



COMMUNITY DEVELOPMENT

SUBJECT: RESIDENTIAL LAND DIVISIONS EARLY ACTIONS PROGRAM (STEMMING FROM HOUSE BILL 2306)

FROM: RUSS GRAYSON, DEVELOPMENT SERVICES DIRECTOR

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Purpose:

The Oregon Legislature passed a number of bills during the 2019 session aimed at increasing housing supplies throughout Oregon – House Bill 2306 was one of those bills. The intent of HB 2306 is to decrease the amount of time between when a subdivision application is approved by a local jurisdiction and when building permits can be issued for approved subdivision lots (prior to officially recording the subdivision with the County Surveyor). The bill instructs jurisdictions to approve building permits on recently approved subdivisions as long as the developer has substantially completed the public infrastructure work necessary to meet development standards and the developer financially guarantees the remainder of the work for full completion of said improvements.

In response to HB 2306, the City has identified three processes to decrease the timeline between when a subdivision is approved and when building permits can be issued for construction on the new lots. One process follows HB 2306. The other processes modify the current City processes for recording a subdivision's Final Plat and accepting/issuing of building permits.

The City's preferred options are Path #2 and Path #3 as they are much simpler and reduces risk exposure for both the developer and the City. The City's main goal is to expedite and coordinate the final infrastructure acceptance process with the Final Plat recording and building permit issuance. The City strongly encourages robust project management by the developer throughout the entire project timeline to help streamline all the required City procedures and application procedures.

Under all paths, the City now has the capability to accept multiple building permit applications prior to the recording of the Final Plat. This process alone will remove several months from the overall project timeline to obtain building permits. The Developer accepts all risk for any changes or modifications to the building permits if changes are required to the Final Plat.

All paths and the acceptance of multiple building permit applications prior to the Final Plat being recorded became available to developers on January 2, 2020. Developers must submit an application in order to request one of the paths, and this application must be received after the tentative plat is approved for a project but before any preconstruction meetings take place.

Path #1 - Early Permit Issuance & Partial Infrastructure Acceptance Without Final Plat Recorded (Traditional HB 2306 Process) Implementation Requirements

If a Developer chooses to initiate the procedural requirements as defined in the HB 2306 Legislation, the City will require the following procedures:

- The Developer will submit an application to the City requesting Path 1 (HB 2306). Through this application process, staff will review various criteria to determine if the subject subdivision can meet the criteria under this Path. Staff will consider items such as (but not limited to) which lots are proposed for construction prior to the final plat being recorded and how fire protection and access for vertical construction will be provided for those lots requested for early permitting.

- The City will determine if the minimum fire protection standards can be met and identify the infrastructure that will be required prior to the issuance of Building Permits under the HB 2306 guidelines.
- **Additional City staff time will be required for administrating the program. Additional inspections and reviews will be required as part of the process as well. The developer will be required to pay for these additional costs, which will vary from project to project.**
- The City will not issue any building permits until the project meets Substantial Completion per HB 2306 Section 1(c) with the following clarifications:
 - Water Supply– All public water system elements are constructed and inspected by the City and the City has indicated that the final inspections and acceptance process can be initiated.
 - Fire Hydrant System - If any fire hydrants being constructed as part of the developer's project are necessary for fire protection, then the water system must be fully inspected, tested and partially accepted by the City. In addition, the Developer will be required to dedicate any utility and access easements that may be required by the City for operations and maintenance of the water system.
 - Sewage Disposal System – All public sewer system elements are constructed and inspected by the City and the City has indicated that the final inspections and acceptance process can be initiated.
 - Storm Water Drainage System – All public storm water system elements are constructed and inspected by the City and the City has indicated that the final inspections and acceptance process can be initiated. Landscaping of any swales or detention/retention systems are not required to be completed but the system must be functional.
 - Curbs (and concrete work) – All curbs, hydrant pads, stormwater pads, and ADA ramps must be constructed, inspected and determined by the City that it meets the substantial completion milestone.
 - Street Signs – Permanent Street Signs are installed, inspected, and approved by the City.
 - The roads necessary for access by emergency vehicles are installed. All required base course material has been installed, tested, and approved by City inspection. Additional base course material must be installed around all exposed water valve cans, catch basins, and manholes to help prevent damage. Concrete pads may be required around water valves.
- The Developer will be required to enter into an agreement with the City that clearly indicates the requirements for issuance of any building permits and Certificate of Occupancy requirements under the HB 2306 standards. This agreement may include, but is not limited to, the following conditions:
 - Developer agrees to accept all risk for construction of any residential structure prior to the final plat being recorded and final property corners being surveyed.
 - Developer agrees that all outstanding infrastructure, including all required off-site infrastructure, will be completed prior to the occupancy of any single family permit.
 - Developer agrees to provide a post construction plot plan (i.e. survey) stamped by a Professional Land Surveyor (PLS) that indicates the final location of the structure, final lot lines, and verifications of all required building setbacks. The City will not make any special considerations for the Developer if setbacks were not met during construction of a non-platted lot.
 - Developer agrees that no water meters will be installed until the water infrastructure has been accepted by the City.
 - Developer agrees that no sewer connections will be allowed until the sewer infrastructure has been accepted by the City.

