



Legislation Text

File #: ID 15-0369, **Version:** 1

Resolution Authorizing City Attorney to institute proceedings to condemn a portion of the property owned by BRC Greensboro Retail, LLC located at 5701 W. Market Street in connection with the W. Market Street/College Road Intersection & Sidewalk Project.

Department: Legal
Council District: 5

Public Hearing: NA
Advertising Date/By: NA

Contact 1 and Phone: Ted Partrick, Engineering Manager, ext 2308
Contact 2 and Phone: John P. Roseboro, Assistant City Attorney, ext 2320

PURPOSE: The City seeks to acquire a Proposed Margin Tract (PMT) of 155 square feet, Proposed Permanent Slope Easement (PSE) of 112 square feet and a proposed Temporary Construction Easement (TCE) containing 869 square feet, of the property owned by BRC Greensboro Retail, LLC located at 5701 W. Market Street designated as Parcel # 0042648 in the Morehead Township for the W. Market Street/College Road Intersection & Sidewalk Project. 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(s).

BACKGROUND: PM attempted to negotiate a purchase within the total appraised value of \$3,325.00 for the property. The value of the property was calculated by an independent appraiser, Tonya L. Brady, MAI, SRA, of McNairy & Associates, that was contracted by the City to perform the appraisal. 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 a written Offer to Purchase to the property owner(s) on September 18, 2014. Furthermore, PM spoke with the property owner from September 2014 to February 2015 to negotiate a purchase. PM made every reasonable effort 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 30-day letter to the owner requesting to purchase the property prior to litigation. 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 W. Market Street/College Road Intersection & Sidewalk Project is one that was requested by the neighborhood for the children who walk to school. The neighborhood has no sidewalks on either side and the pedestrians, including children, must walk in the road. In addition to the sidewalk, this project will widen W. Market Street and add a turn lane at the intersection of W. Market Street and College Road. The acquisition necessary for this property is a Proposed Margin Tract (PMT) of 155 square feet, a Proposed Permanent Slope

Easement (PSE) of 112 square feet and a proposed Temporary Construction Easement (TCE) containing 869 square feet for the property located at 5701 W. Market Street. The anticipated date for start of construction is June 2016, with an anticipated completion date of August, 2017. The property is zoned LI (Light Industrial).

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 condemnation is budgeted in Account Number 401-4547-01.6012, Activity # A11168. The funding comes from the 2008 Transportation Bond Funds and is available in the Land Row MKT, College/Guilford College Intersection. A minimum of \$3,325.00 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 BRC Greensboro Retail, LLC in connection with the W. Market Street/College Road Intersection & Sidewalk Project.