



**CITY COUNCIL MEETING  
STAFF REPORT**

<b>Meeting Date:</b> March 4, 2024		<b>Subject: Resolution No. 3112</b> A Resolution of the City of Wilsonville Authorizing a Preliminary Engineering Report to Consider Possible Formation of a Local Improvement District for Public Improvements to SW Parkway Avenue and SW Printer Parkway  <b>Staff Member:</b> Amanda Guile-Hinman, City Attorney  <b>Department:</b> Legal	
<b>Action Required</b>		<b>Advisory Board/Commission Recommendation</b>	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 <sup>st</sup> Reading Date: <input type="checkbox"/> Ordinance 2 <sup>nd</sup> Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable  <b>Comments:</b> N/A	
<b>Staff Recommendation:</b> Staff recommends Council adopt Resolution No. 3112.			
<b>Recommended Language for Motion:</b> I move to adopt Resolution No. 3112.			
<b>Project / Issue Relates To:</b>			
<input type="checkbox"/> Council Goals/Priorities:	<input checked="" type="checkbox"/> Adopted Master Plan(s): Transportation System Plan	<input type="checkbox"/> Not Applicable	

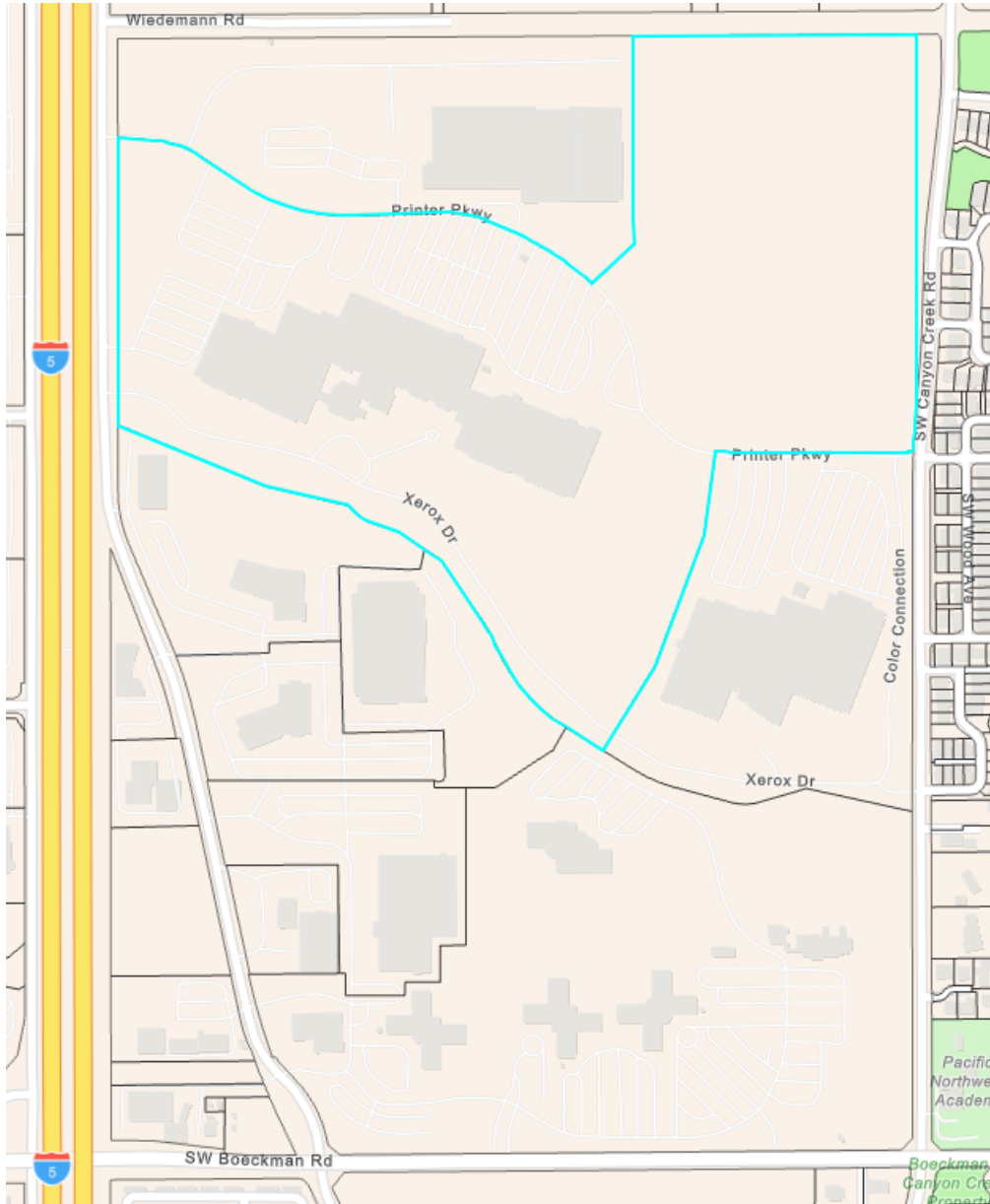
**ISSUE BEFORE COUNCIL:**

Whether to conduct a preliminary engineering report to consider forming a local improvement district to construct improvements to SW Parkway Avenue and SW Printer Parkway.

**EXECUTIVE SUMMARY:**

**I. BACKGROUND**

The City of Wilsonville (“City”) is currently processing a land use application to partition the real property located at 26600 SW Parkway Avenue, Wilsonville, Oregon (the “Property”) and to construct a manufacturing/warehouse facility on the Property (the “Proposed Development”). The Property location is outlined in blue below:



The Applicant, ScanlanKemperBard Companies, LLC, and the Property Owner, SKB-Parkworks, LLC, seek to partition a portion of the eastern part of the Property along SW Parkway Avenue and to the south of SW Printer Parkway.

## **A. Street Improvements**

Wilsonville Code (WC) generally requires that, when development occurs, the applicant must construct roads fronting the site to meet current, applicable City standards, which are established through the City's Transportation System Plan ("TSP") and Public Works Standards ("PW Standards"). Section 201.2.18 of the Public Works Standards requires a minimum of 24-foot wide pavement for arterial and collector streets and the TSP establishes the required cross-sections for minor arterials and collectors.

