

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 16

DATE: April 4, 2006

**STAFF: Lindsay Kuntz
Matt Baker**

SUBJECT

First Reading of Ordinance No. 057, 2006, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Ziegler Road, Kechter Road Intersection Improvements Project.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

FINANCIAL IMPACT

The acquisition costs will be covered by the budget for the Ziegler Road, Kechter Road Intersection Improvements Project (the "Project"), even if condemnation is required. The Project is funded by development impact fees from the Street Oversizing Program.

EXECUTIVE SUMMARY

Intersection improvements are planned for Zeigler Road and Kechter Road and include the construction of a modern roundabout at the Zeigler and Kechter intersection.

Right-of-way acquisition for the Project is now underway. Because of the round configuration of the improvements and the square shape of the existing right-of-way, two small slivers of property are needed on the west side. One of these properties has been purchased and the other property owner, in spite of staff's diligent efforts, has not responded.

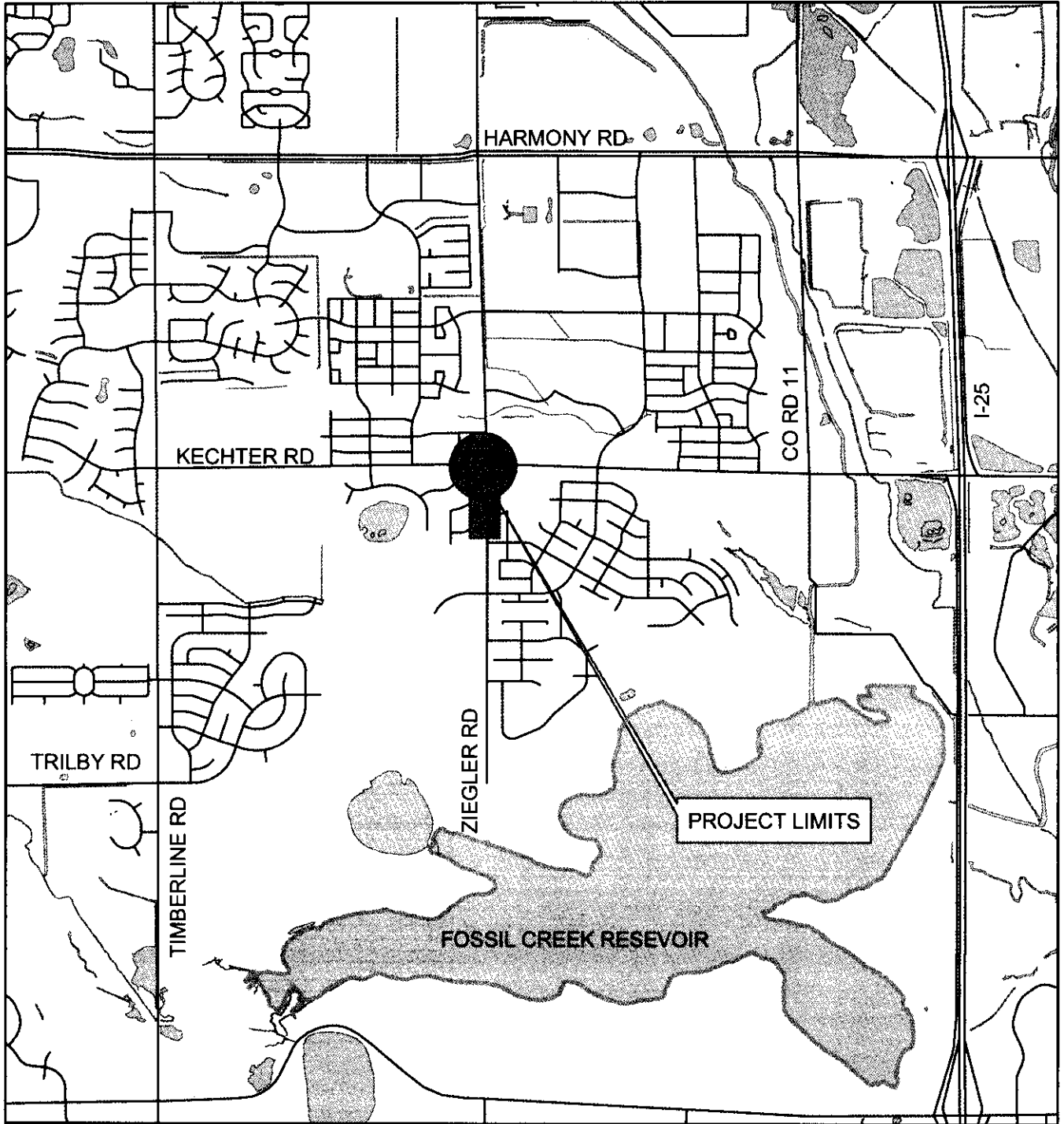
BACKGROUND

On the southwest corner of Zeigler and Kechter Roads is the existing development of Homestead, Phase 2. The City requires only 420 square feet of right-of-way to complete the intersection improvements, plus a temporary construction easement to build the improvements.

The proposed right-of-way is a small, irregular sliver needed to install a wider sidewalk at the intersection. The property is currently a landscaped area encumbered by a drainage and utility easement and is used for stormwater detention.

Staff has repeatedly attempted contact with the property owner through phone calls and letters but has received no response. A registered letter was sent and received by the property owner, but again there was no response. An offer to purchase the needed right-of-way has been sent.

The improvements to the Ziegler and Kechter Road intersection must be completed during the Poudre School District summer break in order to minimize disruption of access to the four schools in this area. Staff is asking for authorization to use eminent domain in order to construct the Project this summer and will continue to try and contact the property owner prior to initiating eminent domain proceedings.



Vicinity Map For Kechter-Ziegler Roundabout

1" = 2500'



March 22, 2006

ORDINANCE NO. 057, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING ACQUISITION BY EMINENT DOMAIN PROCEEDINGS
OF CERTAIN LANDS NECESSARY TO CONSTRUCT PUBLIC
IMPROVEMENTS IN CONNECTION WITH THE
ZIEGLER ROAD, KECHTER ROAD INTERSECTION
IMPROVEMENTS PROJECT

