The following is an outline that rehashes those sub-issues and potential approaches to individual sub-issues.

- a. *Who installs the improvements?*
 - i. Developer's option
 - ii. Only payments in lieu
- b. *When should the obligation to provide for future improvements attach?*
 - i. At time of development application approval
 - 1. Partition
 - 2. Further development (i.e. building permit)
 - a. New construction
 - b. Additions
- c. *When should payment be due on the attached obligation?*
 - i. When obligation attaches
 - ii. Upon further development
 - iii. Upon sale of the property
 - iv. Upon formation of an LID
 - v. Within a specified time period
- d. *How should installations/obligation be allocated between the developer and the City?*
 - i. Developer covers 100% of costs
 - 1. Full frontage of original lot
 - 2. Only frontage of newly partitioned lot
 - ii. Shared between developer and City
 - iii. City covers 100% of costs
- e. *Should there be an exemption for "mom and pop" developers?*
 - i. Who qualifies
- f. *Should there be an exemption for estate planning/administration development activities?*
 - i. Complete exemption
 - ii. Extended timeframe

STAFF RECOMMENDATION:

- I. ***For partitions:** staff recommends that the obligation to install or pay for street improvements attach upon an approval for partition with payment due at either (developer's choice) the (1) time of approval (2) sometime between options (1) and (2) (in a lump sum), or upon the first occurrence of either (a) further development (building permit), (b) sale of any portion of the original property, (c) formation of an LID, or (d) 10 years. The developer would be responsible for 100% of the costs as determined by the frontage formula. There would be no exemption for "mom and pop" developers nor an exemption for partitions made for estate planning/administration purposes.*

- II.** *For new construction and additions: staff recommends that the obligation to install or pay for street improvements attach, with payment due, upon approval of a building permit with the developer responsible for 100% of the costs as determined by the frontage formula.*

DISCUSSION OF STAFF RECOMMENDATION:

I. Approach:

- A** *For partitions:* The recommended hybrid of approaches 2 and 3 for partitions provides for the greatest balance between the competing goals of ensuring street improvements are installed or financed while minimizing the financial burden on the property owner. Under this hybrid approach, the City gains a relatively reliable funding source for installing future improvements and land owners may avoid a major upfront expenditure until there is a revenue producing event (sale of the property as discussed below) or adequate time to conduct financial planning. This approach also offers a means of providing notice to future property owners.
- B** *For new construction and additions:* Staff recommends approach 2 for new construction and additions applications whereby the obligation attaches and payment is due at the time of approval or improvements must be installed contemporaneously with development.

II. Who installs the improvements?

- A** *Either:* Under Staff's recommendation, developers of either partitions, new constructions, or additions retain the option of installing improvements themselves provided there is an approved design (street and storm water) in place. If a partition developer elects to put in improvements themselves, the timeframe for installing such improvements would remain contemporaneously with development.

III. For partitions, when should the obligation to provide for future improvements attach?

- A** *For partitions:* The obligation to pay for or install future improvements should attach upon application for partition approval because attachment at the earliest opportunity provides notice to subsequent buyers and current property owners are in the best position to account for street improvement obligations. Delaying attachment until the building permit stage creates notice problems as the buyer cannot readily discover the "enhanced building permit fee" with existing title search resources. Developers are also in the best position to consider street improvements because the developer is in consultation with City staff. Accordingly, developers can more readily discover obligations for street improvements and account for them in development decisions.
- B** *For new construction and additions:* The obligation to pay for or install future improvements would attach upon a building permit approval as that is the point at which the developer can add stress to the system.

IV. When should payment be due?

- A** *For partitions:* If the property owner makes payment in lieu of installing improvements, the obligation would be recorded against the whole property and the developer would have the choice of making payment at (1) time of partition approval, (2) sometime between options (1) and (2) (in a lump sum), **or** (3) upon the first occurrence of either (a)

approval for further development, (b) sale of any portion of the original property, (c) formation of an LID, or (d) 10 years. If payment is deferred, the developer would then be responsible for a payment determined by the uniform rate in place at the time payment is made. Payment plans should be avoided because of the additional strain on City resources to administer. By granting developers several payment options, the developer can avoid the current mandatory upfront investment and has flexibility in satisfying its obligation.

