



Legislation Text

File #: ID 15-0650, **Version:** 1

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Fisher Eugene, LLC, Located at 622 N. Eugene Street in Connection with the Downtown Greenway Phase 2E & 3A Project

Department: Legal
Council District: 3

Public Hearing: NA
Advertising Date/By: NA

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Contact 2 and Phone: John P. Roseboro, Assistant City Attorney, ext 2320

PURPOSE: The City seeks to acquire a Margin Tract of 554 square feet, a Permanent Slope Easement (PSE) of 117 square feet, a Permanent Slope Easement (PSE) of 109 square feet, and a Temporary Construction Easement (TCE) of 868 square feet, of the property owned by Fisher Eugene, LLC, located at 622 N. Eugene Street, designated as Parcel # 0000674 in the Morehead/Gilmer Township for the Downtown Greenway Phase 2E & 3A 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 \$15,810.00 for the property. The value of the property was calculated by an independent appraiser, Jeffrey A. McKee, Certified General Real Estate Appraiser, A5913, 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 January 24, 2014. PM corresponded with the property owner on numerous occasions from January of 2014 to June of 2015 to discuss the design and offer. The property owner rejected this offer. 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 Downtown Greenway Phase 2E & 3A Project is for a 4.2 mile multi-use trail appropriate for walking and bicycling and other non-motorized means of transportation or recreation that will loop around downtown Greensboro. It will enhance the urban landscape with a green space that will promote fitness, encourage alternative transportation, and provide connectedness and well-being for our residents and visitors in an aesthetically pleasing environment. The acquisition necessary for this property is a Margin Tract of 554

square feet, a Permanent Slope Easement (PSE) of 117 square feet, a Permanent Slope Easement (PSE) of 109 square feet, and a Temporary Construction Easement (TCE) of 868 square feet for the property located at 622 N. Eugene Street.

The anticipated date for start of construction is February, 2016, with an anticipated completion date of September, 2017. The property is zoned O (Office) (Downtown District Overlay, Visual Corridor Overlay).

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 401-4553-01.6012, Activity #A12130, and this is a grant account for Greenway Phase 2E/3A/C (Project EL-5101 DO), for Land Right of Way. The funding is derived from specifically allocated capital funds for property purchases within the department responsible for the project. A minimum of \$15,810.00 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 Fisher Eugene, LLC in connection with the Downtown Greenway Phase 2E & 3A Project.