

1. Agenda

Documents:

[BOMC-6-21-23-SCM-AGENDA.PDF](#)

2. Meeting Called To Order/Adoption Of Agenda

3. Approve Resolution, Order And Declaration Of Taking For Acquisition Of 15,485 Sq/Ft (0.355 Acres) Of Property In Fee Simple At 147 Oak Street (Tax Parcel # 15-249-14-015) By Eminent Domain For City Street/Public Transportation Purposes.

Documents:

[RESOLUTION ORDER AND DECLARATION FOR TAKING AT 147 OAK ST.
6.17.21.PDF](#)

4. Adjournment



**BOARD OF MAYOR AND COMMISSIONERS
SPECIAL CALLED MEETING
JUNE 21st, 2021
6:01 p.m.**

AGENDA

- Item #1 Meeting Called to Order
- Item #2 Adoption of Agenda
- Item #3 **Approve Resolution, Order and Declaration of Taking for acquisition of 15,485 sq/ft (0.355 acres) of property in fee simple at 147 Oak Street (Tax Parcel # 15-249-14-015) by eminent domain for city street/public transportation purposes.**
- Item #4 Adjournment

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXERCISE OF THE CITY OF AVONDALE ESTATES' POWER OF EMINENT DOMAIN IN THE ACQUISITION OF CERTAIN INTERESTS IN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA, FOR CONSTRUCTION OF A CITY STREET AND/OR OTHER PUBLIC TRANSPORTATION PURPOSES.

WHEREAS, pursuant to Article 9, Section 2, Paragraph 5 of the Georgia Constitution, municipalities may acquire property in fee simple or in any lesser interest by eminent domain for public purposes; and

WHEREAS, the governing authority of the City of Avondale Estates, Georgia, a municipal corporation of the State of Georgia, has determined that the circumstances of this matter are such that there is a necessity for exercising its powers of eminent domain pursuant to O.C.G.A. § 32-3-1, *et seq.* in the acquisition of certain interests in property for city street and/or other public transportation purposes.

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the City Attorney, or his designee, is ordered and directed to institute proceedings *in rem* pursuant to O.C.G.A. § 32-3-1, *et seq.* in the DeKalb County Superior Court in order to condemn that certain property and interests therein more particularly described in Exhibit "A" which is attached hereto and made a part hereof by reference as though fully set forth at this point, all to the use of the City of Avondale Estates, said property now or formerly vested in 278 Oak Holdings, LLC, its successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Five Hundred and Sixty Thousand Dollars (\$560,000.00) be made to the person or persons entitled to such payment. The Mayor may sign any documents and/or pleadings required for proper filing under the aforementioned Code sections including a Declaration of Taking and Order of the Board of Mayor and Commissioners.

SO RESOLVED by the Avondale Estates Board of Mayor and Commissioners, this 21st day of June, 2021.

ATTEST:

**BOARD OF MAYOR AND COMMISSIONERS
CITY OF AVONDALE ESTATES, GEORGIA**

By _____
Gina Hill, City Clerk

Jonathan Elmore, Mayor

Approved as to Form:

Stephen G. Quinn
Stephen G. Quinn,
Assistant City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OR REQUIRED RIGHT-OF-WAY

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 249, 15TH DISTRICT, CITY OF AVONDALE ESTATES, DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT A HALF INCH REBAR FOUND AT THE NORTHWESTERLY RIGHT-OF-WAY OF FRANKLIN STREET (40 FOOT RIGHT-OF-WAY) AND THE EASTERLY RIGHT-OF-WAY OF OAK STREET (40 FOOT RIGHT-OF-WAY);

THENCE ALONG SAID RIGHT-OF-WAY OF OAK STREET NORTH 2 DEGREES 41 MINUTES 5 SECONDS EAST, A DISTANCE OF 51.60 FEET TO A POINT;

THENCE SOUTH 79 DEGREES 20 MINUTES 36 SECONDS WEST, A DISTANCE OF 4.82 FEET TO A HALF INCH REBAR FOUND;

THENCE NORTH 01 DEGREE 56 MINUTES 40 SECONDS EAST, A DISTANCE OF 135.19 FEET TO THE **POINT OF BEGINNING**.

