



Legislation Details (With Text)

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File created: 2/24/2020 **In control:** City Council
On agenda: 3/31/2020 **Final action:** 3/31/2020
Title: Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Luis Ernesto Landaverde Located at 1410 Alamance Church Road in Connection with the Alamance Church Road Improvements Project

Sponsors:

Indexes:

Code sections:

Attachments: 1. Sitemap (1410 Alamance Church Rd).pdf, 2. Vicinity Map (1410 Alamance Church Rd).pdf, 3. 20-0240 RES Alamance Church Rd.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|--------|--------|
| 3/31/2020 | 1 | City Council | adopt | Pass |

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Luis Ernesto Landaverde Located at 1410 Alamance Church Road in Connection with the Alamance Church Road Improvements Project

Council Priority: Maintain Infrastructure and Provide Sustainable Growth Opportunities

Department: Legal

Council District: 1

Public Hearing: NA

Advertising Date/By: NA

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Contact 2 and Phone: Alan Andrews, ext. 2320

PURPOSE:

The City seeks to acquire a Proposed Margin Tract of 3,490 square feet, a Proposed Temporary Construction Easement (TCE) of 382 square feet, and a Proposed Temporary Construction Easement (TCE) of 150 square feet of the property owned by Luis Ernesto Landaverde located at 1410 Alamance Church Road, designated as Parcel No. 79878 in the Morehead/ Gilmer Township for the Alamance Church Road Improvements. The Property Management Section of the Engineering and Inspections Department (PM) requests Council to authorize the initiation of condemnation proceedings because it has been unable to negotiate a purchase price with the property owner.

BACKGROUND:

PM attempted to negotiate a purchase within the total appraised value of \$5,875.00 for the property. An independent appraiser, Charles D. Foster, Certified General Real Estate Appraiser, License No. A-1070, calculated and submitted the value of the property for the City. The appraiser used generally accepted appraisal methods and calculated the value based upon the nature of the taking and the square footage taken. PM sent an

initial written Offer to Purchase to the property owner on December 4, 2019. PM made several attempts to purchase the property within the appraised amount, but its efforts were not successful. Therefore, PM recommends that the City Council adopt a resolution authorizing the City Attorney to institute proceedings to condemn the required property. Following City Council's approval, the Legal Department will send a letter to the owner giving them at least thirty (30) days' notice of the City's intent to file an eminent domain lawsuit. After the lawsuit is filed and discovery is completed, a mediation or Commissioner's Hearing, or both, are held to try to resolve the matter with the property owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The Alamance Church Road Improvements Project is needed to provide motorists, bicyclists, and pedestrians with a safer and less congested commute. The improvements consist of widening the road to accommodate a center turn lane, bike lanes, curb and gutter, and sidewalks on both sides of the roadway.

The acquisition necessary for this property is a Proposed Margin Tract of 3,490 and a Proposed Temporary Construction Easement (TCE) of 382 square feet and a Proposed Temporary Construction Easement (TCE) of 150 square feet of the property located at 1410 Alamance Church Road.

The anticipated date for start of construction is August 2020, with an anticipated completion date of August, 2021. The property is zoned R-3 (Residential Single Family 3).

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the property to the Clerk of Superior Court for disbursement to the owner. This will allow the City to take possession, which is required before work for this Project can commence on the property.

BUDGET IMPACT:

The funding for this eminent domain action is budgeted in Account Number 471-4502-17.6012 Activity #A 17103. A minimum of \$5,875.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

RECOMMENDATION / ACTION REQUESTED:

City Council approval of a resolution authorizing the City Attorney to institute proceedings to condemn a portion of the property of Luis Ernesto Landaverde in connection with the Alamance Church Road Improvements Project.