- Developer provides a Performance Financial Guarantee acceptable to the City for 120% of the current unit costs for all outstanding public infrastructure elements that have not been constructed prior to the issuance of any building permits.
- Developer agrees that all applicable Land Use conditions are satisfied prior to the issuance of any Certification of Occupancy.
- Developer assumes responsibility for any and all damage to the public infrastructure until final acceptance is achieved for all public infrastructure required for the project.
- The one year warranty period will commence for all public improvements, including any early acceptance of the water system, once all the required infrastructure is completed and accepted by the City.

This process could reduce the time between when a subdivision land use application is approved and when a home could be built on a lot within the approved, yet unplatted subdivision. However, as evidenced by the list of required submittal items above there is substantial risk to both the City and the Developer with this approach.

Path #2 Early Permit Issuance & Partial Infrastructure Acceptance With Final Plat Recorded (Preferred HB 2306 Process) Implementation Requirements

The goal of the HB 2306 is to get housing constructed in a quicker fashion. Although well-intentioned, implementation of the bill introduces risk that may actually deter early submittal of building permit applications. The Community Development Department proposes to change the current processes from subdivision application approval through infrastructure construction application and review through final plat review that will likely allow construction of homes in a similar timeframe to the process vaguely outlined in HB 2306 and with less risk.

The main objective of these changes is to accelerate the sequencing of events between the completion and acceptance of public infrastructure, review of the Final Plat application, and the review and issuance of Building Permits. The most significant changes are:

- Acceptance of multiple building permit applications prior to the Final Plat being recorded (as described above).
- The Final Plat can be submitted for review when the substantial completion milestone has been reached in the field and the City confirms that the project is ready to move into the final inspections, punch lists, and standard close out procedures.
- A Performance Financial Guarantee acceptable to the City will be required for all non-completed infrastructure such as landscaping, paving and deferred sidewalks.

An agreement will be prepared similar to what is outlined in Path 1 in order to capture the project requirements and responsibilities of the developer as the project moves forward.

The overall goal is once the infrastructure process is completed and signed off, the Final Plat can be immediately approved and recorded, and then the building permits can be issued quickly after the recording of the Final Plat. With proper project management and coordinate with the City, this should help reduce the developer's overall timeline for building permit issuance from anywhere from 2-4 months compared to the current procedures.

Path #3 Early Permit Submittal and Issuance (Standard Infrastructure/Final Plat Process)

As mentioned earlier, the City is now able to accept multiple building permit applications prior to the Final Plat being recorded. Under Path #3, the Developer will apply for early permit submittal and pay any applicable fees. The permits will be reviewed and issued once the final plat is recorded and final addresses assigned. The Developer will follow the standard infrastructure acceptance process and final plat process. No agreement will be required for this path.