



## City of Boardman

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### MEMORANDUM

To: City Council  
cc: Brandon Hammond, City Manager  
From: Carla McLane, Planning Official  
RE: Amendment A-BDC-23-001  
Date: December 27, 2023

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This memorandum is provided to assist in your review and consideration of an amendment to the Boardman Development Code (BDC) that is intended to provide the City of Boardman flexibility in accomplishing public improvement projects prior to full development of adjoining lands. The need for the amendment was identified in a recent case at the Land Use Board of Appeals (LUBA) filed by Jonathan Tallman and 1<sup>st</sup> John 2:17 LLC. The amendment will provide the City additional flexibility citywide when future opportunities arise that allow the City to defer construction of ancillary or amenity improvements and allow the city to focus public investment on infrastructure (water, wastewater, and pavement).

The Planning Commission public hearing was held Wednesday, December 20, 2023, with the Planning Commission forwarding the amendment to you with a 'do adopt' recommendation on a 5 to 1 vote. Attached to this memorandum are the Planning Commission Findings of Fact with the following attachments: the proposed language as approved by the Planning Commission and a letter dated December 19, 2023, from Wendie Kellington of Kellington Law Group representing Jonathan Tallman. Also included in the record and available on the City's website is an oversize exhibit that is the entire record in 1<sup>st</sup> John 2:17 LLC v City of Boardman, LUBA No. 2022-062. This is the LUBA appeal in July 2022 in which Mr. Tallman appealed the city council's decision to approve construction of the loop roads east of Laurel Lane at the Port of Morrow Interchange.

Also attached immediately following this memorandum is the proposed amendment as approved by the Planning Commission and including a change recommended by the City Attorney to provide additional clarity related to the anticipated development of adjacent property.

Should you have any questions or want to discuss the proposed changes please feel free to reach out to me at City Hall at 541-481-9252 or by email at [mclanec@cityofboardman.com](mailto:mclanec@cityofboardman.com).

## Draft Text Amendment – Development Code Section 3.4.000

The purpose of the amendment is to allow the City to defer construction of certain road improvements until such time as the adjacent property develops. For example, 3.4.100.J requires the installation of sidewalks, street lights and street trees that are unlikely to be necessary until the adjacent property develops, at which time at least some of these amenities are likely to be removed to accommodate the developer's site plan. This amendment therefore represents the responsible management of public resources.

### BDC 3.4.000 Purpose and Applicability

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B. Applicability. Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter; except that the City may waive-defer compliance with one or more of the development standards for a public improvement project constructed by the City or other public agency if the City finds that the improvements required by the standard(s) are not necessary or are likely to be provided by adjacent private development of the adjacent property.

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