THENCE, THE POINT OF BEGINNING THUS BEING ESTABLISHED, CONTINUING ALONG SAID RIGHT-OF-WAY OF OAK STREET NORTH 2 DEGREES 14 MINUTES 57 SECONDS EAST, A DISTANCE OF 51.96 FEET TO A POINT;

THENCE DEPARTING SAID RIGHT-OF-WAY NORTH 76 DEGREES 27 MINUTES 36 SECONDS EAST, A DISTANCE OF 302.63 FEET TO A POINT;

THENCE SOUTH 13 DEGREES 32 MINUTES 24 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A POINT;

THENCE SOUTH 76 DEGREES 27 MINUTES 36 SECONDS WEST, A DISTANCE OF 316.77 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OR PARCEL OF LAND CONTAINS 15,485 SQUARE FEET OR 0.355 ACRES, BEING REQUIRED RIGHT-OF-WAY AS DEPICTED HEREON.

**ORDER OF THE AVONDALE ESTATES BOARD OF MAYOR AND
COMMISSIONERS TO CONDEMN PROPERTY FOR PURPOSES OF
CONSTRUCTING AND IMPROVING A PUBLIC TRANSPORTATION PROJECT**

WHEREAS, the Avondale Estates Board of Mayor and Commissioners has laid out and determined to construct a city street or other transportation facility for the City at that certain parcel identified for tax purposes as parcel identification number 15-249-14-015 by the DeKalb County Board of Tax Assessors; the same being more fully described and shown in the description and attached as Appendix B to the Declaration of Taking (Exhibit “A” to the Petition for Condemnation).

WHEREAS, the tract of property and other rights as herein described and as listed below shown of record as owned by the persons named herein, all as described and shown in Appendix B to the Declaration of Taking (Exhibit “A” to the Petition for Condemnation) incorporated herein by reference and made a part of this Order are essential for the construction of said project:

Property/Rights: fee simple ownership of 15,485 sq/ft (0.355 acres) of the parcel

Owner: 278 Oak Holdings, LLC

Potentially Interested Parties: Person(s) in possession of the property.

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6(b)(6) and (c), it is hereby found by the Avondale Estates Board of Mayor and Commissioners that the circumstances are such that it is necessary that the property as described in Appendix B to Exhibit “A” of the Declaration of Taking be acquired by condemnation under the provisions of O.C.G.A. § 32-3-1 *et seq.* for public road purposes or other transportation purposes.

IT IS ORDERED that the City of Avondale Estates proceed to acquire the title, estate or interest in the lands hereinafter described in Appendix B of the Declaration of Taking (Exhibit “A” to the Petition for Condemnation) by condemnation under the provisions of said Code, and the City Attorney or his designees are authorized and directed to file condemnation proceedings, including a Declaration of Taking, to acquire said title, estate, or interest in said lands and to deposit in the Court the sum estimated as just compensation all in accordance with the provisions of said law.

SO ORDERED by the Avondale Estates Board of Mayor and Commissioners,

this 21st day of June, 2021.

[signatures on following page]

ATTEST:

**BOARD OF MAYOR AND COMMISSIONERS
CITY OF AVONDALE ESTATES, GEORGIA**

By _____
Gina Hill, City Clerk

Jonathan Elmore, Mayor

Approved as to Form:

Stephen G. Quinn
Stephen G. Quinn,
Assistant City Attorney

EXHIBIT "A"

DECLARATION OF TAKING

WHEREAS, the City of Avondale Estates, Georgia, has made and passed a Resolution finding that the circumstances in connection with acquiring certain interests in property and for public right-of-way or other public transportation purposes are such that it is necessary to acquire title, estate, or interest in the lands fully described in said order to condemn contained in the Resolution, a certified copy/duplicate original of which is attached to this Declaration as Appendix A to Exhibit "A," and made a part hereof, under O.C.G.A. § 32-3-1, *et seq.*; and

