

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 19

DATE: October 7, 2008

STAFF: Kathleen Bracke
Patrick Rowe

SUBJECT

First Reading of Ordinance No. 124, 2008, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Trail Improvements in Connection with the Mason Corridor Trail Project.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

FINANCIAL IMPACT

Property acquisition costs will be covered by available project funds, whether or not eminent domain is required.

This phase of the Mason Corridor Trail project will rely on grant funding administered through the Colorado Department of Transportation.

EXECUTIVE SUMMARY

The final phase of the Mason Trail project provides a critical connection between Colorado State University, the existing Mason Trail between Harmony Road and the Spring Creek Trail, and the City's community wide trail system (through connections with the Spring Creek Trail and the Fossil Creek Trail). Due to the importance of this connection, staff is seeking authorization to use the eminent domain process to acquire the necessary property interests in the event that good faith negotiations are not successful; staff is hopeful and optimistic that the private property acquisition will be accomplished by negotiated agreement.

BACKGROUND

In October 2000, the Fort Collins City Council approved the overall Master Plan for the Mason Transportation Corridor, including planned bicycle/pedestrian trail improvements. As of September 2006, the City completed the first phase of these trail improvements which extend from Harmony Road north to the Spring Creek Trail.

The current phase, and the last independent segment of the Mason Trail (north of Prospect Road the trail is combined with the Mason Corridor Bus Rapid Transit guideway) continues the existing trail

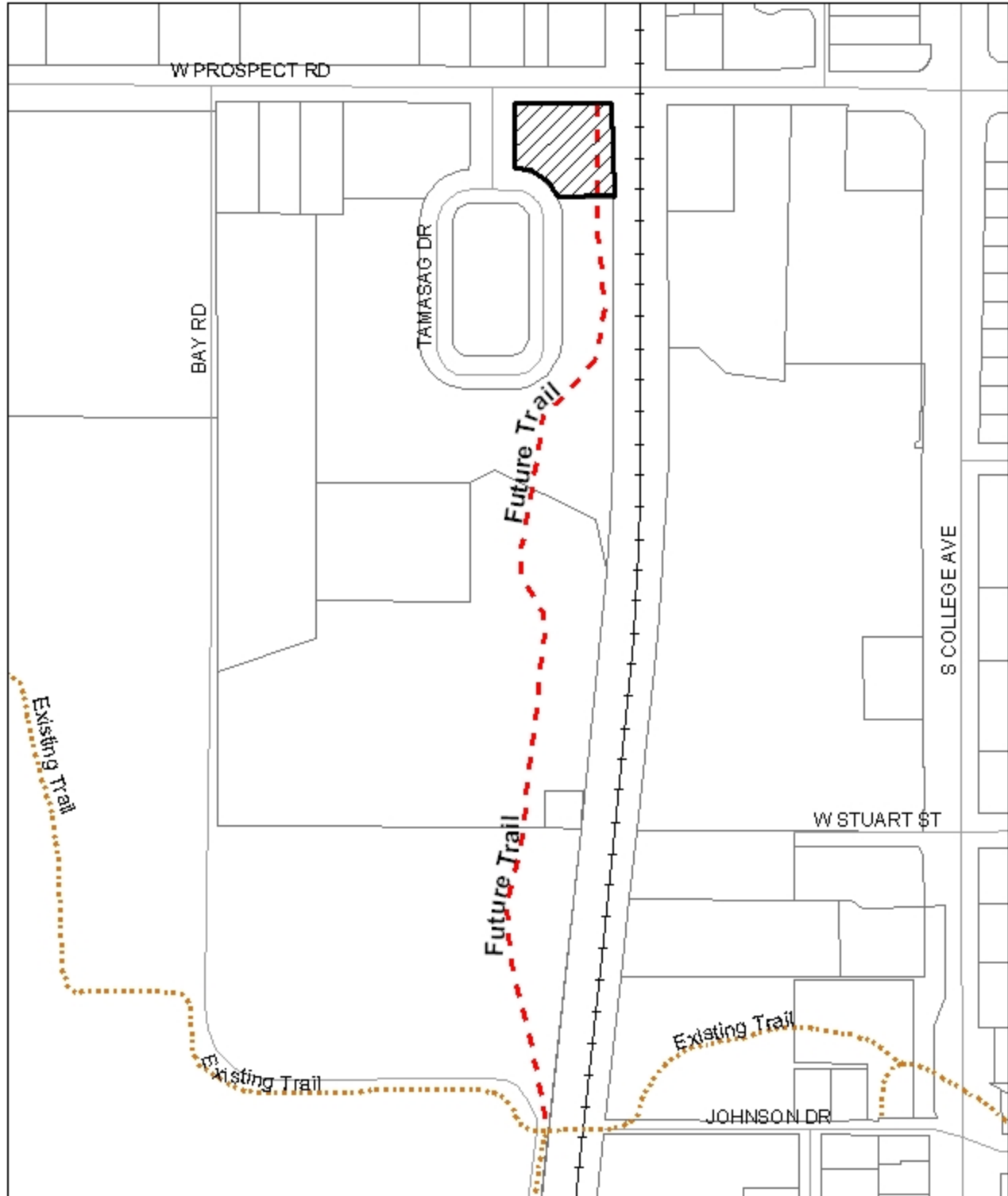
alignment along the west side of the Burling Northern Santa Fe (BNSF) Railway corridor from the Spring Creek Trail, north to Prospect Road, a distance of approximately one-half mile. As currently designed, the proposed segment of trail passes through three separate Colorado State University (CSU) ownerships and one private property. This Ordinance only pertains to the private property owner.




