



## Legislation Details (With Text)

**File #:** ID 20-0245    **Version:** 1    **Name:**  
**Type:** Resolution    **Status:** Passed  
**File created:** 2/25/2020    **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 Jose Toledo Garcia Located at 2200 Acorn Road in Connection with the Alamance Church Road Improvements Project

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Sitemap (2200 Acorn Rd).pdf, 2. Vicinity Map (2200 Acorn Rd).pdf, 3. 20-0245 RES 2200 Acorn 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 Jose Toledo Garcia Located at 2200 Acorn 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

Contact 1 and Phone: Kenney McDowell, Ext. 4578

Contact 2 and Phone: Alan Andrews, Ext. 2320

**PURPOSE:**

The City seeks to acquire a Proposed Temporary Construction Easement (TCE) of 3,590 square feet of the property owned by Jose Toldeo Garcia located at 2200 Acorn Road, designated as Parcel No. 0052400 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 \$4,050.00 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 October 9, 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 Temporary Construction Easement (TCE) of 3,590 square feet of the property located at 2200 Acorn Road.

The anticipated date for start of construction is Spring 2020, with an anticipated completion date of Winter, 2021. The property is zoned R-5 (Residential Single-Family 5).

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 \$4,050.00 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 Jose Toledo Garcia is in connection with the Alamance Church Road Improvements Project.