WHEREAS, construction of the Ziegler Road, Kechter Road Intersection Improvements Project (the "Project") is scheduled to start in summer of 2006; and

WHEREAS, the Project includes constructing a roundabout, sidewalks, center medians, and utility connections; and

WHEREAS, the Project will improve the current intersection and provide a safer flow of traffic; and

WHEREAS, it is necessary for the City to acquire certain property rights from the Hearthside Homeowners Association of Fort Collins, Inc, hereinafter described on Exhibits "A" and "B", attached hereto and incorporated herein by this reference (the "Exhibits"), for the purpose of constructing the Project; and

WHEREAS, the City will negotiate in good faith for the acquisition of said property rights from the owners thereof; and

WHEREAS, the acquisition of the property rights 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 such property rights may, by law, be accomplished through proceedings in 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 is necessary in the public interest to acquire the property rights described in the Exhibits for the purpose of constructing the project.

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

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

Introduced, considered favorably on first reading, and ordered published this 4th day of April, A.D. 2006, and to be presented for final passage on the 18th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk

Exhibit "A"

Page 1 of 3

DESCRIPTION OF A TRACT OF LAND LOCATED ON THE HEARTHSIDE HOMEOWNERS ASSOCIATION OF FORT COLLINS, INC. PROPERTY TO BE DEDICATED TO THE CITY OF FORT COLLINS

A Tract of land located in the Northeast quarter of Section 8, Township 6 North, Range 68 West of the Sixth Principal Meridian, City of Fort Collins, Larimer County, Colorado, the said tract is also located in Outlot A of the plat of Homestead P.U.D. 2nd Filing P.L.D. And P.D., a plat of record with the Clerk and Recorder of Larimer County, being more particularly described as follows;

Considering the east line of the said northeast quarter of Section 8 as bearing South 00 degrees 16 minutes 36 seconds West between a Aluminum Cap Monument, PLS 22098 at the north east corner and a Aluminum Cap Monument, PLS 33642 at the north sixteenth corner of Section 8, based upon GPS observation and City of Fort Collins coordinate base, and with all bearings contained herein relative thereto;

Commencing at the said northeast corner of Section 8;

THENCE along the east line of the said northeast quarter of Section 8, South 00 degrees 16 minutes 36 seconds West for a distance of 50.00 feet to the easterly extension of the south right of way of Kechter Road as shown on the said plat of Homestead P.U.D. 2nd Filing P.L.D. And P.D.;