The purpose of this Ordinance is to permit staff, if absolutely necessary and only if extensive good faith negotiations are not successful, to use eminent domain to acquire the necessary property interests for the proposed trail improvements. Over the past two years the City has had numerous cooperative and constructive conversations with the property owner, and has every indication that negotiations will be successful. The property owner favors the trail and has made significant efforts to include the trail in the owner's pending re-development plans. However, due to the transportation importance of the bicycle/pedestrian link between Colorado State University, the existing Mason Trail, the Spring Creek Trail and the City's community wide trail system, and in deference to the Colorado Department of Transportation's preference to have eminent domain authorization present prior to formal negotiations, staff recommends adoption of this Ordinance.

ATTACHMENTS

1. Location Map

Mason Corridor Trail Location Map



-  Property Location
-  Existing Trail
-  Future Mason Corridor Trail



ORDINANCE NO. 124, 2008
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING ACQUISITION BY EMINENT DOMAIN PROCEEDINGS OF CERTAIN
LANDS NECESSARY FOR THE CONSTRUCTION OF PUBLIC TRAIL IMPROVEMENTS
IN CONNECTION WITH THE MASON CORRIDOR TRAIL PROJECT

WHEREAS, the initial phase of the Mason Corridor Trail Project (the "Project"), adjacent to the Burlington Northern Santa Fe Railway corridor and extending from Harmony Road to a point along the Spring Creek Trail, was completed in September 2006; and

WHEREAS, Phase II of the Project will extend the Mason Corridor Trail from the Spring Creek Trail to Prospect Road; and

WHEREAS, the Project provides a critical transportation connection between Colorado State University, the existing Mason Corridor Trail, the Spring Creek Trail, and the City's community-wide trail system; and

WHEREAS, in order to construct the Project it is necessary for the City to acquire certain property interests (the "Property") as described on Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the City will negotiate in good faith for the acquisition of the Property from the landowners; and

WHEREAS, the acquisition of the Property is desirable and necessary for the construction of the Project, is in the City's best interest and enhances public health, safety, and welfare; and

WHEREAS, the acquisition of the Property rights may, by law, be accomplished through eminent domain.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby finds and determines that it is necessary and in the public interest to acquire the Property described on Exhibit A for the purpose of constructing the Mason Corridor Trail Project.

Section 2. That the City Council hereby authorizes the City Attorney and other appropriate officials of the City to acquire the Property for the City by eminent domain.

