



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission on the September 6, 2016 City Council Meeting Agenda

Item: A Resolution to authorize the use of eminent domain to acquire property located at 170 Hilderbrand Drive, Sandy Springs, Georgia (Parcel ID: 17-008900050094) for public use

City Attorney's Recommendation:

The City Attorney's Office recommends that the Council approve the attached resolution authorizing the use of eminent domain to acquire the above-referenced Property.

Background and Discussion:

The Property is owned by W.B. Holdings-Hilderbrand, LLC ("Owner"), for whom Adam Orkin is the registered agent. The Property consists of approximately 11,850 square feet of vacant land. The Owner has been notified of this Council meeting, as required by Georgia law.

The Property is within the scope of the City Center Master Plan and acquisition of fee simple interest in the Property is necessary for development of the City Center in accordance with the Master Plan. The purpose for which the Property will be acquired constitutes a "public use" under Georgia eminent domain law.

The City Attorney continues good faith negotiations with the Owner, making every reasonable effort to acquire the Property by negotiation. The Owner has declined the City's offer of \$300,000, the appraisal value as of August 1, 2016. Since efforts to acquire the Property by negotiation have not been successful to date. The City Attorney now seeks authorization from City Council to proceed in eminent domain, if efforts to obtain the property through negotiations prove unsuccessful.

Attachments:

Resolution to acquire the Property by the use of eminent domain.

Alternatives:

Determine not to acquire the Property by the use of eminent domain.

STATE OF GEORGIA
COUNTY OF FULTON

A RESOLUTION TO AUTHORIZE THE USE OF EMINENT DOMAIN TO ACQUIRE PROPERTY LOCATED AT 170 HILDERBRAND DRIVE, SANDY SPRINGS, GEORGIA (PARCEL ID: 17-008900050094) FOR PUBLIC USE.

WHEREAS, the City of Sandy Springs (“City”) has determined that it is necessary to develop a City center and infrastructure project (“Project”); and

WHEREAS, on December 18, 2012, the City adopted a City Center Master Plan following a comprehensive study conducted by an independent firm; and

WHEREAS, the City Center Master Plan contemplates acquisition by the City of certain property within the City limits for use as, among other things, a City government complex, including green space, vehicle parking, parks and rights-of-way for channels of trade and travel; and

WHEREAS, such uses constitutes “public use” within the meaning of O.C.G.A. § 22-1-1, et seq. (“Act”); and

WHEREAS, the property located at 170 Hilderbrand Drive (Parcel ID: 17-008900050094), consisting of approximately 11,850 square feet of vacant land, is property within the scope of the Project, and therefore the City desires to acquire fee simple interest in the Property to accomplish the Project; and

WHEREAS, the City Attorney has caused to be conducted an appraisal of the Property and the owner or his/her designated representatives were given an opportunity to accompany the appraiser during inspection of the Property; and

WHEREAS, the City has offered the owner of the Property its August 1, 2016 appraised value of \$300,000 to acquire fee simple title; and

WHEREAS, the City has funds available to purchase the Property; and

WHEREAS, the City Attorney has made every reasonable effort to acquire the Property expeditiously by negotiation; and

WHEREAS, the City has been unable to reach an agreement with the owner to acquire the Property; and

WHEREAS, the Mayor and City Council deem it in the public interest to acquire fee simple title to the Property to insure timely implementation and completion of the Project consistent with development of a public parking area for vehicles adjoining the Property and the City Center Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy Springs, Georgia, while in regular session on September 6, 2016, at 6:00 p.m. as follows:

1. The Council hereby authorizes the City Attorney's Office to acquire the Property, located at 170 Hilderbrand Drive (Parcel ID: 17-008900050094), consisting of approximately 11,850 square feet of vacant land in Sandy Springs, through the use of eminent domain by any method allowed by law, in order to insure the timely completion of the Project.
2. The Mayor is specifically authorized to execute any documents necessary to further the filing of any petition related to the same.
3. The Property sought to be acquired is more fully described in Exhibit "A" attached hereto and incorporated herein by reference.

RESOLVED this the ____ day of _____, 2016.

Approved:

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk

(SEAL)

EXHIBIT "A"

PROPERTY DESCRIPTION

170 Hilderbrand Drive:

ALL THAT TRACT or parcel of land lying and being in Land Lot 89 of the 17th District of Fulton County, Georgia, and being Lot 40 and the eastern one-half of Lot 39 of the E. S. Hilderbrand Subdivision Property, and being more particularly described as follows:

BEGINNING at a $\frac{1}{8}$ inch rebar found on the north side of Hilderbrand Drive (60 foot right-of-way), which point is located 631 feet west of the intersection of the northern side of Hilderbrand Drive with the western side of Roswell Road, as measured along the northern side of Hilderbrand Drive (which point is the same point as the point of beginning in that certain Deed, dated December 17, 1997, and recorded in Deed Book 23670, Page 137 of the Fulton County Records, from Mary Katherine Bell to William D. Galusha and Lynn H. Galusha; the difference in the distance from Roswell Road being due to the widening of Roswell Road, according to the surveyor referred to below); and

running thence North 07 degrees 50 minutes 23 seconds East a distance of 147.76 feet to a $\frac{1}{8}$ inch rebar found; running thence South 87 degrees 00 minutes 35 seconds West a distance of 75.13 feet to a $\frac{1}{8}$ inch rebar found; running thence South 08 degrees 00 minutes 00 seconds West a distance of 144.83 feet to a $\frac{1}{8}$ inch rebar found on the north side of Hilderbrand Drive; running thence North 89 degrees 16 minutes 18 seconds East along said northerly right-of-way of Hilderbrand Drive for a distance of 75.03 feet to a $\frac{1}{8}$ inch rebar found, said point being the point of beginning;

being a vacant tract on Hilderbrand Drive as shown on plat of survey prepared by Travis Pruitt & Associates, Inc., Travis N. Pruitt, Sr., Georgia Registered Land Surveyor #1729, for William B. Orkin, and Chicago Title Insurance Company, dated April 22, 2000, and being the same property conveyed by the Warranty Deed from Mrs. J.L. Sauls to Evelyn M. Sauls on September 30, 1965 and recorded in Deed Book 4495, Page 160 of the Fulton County Deed Records.