

Legislation Text

File #: 2020-3660, **Version:** 1

Discussion and consideration of waiving public sidewalk or payment in lieu of sidewalk for HT Solutions project located at 1440 SE Broadway Drive

Issue/Request:

Discussion and consideration of waiving public sidewalk or payment in lieu of sidewalk for HT Solutions project located at 1440 SE Broadway Drive

Key Issues:

HT Solutions is requesting the City Council waive the requirement for the installation of a sidewalk or the payment in lieu of sidewalk installation for the expansion of the commercial building located at 1440 SE Broadway Drive. City staff does not have the authority to waive ordinance requirements, however the City Council may provide staff guidance on this matter and grant a waiver to the sidewalk installation or payment in lieu of sidewalk installation.

Background:

Below is an overall analysis and sequence of pertinent events relating to this sidewalk request:

1. Newberry Landings First Plat was recorded on January 3, 2007. At this time the UDO was in full effect and a sidewalk was shown to be required along SE Hamblen Road.
2. Newberry Landings is zoned Planned Industrial and does not require a Preliminary Development Plan. A Commercial Final Development Plan for Phase 1 of HT Solutions was approved on July 12, 2016. The approved Phase 1 Final Development Plan included a sidewalk within the plans as referenced in the approved Newberry Landings First Plat.
3. On December 14, 2017, Mr. Phillips requested the issuance of a full Certificate of Occupancy prior to the issuance of Final Acceptance of the public infrastructure for the commercial building located at 1440 SE Broadway Drive. During that request, Mr. Phillips stated they did not wish to install the public sidewalk per the recorded plat at that time as a second phase addition to the building was anticipated. Mr. Phillips agreed to place security in the form of an escrow, on file with the city for 730 linear feet of sidewalk installation. At that time, the security requirement was \$10 per linear foot and totaled \$7,300. The Mayor and Council authorized staff to accept the \$7,300 sidewalk escrow until such time that the 2nd phase building permit was issued or the sidewalk was installed as required, and further authorized staff to issue the full Certificate of Occupancy for the first phase without the sidewalk being installed. The \$7,300 security amount remains on deposit with the City. Through this approach it was collectively agreed that the sidewalk would be installed as part of the second phase of the project, and

that the escrow deposit would be refunded.

4. A Commercial Final Development Plan for phase 2 of the HT Solutions building was approved on May 12, 2019. This approved plan did not show a sidewalk being proposed and staff did not identify the omission when conducting plan review(s).
5. Minor Plat, Newberry Landings Lot 292A was approved on June 3, 2019 and recorded on August 20, 2019. A sidewalk was not shown on the Minor Plat and staff did not identify the omission when reviewing the minor plat.
6. A Certificate of Substantial Completion and Punch List for the site development aspects of the project were issued on April 29, 2020. The punch list included the requirement for the installation of a sidewalk along Hamblen Road.
7. UDO Sidewalk Requirements
 - a. Sidewalk requirements are discussed in two locations in the UDO
 - i. Division III - Minimum Design Standards, Section 7.280. - Sidewalks
 - ii. Division IV - Minimum Public Improvements, Section 7.370 - Sidewalks
 - b. 7.280 requires sidewalks to be installed on all non-residential streets
 - c. 7.370 places the responsibility for construction of the required sidewalks on the builder prior to occupancy of any structure on that lot.
 - d. 7.370 also discusses when a sidewalk is required, "The determination as to whether a sidewalk is required adjacent to a particular lot shall be made by the City, with consideration given to the recorded plat for the lot in question, adjacent recorded plats, engineering plans, water line locations, and the design standards set forth in this article." If section 7.280 did not exist, section 7.370 appears to provide staff additional flexibility when determining if a sidewalk is required or not. Since section 7.280 does exist, the approved plat is only one consideration in the sidewalk requirement.
 - e. 7.370 was recently updated to include a Payment In lieu of Sidewalk Installation option. This is an administrative option that is available, however the amount of the payment is very prescriptive and shall be calculated as "the average unit price from all bids received by the City on public works projects in the most recent preceding three calendar years in which projects were competitively bid."
 - f. The omission of the sidewalk on the Newberry Landings Lot 292A Minor Plat was not intentional, and does not override the City Council direction received on December 14, 2017.

Sidewalk Requirement Conclusion:

Given the relative lack of current improvements to Hamblen Rd., the lack of sidewalks adjacent to the area, and the overall industrial characteristics, now may not be the best time to install the sidewalk. There is no current Capital Improvement Plan to improve Hamblen Rd., and the transformation of the Resource Recovery Park in the upcoming years will likely necessitate a different improvement, such as a multi-use path. Staff is supportive of a "Payment in Lieu of Sidewalk Installation" for this area. In order to process the payment in conformance with the UDO requirements, the payment would need to be calculated as stated above.

Other Information/Unique Characteristics:

The HT Solutions project is a Land Clearance for Redevelopment Authority (LCRA) project and was approved for real property tax abatement on the incremental increase in value of 100% over a 10 year period with a 25% PILOT payment resulting in a 75% real property tax abatement on the incremental increase in value resulting from the redevelopment project. A development agreement has been executed describing the performance standards and clawback provisions related to the project and the associated LCRA incentive.

Mark Dunning, Assistant City Manager
Dan Phillips, HT Solutions

Recommendation: Staff recommends the sidewalk be installed as reflected and approved in the Newberry Landings First Plat or is supportive of accepting a Payment In Lieu of Sidewalk Installation for a pre-determined amount that is agreeable to the City Council. Staff is not opposed to a payment in lieu of methodology that may be different from the methodology contained within the UDO, however staff is not authorized to accept a different methodology unless City Council authorizes a different approach. Staff does not support waiving the sidewalk or payment in lieu of sidewalk as is requested by Mr. Phillips.