Section 3. That the City Council finds, in the event that acquisition by eminent domain of the Property described in this Ordinance is commenced, that immediate possession is necessary for the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 7th day of October, A.D. 2008, and to be presented for final passage on the 21st day of October, A.D. 2008.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 21st day of October, A.D. 2008.

Mayor

ATTEST:

City Clerk

EXHIBIT "A"

PROJECT NUMBER: STU M455-068
PARCEL NUMBER: PE1
PROJECT CODE: 15046
DATE: March 24, 2008

LEGAL DESCRIPTION

A tract of land being Parcel No. PE1 Of the Department of Transportation, State of Colorado, Project No. STU M455-068, containing 5,489 square feet (more or less), located in the Northeast quarter of Section 23, Township 7 North, Range 69 West of the Sixth Principal Meridian, City of Fort Collins, Larimer County, Colorado, the said tract is also located in Lot 10 of Griffin Plaza Subdivision, a plat of record with the Clerk and Recorder of the said Larimer County, being more particularly described as follows;

Commencing at the north quarter corner of Section 23, T.7 N., R. 69 W of the 6th P.M.; THENCE along the north line of the said northeast quarter, South 89 degrees 21 minutes 45 seconds East for a distance of 2032.64 feet to the northerly extension of the east line of the said Griffin Plaza Subdivision; THENCE along the said extended line, South 00 degrees 11 minutes 19 seconds West for a distance of 30.00 feet to the northeast corner of the said Lot 10 Griffin Plaza Subdivision and to the TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

1. THENCE along the east line of the said Lot 10, South 00 degrees 11 minutes 19 seconds West for a distance of 170.00 feet to the southeast corner of the said Lot 10;
2. THENCE along the south line of the said Lot 10, North 89 degrees 21 minutes 45 seconds West for a distance of 39.25 feet;
3. THENCE leaving the said south line, North 00 degrees 11 minutes 19 seconds East for a distance of 48.62 feet;
4. THENCE South 89 degrees 48 minutes 41 seconds East for a distance of 12.00 feet;
5. THENCE North 00 degrees 11 minutes 19 seconds East for a distance of 62.56 feet;
6. THENCE along a curve to the left having a radius of 42.00 feet, a central angle of 20 degrees 21 minutes 51 seconds and an arc length of 14.93 feet, being subtended by a chord of North 09 degrees 59 minutes 36 seconds West for a distance

of 14.85 feet;

7. THENCE along a reverse curve to the right having a radius of 58.00 feet a central angle of 20 degrees 21 minutes 51 seconds and an arc length of 20.61 feet, being subtended by a chord of North 09 degrees 59 minutes 36 seconds West for a distance of 20.51 feet;
8. THENCE North 00 degrees 11 minutes 19 seconds East for a distance of 17.71 feet;
9. THENCE North 22 degrees 42 minutes 14 seconds West for a distance of 5.14 feet;
10. THENCE North 00 degrees 38 minutes 15 seconds East for a distance of 1.54 feet to the north line of the said Lot 10;
11. THENCE along the said north line, South 89 degrees 21 minutes 45 seconds East for a distance of 35.49 feet to the point of beginning.

The above described tract contains 5,489 square feet (more or less) and is subject to all easements and rights of ways now existing or of record.

Basis of Bearings: Considering the north line of the said northeast quarter of Section 23, T7N, R69W of the 6th P.M. as bearing South 89 degrees 21 minutes 45 seconds East between a found 2.5" alum. cap monument, PLS 17497 at the north quarter corner of the said Section 23 and a found 3" alum. cap monument, PLS 17497 at the northeast corner of the said Section 23, based upon the City of Fort Collins coordinate base and G.P.S. observation;

WALLACE C. MUSCOTT COLORADO P.L.S. 17497
P.O. BOX 580
FORT COLLINS, CO 80522

EXHIBIT "A"

