THE CITY OF ASHEVILLE

Staff Report

Council Meeting Date: October 13, 2020

Subject: 2 Springdale Road Condemnation Authorization

Staff Resource(s): Eric Edgerton, Sr. Asst. City Attorney; Lee Morrison, Stormwater Project Manager

Action Requested: Adopt a resolution authorizing the City Attorney's Office to condemn a stormwater easement over real property located at 2 Springdale Road.

Background:

- The City's Stormwater Division has a capital improvement project planned for 2021 in the City's Kenilworth neighborhood.
- The City has obtained all required easements needed to complete its Kenilworth stormwater project except for one along the edge of real property located at 2 Springdale Road.
- This property is shown as lots 12 and 13 of Block K on a plat recorded at Plat Book 154, Page 109A in the Buncombe County Register of Deeds Office.
- Regina Tate owns the property at 2 Springdale Road. She has not responded to any of the City's attempts to contact her regarding the easement needed to facilitate the stormwater project.
- To date, three separate City departments have attempted to make contact with Ms. Tate.
- In order to maintain the project schedule, obtaining the easement via eminent domain is the only option available to the City.
- The City will deposit with the Clerk of Court the value of the easement which will be available to the property owner at any time.
- The easement needed at 2 Springdale Road is immediately adjacent to the City's right of way and is entirely within an unbuildable setback. As such, the City's condemnation of the needed easement will only minimally disturb Ms. Tate's use of the property.

Council Goal(s):

- Clean & Healthy Environment

Committee(s):

- None

Pro(s):

- Will facilitate the completion of a needed stormwater improvement project.

Con(s):

- Will result in the commencement of an eminent domain action against a citizen.

Fiscal Impact:

- The expected value of the needed easement is less than $5,000 which is included in the project budget for the subject stormwater improvement project.

Suggested Motion:

- Motion to adopt a resolution authorizing the City Attorney's Office to condemn a stormwater easement over real property located at 2 Springdale Road.

Attachment(s)

- Resolution

RESOLUTION NO. 20-____

RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO CONDEMN A STORMWATER EASEMENT OVER REAL PROPERTY LOCATED AT 2 SPRINGDALE ROAD

WHEREAS, pursuant to N.C.G.S. § 40A-3, the City of Asheville has authority to obtain interests in real property through the exercise of eminent domain; and

WHEREAS, the City plans to construct improvements to the stormwater system in the Kenilworth area of Asheville; and

WHEREAS, the City's planned stormwater improvements require that it obtain a stormwater easement across certain real property shown as lots 12 and 13 of Block K on a plat recorded at Plat Book 154, Page 109A in the office of the Register of Deeds for Buncombe County, and addressed as 2 Springdale Road; and

WHEREAS, the owner of 2 Springdale Road, Regina Tate, has not responded to the City's repeated attempts to contact her regarding the needed easement;

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

The City Attorney, on behalf of the City of Asheville, is hereby authorized to condemn a stormwater easement over real property located at 2 Springdale Road.

Read, approved, and adopted this 13th day of October 2020.

_____ _____

City Clerk Mayor

Approved as to form:

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City Attorney