

Legislation Text

File #: BILL NO. 16-163, **Version:** 1

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.

Key Issues:

NorthPoint Development, LLC the developer of the new Residences at New Longview multi-family apartment complex in the New Longview development area is requesting the Council authorize the issuance of the Certificate of Occupancy for the Clubhouse/Leasing Facility structure prior to the issuance of Final Acceptance for site work related to a detention basin associated with the development. Adoption of this ordinance will provide an alternate approach whereby a cash escrow agreement is executed to ensure completion of the remaining work necessary to complete the development project in it's entirety, and authorize staff to issue a Certificate of Occupancy for the Clubhouse/Leasing Facility prior to Final Acceptance of the Site/Infrastructure aspects of the development.

Proposed City Council Motion:

I move for second reading of 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.

I move for adoption of 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.

Background:

In April of 2014, the Residences at New Longview project was approved and construction commenced shortly thereafter on the project. At this time, NorthPoint has completed all the building construction and has received Certificates of Occupancy (C of O) for all structures with the exception of the Clubhouse and Leasing Facility structure. The Clubhouse and Leasing Facility structure is complete and ready for issuance of the C of O, however remaining site work related to the detention basin have not been completed, thereby preventing the issuance of a Final Acceptance for site and infrastructure work associated with the project. The City's Design and Construction Manual, Section 1027 C. contains a provision stating "*A Certificate of Final Acceptance must be obtained prior to issuance of permanent occupancy for any building within the property described on the Certificate*".

For this reason, staff has withheld the issuance of the C of O for the Clubhouse/Leasing Facility until Final Acceptance can be achieved, per the ordinance. At this time two permits remain open for the project, the building permit for the Clubhouse/Leasing Facility and the Site/Infrastructure permit. NorthPoint is requesting the C of O be issued for the Clubhouse/Leasing Facility prior to Final Acceptance being issued for the project, therefore staff is bringing this matter forward to the City Council for consideration and direction. Staff and NorthPoint have proposed an alternative method in which to ensure completion of all work necessary to achieve Final Acceptance if the remaining C of O were to be issued prior to all work being completed to achieve the Final Acceptance.

Work that remains to be complete for the site includes final grading of the detention basin, replacing 4 sections of damaged sidewalk, and establishing vegetation within the detention basin. NorthPoint is currently working on these remaining aspects and is willing to enter into a Cash Escrow Agreement regarding the outstanding private improvements to ensure completion in accordance with the approved development plans. If the Council is amenable to the alternative proposal, the Site/Infrastructure permit would remain open until Final Acceptance is approved and issued, and the C of O would be issued for the Clubhouse/Leasing Facility. Staff is supportive of the alternative method for which to achieve Final Acceptance for the project.

Other Information/Unique Characteristics:

In April of 2014 Residences delivered a "Chapter 100 Plan", which was approved by the City, related to the construction of a four-story apartment buildings (309 dwelling units) and a central Clubhouse/leasing Facility along with various amenities and overall site development. The overall project estimate was \$35,000,000 and is near completion. In accordance with the "Chapter 100 Plan", the City acquired the project, issued its taxable industrial development revenue bonds (the "Bonds") and leased the project back to Residences pursuant to the terms of a Lease Agreement. The Bonds are payable solely from the revenues derived by the City from the Lease Agreement and are not an indebtedness or general obligation, debt or liability to the City. In accordance with the "Chapter 100 Plan" real property tax abatement is provided for 11 years, however during this period, Residences is required to submit payments in lieu of taxes (PILOTS) in amounts specified in the plan, which PILOTS are in an amount equal to 100% of the estimated real property taxes that would have otherwise been received over the term of the 11 year period. These payments referred to as "fixed PILOTS" which brings a level of certainty to the amount of property tax receipts that will be realized from the development over this period of time. After the 11 year period, the property will be conveyed back to Residences and placed back on the tax rolls making it subject to assessment by Jackson County.

With the "Chapter 100 Plan" in place for the project, financing for the project becomes more complicated than a traditionally financed project as a variety of entities are included in the financial structure created.

Presenter: Mark Dunning, Assistant City Manager

Recommendation: Staff recommends the ordinance be adopted.