THENCE along the said extended line, South 89 degrees 30 minutes 22 seconds West for a distance of 57.20 feet to the said south right of way of Kechter Road and to the TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE along the said south right of way, South 89 degrees 30 minutes 22 seconds West for a distance of 2.96 feet;

THENCE leaving the said right of way, along a non-tangent curve to the right having a radius of 86.17 feet a central angle of 16 degrees 31 minutes 15 seconds and an arc length of 24.85 feet, being subtended by a chord of South 46 degrees 53 minutes 46 seconds East for a distance of 24.76 feet to the west right of way of Ziegler Road as dedicated on the said plat of Homestead P.U.D. 2nd Filing P.L.D. And P.D.;

THENCE along the said west right of way, non-tangent from the previous curve, North 00 degrees 16 minutes 36 seconds East for a distance of 1.87 feet;

THENCE continuing along the said right of way, along a curve to the left having a radius of 15.00 feet a central angle of 90 degrees 44 minutes 56 seconds and an arc length of 23.76 feet, being subtended by a chord of North 45 degrees 05 minutes 24 seconds West for a distance of 21.35 feet to the point of beginning. Containing 90 square feet more or less.

Exhibit "A"

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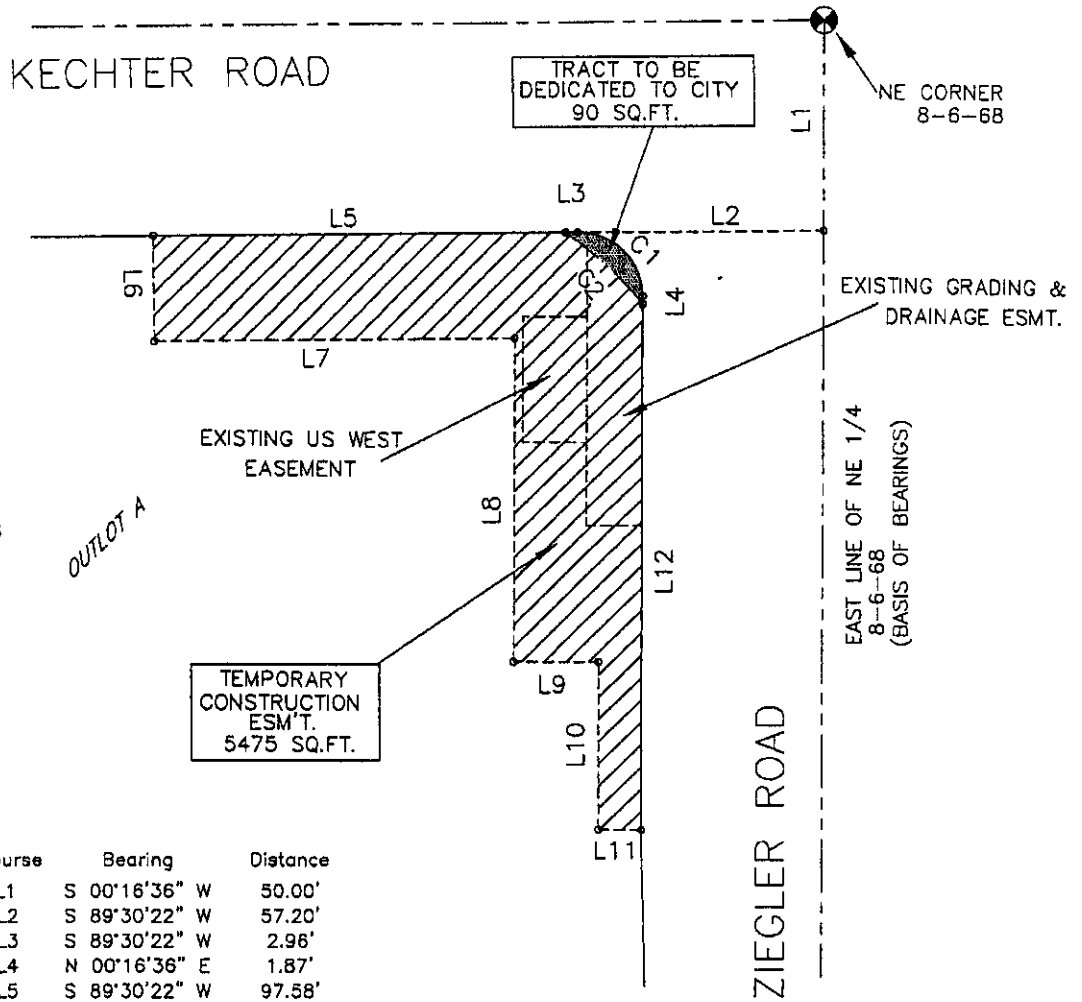
The above described tract is subject to all easements and rights of ways now existing or of record.