1. **Sale of any portion of the original property:** Staff recommends payment be due upon sale of any portion of the original property because the City is taking on risk in deferring payment and may incur costs in collecting. Adding additional triggers for payment due mitigates that risk.
2. **Time limit:** A time limit is recommended because otherwise a developer would be able to remonstrate against an LID for as long as they did not sell any portion or engage in further development. This would inhibit formation of an LID and contribute to the delay of improvements for those that pre-pay. 10 years was selected because that is the timeframe generally associated with the payment period for an LID assessment, although it may be extended up to 30 years.

B ***For new construction and additions:*** Payment in lieu for new constructions and additions would be due upon a building permit approval as that is the point at which the developer can add stress to the system.

V. How should costs for future street improvements be allocated between the developer and the City?

A ***For partitions:*** As it has been City practice, and the City has limited funds to subsidize street improvements, the City should continue to assess the full costs of street improvements to property owners based on the frontage formula with multi-frontage relief.

1. ***Basis of the Frontage:*** The question arises as to whether the developer should be responsible for the full original lot or simply the newly partitioned lot. The benefit of assessing the full original lot is that it addresses the notice issue for all lots in that development and prompts more properties to become “free and clear” of street improvement obligations. The consequence is that it imposes a larger assessment for the property owner that may exceed the proceeds from a sold portion of the original lot. While cognizant of the consequences, Staff recommends using the frontage of the original lot as the basis of the assessment to maximize notice and bring more properties “free and clear.”

B ***For new construction and additions:*** The developer would be responsible for the full costs of street improvements to property owners based on the frontage formula with multi-frontage relief.

VI. Should there be an exemption for “mom and pop” developers?

A ***For partitions:*** In Staff’s view, there should not be an exemption for “mom and pop” developers because the majority of infill development occurring on under developed streets arguably fits this description and it would thus create a large notice loophole. This exemption would also be difficult for Staff to enforce. Finally, under Staff’s recommendation, all developers avoid the burden of a large outlay as payment can be deferred until a sale with payment coming out of proceeds from the sale.

B ***For new construction and additions:*** No exemption as the applicant is adding stress to the system.

VII. Should there be an exemption for estate planning/administration development decisions?

- A *For partitions:*** Under the recommendation, devisees sit in the same position as any other property owner in that the obligation to pay for street improvements may eventually arise through further development or an LID. Further, if an existing obligation is attached to the property, inheriting property does not trigger a payment due. However, if partitioning occurs through estate planning/administration, the testator/devisee(s) would assume an obligation to install or pay for street improvements. Yet, similar to all other developers, testators/devisees could defer payment until the first occurrence of either further development, sale of any portion of the property, formation of an LID, or 10 years. As identified previously staff believes 10 years is sufficient for the testator/devisee to sell the property or conduct financial planning to meet the obligation the testator/devisee would otherwise incur upon the formation of an LID. Additionally, any exemption will have the effect of perpetuating notice problems for subsequent buyers and be difficult to administer. Therefore, Staff recommends that there be no exemption for these activities.
- B *For new construction and additions:*** No exemption as the applicant is adding stress to the system.

ISSUES FOR FURTHER COUNCIL DIRECTION:

- LID Formation Reform:** Council might consider a more firm policy/ordinance for initiating LIDs to provide assurance to owners that pre-pay that improvements will actually be installed. An initial Staff concept is an ordinance that dictates an LID will be formed within 30 years upon the first collection of a street improvement payment with the time frame contracting when certain participation levels are met (i.e. a 33% participation rate would push the deadline to the earlier of the original deadline or 20 years and so on). Property owners could be regularly notified when participation/approvals reach certain thresholds (i.e. 33% and 50%).
- LID Priority Plan:** Council might also consider resuming annual reviews of an LID Prioritization Plan and uniform rate, even if either the plan or the annual rate should go unchanged from the previous year. The Capital Improvement Plan might also be reformed to provide an initial five year watch list (25 if Council adopts the aforementioned LID formation reform) that places landowners and potential buyers on notice of under improved streets in need of improvements and a ten year horizon as to when the City anticipates initiating an LID. Further, the Plan could include current participation figures and discussion of the advantages of the land owner's ability to lock in at the current uniform rate by pre-paying.
- Street Maintenance:** The City's current policy is to perform limited maintenance on under improved streets as repairs to such streets are generally inefficient. Council might consider eliminating or further reducing the level of maintenance for under improved streets as part of an effort to conserve resources and encourage street improvements.