



Legislation Text

File #: ID 17-0725, **Version:** 1

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Pisgah Church Partners, LLC Located at 124 CE Wesley Harris Circle in Connection with the Pisgah Church Road Sidewalk Project

Department: Legal
Council District: 2

Public Hearing: NA
Advertising Date/By: NA

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

PURPOSE: The City seeks to acquire a proposed Margin Tract of 352 square feet, a proposed Temporary Construction Easement (TCE) of 254 square feet, and a proposed 5 foot Temporary Construction Easement of (TCE) of 300 square feet of the property owned by Pisgah Church Partners, LLC located at 124 CE Wesley Harris Circle, designated as Parcel No. 0087077 in the Morehead / Gilmer Township for the Pisgah Church Road 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.

BACKGROUND: PM attempted to negotiate a purchase within the total appraised value of \$1,024.00 for the property. An independent appraisal company, Foster Appraisal Services, Inc., calculated and submitted the value of the property to NCDOT. 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 March 15, 2017. 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 him 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 Pisgah Church Road Sidewalk Project is to provide pedestrians with a safe walking route along Pisgah Church Road, connecting existing sidewalks from North Church Street to Battleground Avenue.

The acquisition necessary for this property is a proposed Margin Tract of 352 square feet, a proposed Temporary Construction Easement (TCE) of 254 square feet and a proposed 5 foot Temporary Construction Easement (TCE) 300 square feet for the property located at 124 CE Wesley Harris Circle.

The anticipated date for start of construction is June, 2018, with an anticipated completion date of June,

2020. The property is zoned CD-RM-8 (Conditional District-Residential Multi-Family-8).

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 401-4546-01.6012, Activity #A15138. This is a federally funded project. A minimum of \$1,024.00 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 Pisgah Church Partners, LLC in connection with the Pisgah Church Road Sidewalk Project.