WHEREAS, said interests in property are for public purposes upon, across, and over the tract of land in Avondale Estates, DeKalb County, Georgia, as fully described in the attachment hereto identified as Appendix B to Exhibit "A," and made a part hereof; and

WHEREAS, the City of Avondale Estates, Georgia, has caused an investigation and report to be made by a competent land appraiser upon which to estimate the sum of money to be deposited in the Court as just and adequate compensation for the right-of-way above-referred to, a copy of the appraiser's sworn statement being attached hereto identified as Appendix C to Exhibit "A," and made a part hereof; and

WHEREAS, in consequence of the sworn statement, Appendix C to Exhibit "A," the City of Avondale Estates, Georgia estimates of Five Hundred and Sixty Thousand Dollars (\$560,000.00) as just and adequate compensation to be paid for said right-of-way, as fully described in Appendix B to Exhibit "A" which is attached hereto and made a part hereof and will deposit said sum in the Court to the use of the persons entitled thereto.

NOW THEREFORE, the premises considered, the City of Avondale Estates, Georgia, under authority of O.C.G.A. § 32-3-1, *et seq.* and O.C.G.A. § 22-3-140 hereby declares that the property and interests as described in Appendix B to Exhibit "A," which is attached hereto and made a part hereof of this Declaration, is taken for purposes of locating, constructing, maintaining, repairing, replacing, extending, expanding, and/or installing infrastructure for right-of-way and sidewalk improvements or other transportation purposes.

This 21st day of June, 2021.

ATTEST:

**BOARD OF MAYOR AND COMMISSIONERS
CITY OF AVONDALE ESTATES, GEORGIA**

By _____
Gina Hill, City Clerk

Jonathan Elmore, Mayor

Approved as to Form:

Stephen G. Quinn
Stephen G. Quinn, Assistant City Attorney

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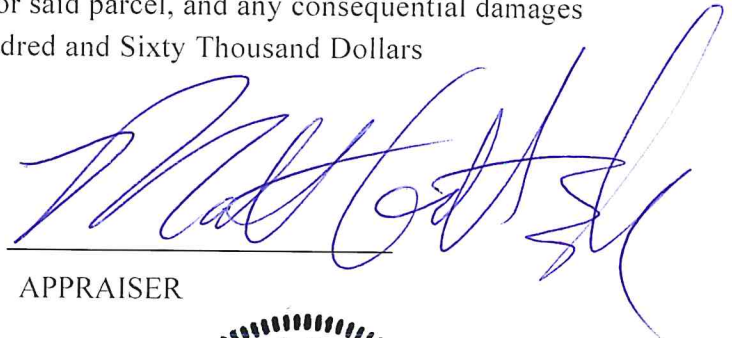
APPENDIX "C" TO EXHIBIT "A"

GEORGIA, DEKALB COUNTY

Personally comes, **MATTHEW K. GOTTSCHALK** and after being duly sworn does state as follows:

1. Affiant was employed by the City of Avondale Estates to appraise a portion (0.355 acres) of the property known as 147 Oak Street, Avondale Estates, DeKalb County, Georgia 30002, tax parcel 15-249-14-015 and makes this sworn statement to be used in connection with condemnation proceedings under the Official Code of Georgia Annotated Sections 32-3-4 through 32-3-19, for the acquisition of said property for use as a City street.

2. Affiant is familiar with real estate values in said county and in the vicinity where said parcel is located. Affiant has personally inspected the property or right condemned and in appraising the relevant portion of said parcel Affiant took into consideration the Fair Market Value of said parcel, as well as any consequential damages to remaining property of the Condemnee by reason of the taking and use of said parcel and other rights for the construction of said project, and any consequential benefits which may result to such remaining property by reason of such taking and use (consequential benefits not, however, considered except as offsetting consequential damages). After said investigation and research, Affiant has thus estimated that the just and adequate compensation for said parcel, and any consequential damages or benefits considered, is in the amount of Five Hundred and Sixty Thousand Dollars (\$560,000.00).



APPRAISER

Sworn to and subscribed before me,
This 17th day of June, 2021.


NOTARY PUBLIC