

Legislation Text

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Presentation & Request - HT Solutions Request for Issuance of Certificate of Occupancy prior to issuance of Final Acceptance of public infrastructure

Issue/Request:

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Key Issues:

HT Solutions is requesting the City Council authorize the issuance of the Certificate of Occupancy for the new commercial building located at 1440 SE Broadway Drive prior to the issuance of Final Acceptance of public infrastructure associated with the development. The lot associated with the project (Lot 292 of Newberry Landings First Plat) requires the installation of a 5' public sidewalk along the Hamblen Rd. street frontage, and without the sidewalk constructed, the issuance of a Final Acceptance for the public infrastructure cannot be issued, therefore staff is unable to grant the issuance of the full Certificate of Occupancy.

The City's Design and Construction Manual, Section 1027 C contains a provision stating "*A Certificate of Final Acceptance must be obtained prior to the issuance of a temporary or permanent occupancy for any building within the property described on the Certificate.*" The Unified Development Ordinance (UDO) Section 16.370 contains a provision stating "*Should construction or installation of the sidewalks be impossible because of weather or other conditions, the person or legal entity responsible for the construction of the sidewalk shall deposit with the City a cash sum in an amount equal to the construction cost of said sidewalk.*"

In order to receive the Temporary Certificate of Occupancy (issued January 25, 2017), a sidewalk escrow was required for the public sidewalk. The sidewalk escrow was calculated by determining the linear feet of sidewalk required and multiplying the distance by \$10 per linear foot per the Schedule of Fees adopted by the City. In this instance the length of the sidewalk is approximately 730 feet, therefore a \$7,300 escrow was required to be submitted prior to the issuance of the Temporary Certificate of Occupancy. The intent of the sidewalk escrow payment is to encourage the construction of the public sidewalk at a later time and is typically due to weather or other conditions that prevent the construction of the sidewalk prior to occupancy desired for the structure.

HT Solutions does not wish to install the public sidewalk per the recorded plat at this time as a second phase addition to the building is anticipated in the near future. HT Solutions is requesting to delay the installation of the public sidewalk to the second phase of the project as no other sidewalks exist immediately adjoining the property or on other portions of Hamblen Rd. in this vicinity.

City Staff is not authorized to waive code requirements, however the City Council may provide staff guidance on this matter and grant a waiver to the sidewalk being constructed at this time in order to receive the full Certificate of Occupancy. Should the City Council direct staff to issue the full Certificate of Occupancy, staff

would issue the full Certificate of Occupancy for the project and close out the building permit, however the Public Infrastructure permit would remain open until the public sidewalk is constructed and approved/accepted.

If the City Council is amenable to the issuance of the full Certificate of Occupancy, staff suggests withholding the \$7,300 escrow until such time that the public sidewalk is installed and accepted, or the building permit is obtained for the second phase of the project. Once the building permit for the second phase of the project is obtained, the \$7,300 sidewalk escrow could be released as the sidewalk construction would be required in order to obtain Final Acceptance and a full Certificate of Occupancy on the second phase project.

Proposed City Council Motion:

If the Council is in favor of issuance of the full Certificate of Occupancy: I move to direct staff to waive the issuance of final acceptance prior to issuance of the full Certificate of Occupancy for the HT Solutions project located at 1440 SE Broadway Dr. and withhold the release of the sidewalk escrow until the public sidewalk is constructed and accepted or another building permit is issued for the property.

Background:

An Ordinance adopting the Final Plat for "Newberry Landings, 1st Plat, Lots 292-300 and Tracts A-1 and B-1" as a subdivision to the City of Lee's Summit was approved on March 2, 2006. The adopted Final Plat denotes a 5' sidewalk along the Hamblen Road street frontage for all lots that abut Hamblen Rd. within the subdivision.

Other Information/Unique Characteristics:

The HT Solutions project is a Land Clearance for Redevelopment Authority (LCRA) project 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.

Presenter:

Mark Dunning, Assistant City Manager

Recommendation:

Staff is not in opposition to the request as an escrow is in place and the Public Infrastructure permit would remain open until the public sidewalk is constructed and approved/accepted.