PROJECT NUMBER: STU M455-068

PARCEL NUMBER: TE1

PROJECT CODE: 15046

DATE: March 24, 2008

LEGAL DESCRIPTION

A tract of land being Parcel No. TE1 Of the Department of Transportation, State of Colorado, Project No. STU M455-068, containing 14,462 square feet (more or less), located in the Northeast quarter of Section 23, Township 7 North, Range 69 West of the Sixth Principal Meridian, City of Fort Collins, Larimer County, Colorado, the said tract is also located in Lot 10 of Griffin Plaza Subdivision, a plat of record with the Clerk and Recorder of the said Larimer County, being more particularly described as follows;

Commencing at the north quarter corner of Section 23, T.7 N., R. 69 W of the 6th P.M.; THENCE along the north line of the said northeast quarter, South 89 degrees 21 minutes 45 seconds East for a distance of 2032.64 feet to the northerly extension of the east line of the said Griffin Plaza Subdivision; THENCE along the said extended line, South 00 degrees 11 minutes 19 seconds West for a distance of 30.00 feet to the northeast corner of the said Lot 10 Griffin Plaza Subdivision; THENCE along the north line of the said Lot 10, North 89 degrees 21 minutes 45 seconds West for a distance of 35.49 feet to the westerly line of the proposed Mason Transportation Corridor Trail Easement and to the TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

1. THENCE along the said westerly line of the Mason Transportation Corridor Trail Easement the following eight (8) courses and distances, (1) South 00 degrees 38 minutes 15 seconds West for a distance of 1.54 feet;
2. (2) South 22 degrees 42 minutes 14 seconds East for a distance of 5.14 feet;
3. (3) South 00 degrees 11 minutes 19 seconds West for a distance of 17.71 feet;
4. (4) along a curve to the left having a radius of 58.00 feet a central angle of 20 degrees 21 minutes 51 seconds and an arc length of 20.61 feet, being subtended by a chord of South 09 degrees 59 minutes 36 seconds East for a distance of 20.51 feet;
5. (5) along a reverse curve to the right having a radius of 42.00 feet a central angle of 20 degrees 21 minutes 51 seconds and an arc length of 14.93 feet, being subtended by a chord of South 09 degrees 59 minutes 36 seconds East for a distance of 14.85 feet;

6. (6) South 00 degrees 11 minutes 19 seconds West for a distance of 62.56 feet;
7. (7) North 89 degrees 48 minutes 41 seconds West for a distance of 12.00 feet;
8. (8) South 00 degrees 11 minutes 19 seconds West for a distance of 48.62 feet to the south line of the said Lot 10;
9. THENCE along the said south line of Lot 10, North 89 degrees 21 minutes 45 seconds West for a distance of 59.26 feet to the westerly line of the said Lot 10;
10. THENCE along the said westerly line of Lot 10, along a non-tangent curve to the left having a radius of 90.00 feet a central angle of 22 degrees 05 minutes 02 seconds and an arc length of 34.69 feet, being subtended by a chord of North 36 degrees 47 minutes 22 seconds West for a distance of 34.48 feet;
11. THENCE leaving the said westerly line of Lot 10, non-tangent from the previous curve, North 00 degrees 11 minutes 19 seconds East for a distance of 142.62 feet to the northerly line of the said Lot 10;
12. THENCE along the said northerly line, South 89 degrees 21 minutes 45 seconds East for a distance of 83.76 feet to the point of beginning.

The above described tract contains 14,462 square feet (more or less) and is subject to all easements and rights of ways now existing or of record.

Basis of Bearings: Considering the north line of the said northeast quarter of Section 23, T7N, R69W of the 6th P.M. as bearing South 89 degrees 21 minutes 45 seconds East between a found 2.5" alum. cap monument, PLS 17497 at the north quarter corner of the said Section 23 and a found 3" alum. cap monument, PLS 17497 at the northeast corner of the said Section 23, based upon the City of Fort Collins coordinate base and G.P.S. observation;

WALLACE C. MUSCOTT COLORADO P.L.S. 17497
P.O. BOX 580 FORT COLLINS, CO 80522