



Legislation Text

File #: ID 15-0728, **Version:** 1

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Kotis Properties, Inc. (f/k/a Commercial Investments of Greensboro, Inc., f/k/a Real, Inc.), Located at 2909-2999 Horse Pen Creek Road in Connection with the Horse Pen Creek Road Widening Project.

Department: Legal
Council District: 3

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 64,189 square feet, a Proposed Permanent Slope Easement (PSE) of 11,972 square feet, a Proposed Permanent Slope Easement (PSE) of 170 square feet, a Proposed Permanent Drainage Easement (PDE) of 2,497 square feet, a Proposed Temporary Construction Easement (TCE) of 12,091 square feet of the property owned by Kotis Properties, Inc. (f/k/a Commercial Investments of Greensboro, Inc., f/k/a Real, Inc.) located at 2909-2999 Horse Pen Creek Road, designated as Parcel # 0096068 in the Morehead/Gilmer Township for the Horse Pen Creek Road Widening 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.

BACKGROUND: PM attempted to negotiate a purchase within the total appraised value of \$112,033.00 for the property. The value of the property was calculated by an independent appraiser, D. Lynn Cable, MAI, Real Estate Appraiser A4361, 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 communicated with the property owner on multiple occasions from December of 2014 to March of 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 giving notice of the City's intent to file a condemnation 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 Horse Pen Creek Road Widening Project is needed to relieve the traffic congestion in that specific area. As it stands, the road is a major cut through for the traffic coming from Battleground Road and the surrounding areas. The continued growth in the area has spurred the need for a much wider road with multiple lanes and traffic control devices to be installed. The acquisition necessary for this property is a Proposed Margin Tract

(PMT) of 64,189 square feet, a Proposed Permanent Slope Easement (PSE) of 11,972 square feet, a Proposed Permanent Slope Easement (PSE) of 170 square feet, a Proposed Permanent Drainage Easement (PDE) of 2,497 square feet, a Proposed Temporary Construction Easement (TCE) of 12,091 square feet of the property located at 2909-2999 Horse Pen Creek Road. The anticipated date for start of construction is April, 2016, with an anticipated completion date of June, 2018. The property is zoned LDO - CD-C-H.

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the properties 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 properties.

BUDGET IMPACT: The funding for this condemnation is budgeted in Account Number 471-4502-08.6012 and Activity #A14074. The funding comes from the Professional Services/Capital Projects Account. A minimum of \$112,033.00 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 Kotis Properties, Inc. (f/k/a Commercial Investments of Greensboro, Inc., f/k/a Real, Inc.) in connection with the Horse Pen Creek Road Widening Project.