I hereby state that the above description was prepared by me and is true and correct to the best of my professional knowledge, belief and opinion. The description is based upon previously recorded plats and deeds and not upon a actual field survey.

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

LOCATION SKETCH
HEARTHSIDE HOMEOWNERS ASSOCIATION
OF FORT COLLINS, INC.

NTS
JANUARY 31, 2006



Course	Bearing	Distance
L1	S 00°16'36" W	50.00'
L2	S 89°30'22" W	57.20'
L3	S 89°30'22" W	2.96'
L4	N 00°16'36" E	1.87'
L5	S 89°30'22" W	97.58'
L6	S 00°29'50" E	25.00'
L7	N 89°30'22" E	85.40'
L8	S 00°16'36" W	77.34'
L9	S 89°43'36" E	20.00'
L10	S 00°16'36" W	40.00'
L11	S 89°43'36" E	10.00'
L12	N 00°16'36" E	125.67'

Curve	Radius	Length	Delta
C1	86.17'	24.85'	16°31'15"
C2	15.00'	23.76'	90°44'56"

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THIS SKETCH AND THE AREAS SHOWN DEPICT THE ATTACHED PROPERTY DESCRIPTION ONLY, AND DO NOT REPRESENT A MONUMENTED BOUNDARY SURVEY.

Exhibit "B"

Page 1 of 3

DESCRIPTION OF A TEMPORARY CONSTRUCTION EASEMENT LOCATED ON THE HEARTHSIDE HOMEOWNERS ASSOCIATION OF FORT COLLINS, INC. PROPERTY TO BE DEDICATED TO THE CITY OF FORT COLLINS

A Temporary Construction Easement located in the Northeast quarter of Section 8, Township 6 North, Range 68 West of the Sixth Principal Meridian, City of Fort Collins, Larimer County, Colorado, the said easement is also located in Outlot A of the plat of Homestead P.U.D. 2nd Filing P.L.D. And P.D., a plat of record with the Clerk and Recorder of Larimer County, being more particularly described as follows;

Considering the east line of the said northeast quarter of Section 8 as bearing South 00 degrees 16 minutes 36 seconds West between a Aluminum Cap Monument, PLS 22098 at the north east corner and a Aluminum Cap Monument, PLS 33642 at the north sixteenth corner of Section 8, based upon GPS observation and City of Fort Collins coordinate base, and with all bearings contained herein relative thereto;

Commencing at the said northeast corner of Section 8;

THENCE along the east line of the said northeast quarter of Section 8, South 00 degrees 16 minutes 36 seconds West for a distance of 50.00 feet to the easterly extension of the south right of way of Kechter Road as shown on the said plat of Homestead P.U.D. 2nd Filing P.L.D. And P.D.;

THENCE along the said extended line, and along the said south right of way, South 89 degrees 30 minutes 22 seconds West for a distance of 60.17 feet to the westerly line of the proposed tract of land to be dedicated to the said City and to the TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE continuing along the said south right of way, South 89 degrees 30 minutes 22 seconds West for a distance of 97.58 feet;

THENCE leaving the said south right of way, South 00 degrees 29 minutes 50 seconds East for a distance of 25.00 feet;

THENCE North 89 degrees 30 minutes 22 seconds East for a distance of 85.40 feet;

THENCE South 00 degrees 16 minutes 36 seconds West for a distance of 77.34 feet;

THENCE South 89 degrees 43 minutes 36 seconds East for a distance of 20.00 feet;

THENCE South 00 degrees 16 minutes 36 seconds West for a distance of 40.00 feet;

