THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: May 25 , 2021

Subject: Grant of Easement for the footers of a subsurface wall and the portion above ground along Beaumont Street to Fifty-Five South Market, LLC and acceptance of deeds from developer for three small parcels adjacent to or within the public right of way for the development to clear up the title.

Staff Resource(s): Nikki Reid, Interim Director of Community & Economic Development
Greg Shuler, Public Works Director
Jannice Ashley, Senior Assistant City Attorney

Action Requested: Adoption of a resolution to authorize the City Manager to execute an easement allowing the wall foundation along Beaumont Street and to accept deeds from Fifty-Five South Market, LLC.

Background:

- The new condo development at 55 S. Market Street is complete and the developers are seeking to resolve a real property issue with the City, as follows:
    - Developers have subsurface footers and a portion of the wall above ground that extend over the City's right of way on the Beaumont Street side of the complex.
    - A small portion of the foundation wall is visible from Beaumont Street.
    - The land was valued at $77.38 per square foot.
    - The easement for the foundation wall is 47 square feet, making its value $3,636.86.
    - The market value of this land at South Market Street address was determined by comparing a recent downtown land appraisal done by Robert M. Swicegood for the property at 50 Asheland Avenue.
- The Public Works Director has determined that this small easement within the right of way will not substantially impair or hinder the use of the right of way.
- Staff recommends that the City grant this easement to cover the foundation wall that has already been constructed.
- Additionally, Fifty-Five South Market, LLC wishes to convey, at no cost to the City, three small parcels of property that are located either within or adjacent to the public right-of-way, identified in the attached map as Tract C, 0.038 acres located within the right-of-way of Velvet St; Tract D, 0.027 acres located adjacent to the Velvet St. right-of-way; and Tract E, 0.061 acres located within the right-of-way of Market St.
- Legal staff have researched the title to these properties and right-of-way.
- It is unclear of the ownership, therefore, staff recommends acceptance of these parcels in order to clear up any potential title issues that might inhibit the City's ability to open or expand these right-of-way areas in the future.

Council Goal(s):

- Well Planned and Livable Community

Committee(s):

- None.

Pro(s):

- Easement will allow the foundation wall to remain in the City's right of way.
- Developer will be paying market value for the easement.
- Acceptance of deeds to the three parcels will provide clear title of the right-of-way to the City

Con(s):

- None, however, the developer should have settled these real property issues before the building was constructed.

Fiscal Impact:

- The fair market value for the easement in the amount of $3,636.86 will benefit the General Fund.
- The conveyance of the three parcels is at no cost to the City

Suggested Motion:

- Motion to adopt a resolution to authorize the City Manager to execute an easement agreement and to accept the conveyance of property to the City and to execute any other related documents needed to complete the transaction.

Attachment(s):

- Resolutions
- Map
- Plat Map

RESOLUTION NO. 21-_____

RESOLUTION AUTHORIZING THE GRANTING OF AN EASEMENT TO FIFTY-FIVE SOUTH MARKET, LLC FOR FOOTERS AND FOUNDATION WALL IN RIGHT-OF-WAY OF BEAUMONT STREET AND ACCEPTANCE OF THREE SMALL PARCELS OF LAND WITHIN OR ADJACENT TO THE RIGHT-OF-WAY AT MARKET STREET AND VELVET STREET TO PROVIDE CLEAR TITLE TO THE CITY

WHEREAS, the City of Asheville controls the public right of way on the Beaumont Street adjacent to the Fifty-Five South Market, LLC condominium development; and

WHEREAS, NCGS 160A-273 authorizes the City to grant easements within the right of way if it will not substantially impair the use of the right of way; and

WHEREAS, it has been determined that the foundation wall easement (47 SF +/-) that the City is granting will not impair the use of the right of way along the Beaumont Street side of the development; and

WHEREAS, Fifty-Five South Market, LLC, owns real property located at 55 South Market Street at PIN 9648-49-8692-00000; and

WHEREAS, it has been determined that the City is receiving full and fair consideration for this easement; and

WHEREAS, Fifty-Five South Market, LLC wishes to convey, at no cost to the City, three small parcels of of property that are located either within or adjacent to the public right-of-way including: Tract C, 0.038 acres located within the right-of-way of Velvet St; Tract D, 0.027 acres located adjacent to the Velvet St. right-of-way; and Tract E, 0.061 acres located within the right-of-way of Market St. as shown on the attached Plat Map; and

WHEREAS, the City wishes to accept conveyance of these parcels in order to obtain clear title to the aforementioned right-of-way areas; .

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager is hereby authorized to grant a 47 square foot foundation wall and footer easement to Fifty-Five South Market, LLC and to accept the conveyance of the aforementioned parcels from Fifty-Five South Market, LLC and to execute any other related documents needed to complete the transaction.

Read, approved and adopted this 25th day of May 2021.

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City Clerk Mayor

Approved as to form:

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City Attorney