SW Parkway Avenue is identified in the 2013 Transportation System Plan as a Minor Arterial and designated freight route. However, the portion of Parkway that fronts the proposed development is not constructed to current City standards for minor arterials – it was initially constructed under then-applicable Clackamas County road standards prior to the City's incorporation in 1968, and the general cross section has not changed since that time. SW Parkway Avenue currently has a minimally developed cross-section with two 11-foot wide travel lanes and lacks bicycle lanes. There is a path on the eastern side of the right-of-way that is not compliant with Americans with Disabilities Act (ADA) standards for a public sidewalk, and ODOT right-of-way is on the western side of the road.

Similarly, SW Printer Parkway is identified as a Collector in the Transportation System Plan, but is currently a private access asphalt road that is minimally developed with two 14-foot wide travel lanes and lacks any sidewalks or bicycle lanes.

Thus, both SW Parkway Avenue and SW Printer Parkway will need to be improved for the Proposed Development. City staff, the Applicant, and the Property Owner have identified, when discussing the improvements to SW Parkway Avenue and SW Printer Parkway, that these improvements require significant financial investment. As developed from meetings between City staff, the Applicant, and the Property Owner, one funding resource that may represent a practical solution to construct these improvements is the formation of a local improvement district ("LID") to finance construction of SW Parkway Avenue and SW Printer Parkway.

## **II. LOCAL IMPROVEMENT DISTRICT**

A LID is a method often used by cities to construct and finance local, public improvements, that is, public improvements, such as streets and sewer, water, and stormwater infrastructure, which typically benefit a specific area and would not otherwise be identified by the City as a City capital improvement project. A LID allows the City to assess properties and impose a lien on those properties to pay for the improvements and the City can then finance projects based on the assessment. The LID process consists of three (3) phases: formation of the district, assessment, and financing.