THENCE South 89 degrees 43 minutes 36 seconds East for a distance of 10.00 feet to the west right of way of Ziegler Road as dedicated on the said plat of Homestead P.U.D. 2nd Filing P.L.D. And P.D.;

THENCE along the said west right of way, North 00 degrees 16 minutes 36 seconds East for a distance of 125.67 feet to the said

Exhibit "B"

Page 2 of 3

westerly line of the proposed tract to be dedicated to the City;

THENCE along the said proposed westerly line, along a non-tangent curve to the left having a radius of 86.17 feet a central angle of 16 degrees 31 minutes 15 seconds and an arc length of 24.85 feet, being subtended by a chord of North 46 degrees 53 minutes 46 seconds West for a distance of 24.76 feet to the point of beginning. Containing 5475 square feet more or less.

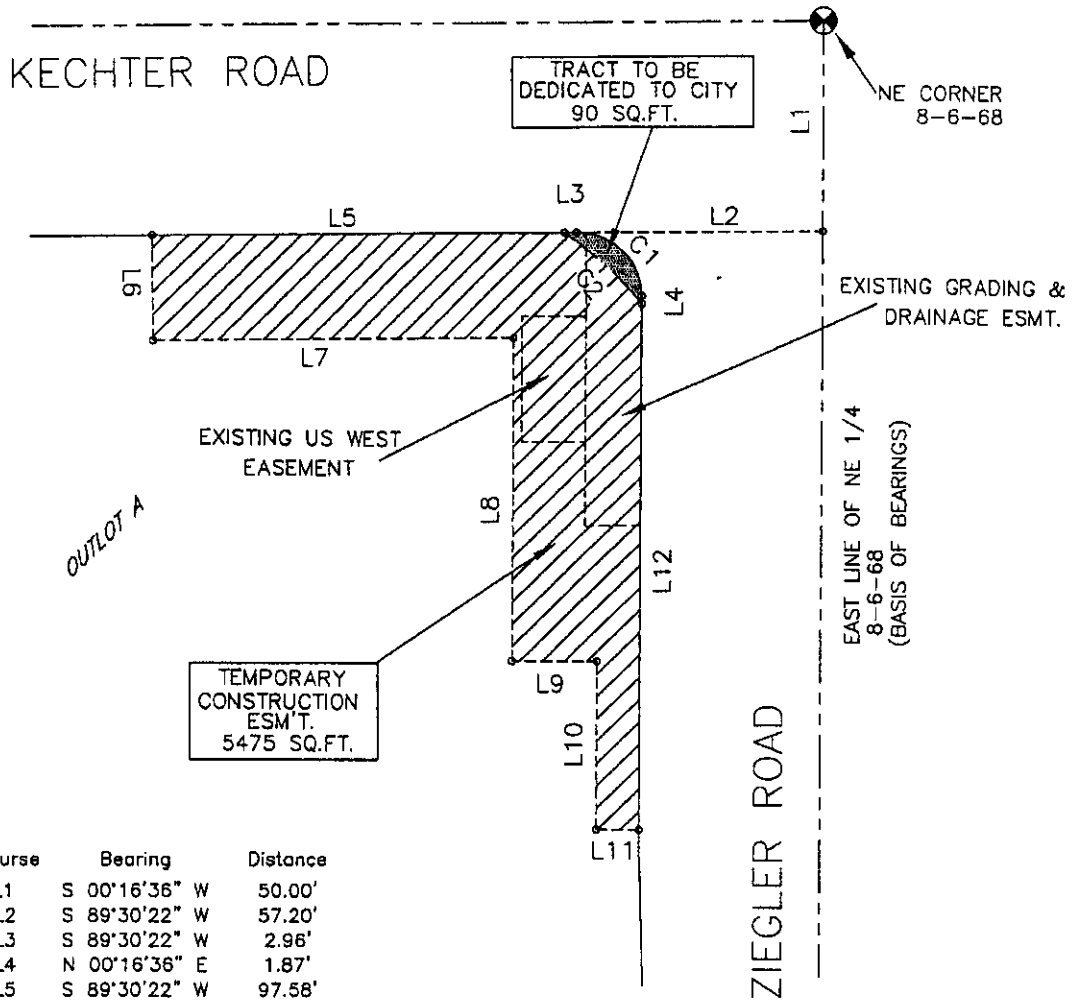
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