

Planning & Zoning Commission Staff Report

Meeting Date: June 7th, 2023

Applicant: City of Sunset Hills

Description: P-21-23 City of Sunset Hills (Unified Development Ordinance): An ordinance amending Appendix A- Subdivision Regulations and sections of the Unified Development Ordinance related to improvement guarantee releases.

SUMMARY:

The Unified Development Ordinance (UDO) regulates the creation and construction of new subdivisions of land in the City of Sunset Hills. As part of the subdivision procedures, in lieu of completing all public improvements prior to recording the final plat, a developer is authorized to post a guarantee with the City to guarantee the completion of those improvements. The public improvement guarantee procedures are governed by State Law, specifically Section 89.410 RSMo. The state statute empowers the city to collect a guarantee, the fund in which to hold the guarantee and provides certain time periods for when the City must release the escrowed funds. Specifically Statute states, that any escrow or bond amount held by the city, to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed.

The City has two sections of City Code that dictate the requirement for the developer to guarantee the installation of certain improvements, the type of guarantee that may be used, that the escrow agreement shall be held in a special escrow account, and that the escrow shall be released or partially released once notified by the developer and upon inspection that the improvements have been completed.

The two sections of code referenced are in the Section 6 (Subdivisions) and Section 7 (Commercial, Office, and/or Industrial Planned Development). The current language references that the Planning and Zoning Commission approve the escrows and agreements and amounts established. It also states the Planning and Zoning Commission approves the release/ partial releases when the improvements are completed.

The proposed ordinance amendment still requires the Planning and Zoning Commission to approve the escrows and amounts established, but establishes that the Director of Public Works, with oversight by the City Administrator, has the authority to release the escrows upon completion of the required improvements. This procedural update ensures the City's ability to comply with State Statute requirement of the thirty day release.

PROPOSED UPDATES

As previously stated, the City has two sections (Section 6.2.5 and Section 7.6) of City Code that dictate the process for the release of escrows held to guarantee required improvements. Below are the red-line adjustments stated to each section of code referenced in the Summary above. Section 6 provides regulations related to subdivisions and Section 7 provides regulations related to planned office, commercial, and/or industrial development.

Section 6.2.5.4

The bond shall remain in effect or the escrowed sum shall be held in the escrow account by the escrow agent, as the case may be, until such time as the **Director of Public Works, with oversight by the City Administrator** ~~Planning and Zoning Commission~~ shall, by written authorization to the surety or escrow agent, release the surety from the obligation of the bond or the escrow agent from his obligation to retain the escrowed sum in the escrow account, which release may be partial and may occur from time to time, as improvements are completed, **as required by the improvement plans and governing ordinance as applicable**, and approved; provided, however:

- a) The ~~Director of Public Works Planning and Zoning Commission~~, upon recommendation of the ~~City Engineer~~ **City Administrator** and the City Attorney, shall release the surety or escrow agent from all or any part of its obligation only upon receipt of the requisite written notification from the inspecting agency; and
- b) In no case shall the ~~Planning and Zoning Commission~~ **Director of Public Works**, authorize the release of more than ninety-**five** percent (~~950~~%) of the amount held as the bond or escrow sum until said improvements have been completed in a satisfactory manner, approved by the **Director of Public Works, with oversight by the City Administrator** ~~Planning and Zoning Commission~~, and accepted or approved by the appropriate authority.

Section 7.6.4

The bond shall remain in effect or the escrowed sum shall be held in the escrow account by the escrow agent, as the case may be, until such time as **the Director of Public Works, with oversight by the City Administrator** ~~Planning and Zoning Commission~~ shall, by written authorization to the surety or escrow agent, release the surety from the obligation of the bond or the escrow agent from his obligation to retain the escrowed sum in the escrow account, which release may be partial and may occur from time to time, as improvements are completed, **as required by the improvement plans and governing ordinance as applicable**, and approved; provided, however:

- a) The ~~Planning and Zoning Commission~~ **Director of Public Works**, upon recommendation of the ~~City Engineer~~ **City Administrator** and the City Attorney, shall release the surety or escrow agent from all or any part of its obligation only upon receipt of the requisite written notification from the inspecting agency; and
- b) In no case shall the ~~Planning and Zoning Commission~~ **Director of Public Works**, authorize the release of more than ninety-**five** percent (~~950~~%) of the amount held as the bond or escrow sum until said improvements have been completed in a satisfactory manner, approved by the ~~Planning and Zoning Commission~~ **Director of Public Works, with**

oversight by the City Administrator, and accepted or approved by the appropriate authority.

The changes herein are recommended by Staff to effectively administer the UDO as originally intended. As previously stated, the public improvement guarantee procedures are governed by State Law, specifically Section 89.410 RSMo. The changes proposed within these amendments will ensure the City's ability to remain compliant with State Statute requirement of escrow releases as they relate to subdivision guarantees.

Staff is requesting that the Planning and Zoning Commission vote on these amendments to move forward as recommendation to the Board of Alderman.

EXHIBITS:

1. Draft Ordinance
2. Application
3. Public Notice