## **A. Formation**

A LID can be initiated by property owner petition, City staff recommendation, or Council passing a resolution stating its intent to initiate formation of the LID. If not by Council resolution (i.e., either if a petition or staff recommendation is made), Council must direct staff to proceed with formation. **It is important to note, as explained in Section III below, Resolution No. 3112 is not a resolution stating Council's intent to initiate formation of the LID.** Such a resolution, if appropriate, will likely be forthcoming in the next twelve (12) months.

The resolution of intent directs staff to prepare an engineering report that provides a detailed description of the project(s), an estimate of probable cost(s), which property(ies) will be benefited, and a recommendation regarding the feasibility of the project. Prior to consideration of the resolution, state law requires notice to property owners of the possibility of formation of the LID. A hearing must also be held when the resolution is considered. Wilsonville Code Section 3.218 also requires a financial report to be prepared for Council review.

## **B. Assessment**

If a LID is formed, the City will establish an estimated assessment to impose a lien on benefited properties. If the final assessment is of actual costs is higher than the estimated assessment, the deficit assessment must be spread proportionately. As discussed below, one of the key benefits of a LID is the City's ability to obtain full project cost recovery instead of encountering the common issue of under-collecting the needed funds.

When an estimated and final assessment process is utilized, as typical, a financing assessment ordinance is often done separately from the formation resolution or ordinance because state law requires each action be noticed and a public hearing held. There are many different ways to calculate the assessments against benefited properties. Ultimately, the assessment formula must reasonably apportion the costs according to the benefits.

## **C. Financing**

Property owners have the right to pay the assessment in installments, with interest. Because local governments cannot require collection of assessments immediately, they must fund construction of the local improvements with other funds. Commonly, cities use short-term financing to pay for the costs of constructing the local improvements, and then obtain long-term financing after the assessments are levied.

Cities may obtain long-term financing under a variety of statutes, but the most common is to issue bonds and pledge the assessment installment payments. In other words, a city's lien (and thus, its secured right to collect the installment payments) is used as security for the bonds.

### III. BENEFITS OF A LID AND CONSIDERATION OF RESOLUTION NO. 3112

Based on initial staff research, in the 1990s and early 2000s, the City previously formed LIDs to construct public improvements in the area of Ridder, Clutter, and Garden Acres Roads; SW Canyon Creek Road; and within Villebois related to the construction of the I-5/SW Wilsonville Road interchange. However, it does not appear that LIDs have been utilized by the City as a financing tool since, at the latest, 2005.

LIDs likely have not been utilized since 2005 because a significant portion of development within Wilsonville since then has been residential development, and LIDs are more typical for public improvements benefiting large landowners where there are fewer properties to assess. LIDs do require some significant administrative work to be established and so cities generally want agreement by those benefiting property owners to the formation of the LID before pursuing the LID.

A LID in this particular circumstance, may be the most practical avenue for constructing the needed improvements. First, there are relatively few prospective benefiting property owners because the area is industrial with large parcels. Second, although there is an administrative burden to establish the LID, a LID allows for full cost recovery of the public improvement projects. Third, the City secures a lien against benefiting parties, and thus has additional protections against nonpayment. Fourth, the lien allows the City financing opportunities rather than relying on current fund balances to pay for the improvements.

Staff recommends Resolution No. 3112 as a preliminary step before the Council considers establishing a LID because there are still unknowns that need to be better defined before a resolution or ordinance of intent is brought to Council. Staff, the Property Owner, and the Applicant recognize that the scope of the projects in such a local improvement district is unknown, as other adjacent industrial property owners may benefit from such improvements and may also have an interest in continuation of the street improvements adjacent to their properties. Moreover, there is not sufficient time to undertake the resolution or ordinance of intent prior to other required land use decisions on the Proposed Development.

