

BILL NO. 16-163

AN ORDINANCE AUTHORIZING EXECUTION OF A CASH ESCROW AGREEMENT REGARDING OUTSTANDING PRIVATE IMPROVEMENTS BY AND BETWEEN THE CITY OF LEE'S SUMMIT AND NORTHPOINT DEVELOPMENT, LLC; AND WAIVER OF CERTIFICATE OF FINAL ACCEPTANCE FOR ISSUANCE OF CERTIFICATE OF OCCUPANCY REGARDING THE RESIDENCES AT NEW LONGVIEW.

WHEREAS, NorthPoint Development, LLC ("Developer") is developing residential apartments known as the "Residences at New Longview Apartments", consisting of a 309 dwelling unit multi-family apartment complex and clubhouse/leasing office (the "Project") located at 3301 – 3371 SW Kessler Drive, in Lee's Summit, Missouri; and,

WHEREAS, all certificates of occupancy regarding the Project have been issued by the City, except for the clubhouse/leasing office structure, 3301 SW Kessler Drive (the "Clubhouse"), which is a part of the Project; and,

WHEREAS, a Certificate of Occupancy has not been issued for the Clubhouse due to a Certificate of Final Acceptance of the development site infrastructure not yet having been issued; and,

WHEREAS, the Certificate of Final Acceptance has not been issued for the development site infrastructure due to outstanding private improvements needing completion; and,

WHEREAS, said outstanding private improvements associated with the development site infrastructure are:

- Final grading of detention basin;
- Replacement of four (4) damaged concrete sidewalk panels south of the detention basin;
- Establishment of vegetation in and around the detention basin (the "Outstanding Private Improvements"); and,

WHEREAS, the City's Design and Construction Manual, which is incorporated by reference into Chapter 22.5 of the City's Code of Ordinances requires a Certificate of Final Acceptance by the City prior to issuance of permanent occupancy for any building within the property described on the certificates; and,

WHEREAS, Developer desires to provide the City a financial guarantee in the form of a cash escrow to assure the completion of the Outstanding Private Improvements in exchange for the issuance of a Certificate of Occupancy for the Clubhouse by the City; and,

WHEREAS, upon receipt of a cash escrow of a sufficient amount to cover the completion of the Outstanding Private Improvements, the City agrees to issue a Certificate of Occupancy for the Clubhouse; and,

WHEREAS, The Developer promises to complete the required Outstanding Private Improvements and hereby promises to deposit money with the City of Lee's Summit to be held in trust (the "Escrow Account") for such purpose.

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NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the City Council of the City of Lee's Summit hereby approves the Cash Escrow Agreement Regarding Outstanding Private Improvements by and between the City of Lee's Summit, Missouri and NorthPoint Development, LLC, generally for a cash escrow to secure the completion of private improvements associated with the development site infrastructure at the Residences at New Longview, which is attached hereto and incorporated by reference as if fully set forth herein, and authorizes the execution of the same by the City Manager.

SECTION 2. That the City Council of the City of Lee's Summit hereby waives Section 1027, Subsection C requiring a Certificate of Final Acceptance prior to the issuance of permanent occupancy for the clubhouse/leasing office structure at the Residences at New Longview, in order to allow issuance of a Certificate of Occupancy for the same, all pursuant to the terms of the Cash Escrow Agreement Regarding Outstanding Private Improvements which is attached hereto.

SECTION 3. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 2016.

Mayor Randall L. Rhoads

ATTEST:

City Clerk *Denise R. Chisum*

APPROVED by the Mayor of said city this _____ day of _____, 2016.

Mayor Randall L. Rhoads

ATTEST:

City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:

City Attorney *Brian Head*

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