This preliminary action, along with a memorandum of understanding (“MOU”) that is currently being negotiated with the Applicant and the Property Owner (see **Attachment 2** – a draft of the MOU), are important to document the intent of the parties thus far with regard to the LID, knowing that the resolution or ordinance of intent is likely to follow soon hereafter. If the Council decides to adopt Resolution No. 3112, staff intends to include the Resolution in the record of the Proposed Development’s land use application.

Staff also highlights that outreach to the City of Portland, which has a LID administrator, shows promise of a future intergovernmental agreement whereby Portland’s LID administrator can provide assistance to City staff as the City works through the required statutory steps to form and administer a LID.

**EXPECTED RESULTS:**

A preliminary engineering report to better define local, public improvement projects, scope of the projects, and prospective benefiting property owners. Separate from the result of this Resolution, staff anticipates a possible intergovernmental agreement with the City of Portland, a future resolution or ordinance of intent, and an assessment ordinance.

**TIMELINE:**

The draft timeline for forming the LID, as contemplated in the draft MOU attached hereto as Attachment 2, is as follows:

- a. Resolution for Preliminary Engineer’s Report. On March 4, 2024, the City intends to provide to the City Council for consideration a resolution to direct the City to pursue a preliminary engineering report to recommend the LID boundary, infrastructure improvements, and estimated costs.
- b. Intergovernmental Agreement. The City will pursue an intergovernmental agreement (“IGA”) with the City of Portland for technical assistance regarding the formation and implementation of a LID. Assuming the City of Portland’s willingness, the City anticipates City Council consideration of an IGA on or before May 20, 2024.
- c. Property Owner Outreach. The Parties will collaborate on outreach to adjacent property owners to discuss the possibility of inclusion in a LID. The Parties intend to promote a LID as a reasonable financing tool for public infrastructure that is needed for both private development and public benefit.
- d. Procedural Resolution. The Parties will collaborate on drafting a procedural resolution described in ORS 223.389(1) for City Council consideration, anticipated to occur in summer or fall 2024.
- e. Enacting Resolution. The Parties will collaborate on drafting a resolution establishing the LID and the assessments against each benefiting property for City Council consideration, anticipated to occur early in calendar year 2025.

**CURRENT YEAR BUDGET IMPACTS:**

City staff anticipates that a preliminary engineering report may cost approximately \$10,000, and can be absorbed in current professional services budgets.

**COMMUNITY INVOLVEMENT PROCESS:**

If a LID is pursued, public hearings will be required for the formation and assessment. Moreover, the related Proposed Development land use application process has provided a public hearing to any interested parties or individuals. Additionally, as identified in the timeline, staff anticipate reaching out to adjacent property owners to discuss the scope of improvements that may benefit them and also help spur new and expanded industrial development adjacent to the Proposed Development.

**POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:**

The improvements to SW Parkway Avenue and SW Printer Parkway are necessary, as documented in the City’s TSP. However, the requirements regarding timing of constructing the improvements, particularly considering the lack of currently available funding sources, are problematic to the Proposed Development. Although a LID is an administrative burden, it represents a practical financial tool that supply both the benefiting property owners and users of the public facilities the needed safety enhancements of these streets.

Furthermore, the cost of street improvements may be a barrier to adjacent property owners expanding or developing on their industrial properties. If the LID includes improvements along other properties, those owners may be more inclined to pursue new and expanded industrial development adjacent to the Proposed Development.

**ALTERNATIVES:**

The City can implement its standard approach of requiring the Applicant to construct the projects and issue systems development charges credits for the portion that is not the Applicant’s proportionate responsibility. However, such an approach appears not practical due to the significant street improvement needs.

**CITY MANAGER COMMENT:**

N/A

**ATTACHMENTS:**

1. Resolution No. 3112
2. Draft Memorandum of Understanding with Property Owner and Applicant