



## Legislation Details (With Text)

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**Title:** Receive the staff report for the acquisition of land for right-of-way and a temporary construction easement for the North Aurora Road improvements from the property at 2404 North Aurora Road (Item 1 of 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
10/6/2020	1	City Council	approved	Pass

### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Receive the staff report for the acquisition of land for right-of-way and a temporary construction easement for the North Aurora Road improvements from the property at 2404 North Aurora Road (Item 1 of 3)

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** William J. Novack, Director of TED/City Engineer

#### **BOARD/COMMISSION REVIEW:**

NA

#### **BACKGROUND:**

North Aurora Road west of Route 59 is a minor arterial roadway in the City which carries approximately 21,000 vehicles a day. The City has two different projects planned in the area for the next few years; widening and replacing the underpass at the CN Railroad and widening the roadway from Frontenac Road to Weston Ridge Drive. This acquisition deals with the roadway project. To address capacity issues, the City plans to widen the roadway from three lanes to five lanes in addition to the installation of a bikeway, sidewalk, street lighting, and curb and gutter. Most of the construction will be completed in 2021.

To facilitate the widening, additional land is needed from several of the adjacent property owners. In addition to compensating the property owners for the land itself, in certain instances the City is also compensating for impacts to their property such as having to modify their parking lots, moving fences, gates, signs, and lights. In some cases, the City is paying the property owners so they owner can complete the work themselves, while in other cases the City is having the work completed, either

as part of the roadway contract or through another contract.

In addition to compensation some property owners have requested that the City confirm and document their legal non-conforming status due to the setback reductions. Most of the properties are in conformance with the Municipal Code requirements today but will not be after the acquisition of a portion of their property. In most cases the acquisition results in the front yard setback not meeting requirements. Section 6-2-19 of the Code discusses these legal non-conforming cases; and some of the property owners have requested that their legal non-conforming status be documented through a resolution.

**DISCUSSION:**

*Resolution to affirm the applicability of Section 6-2-19 of the Municipal Code*

Section 6-2-19 discusses existing buildings and structures. The property at 2404 North Aurora Road was annexed into the City in 1980. It has always been zoned Industrial and has been used by K Five Construction as a yard for equipment and materials. While there are no existing buildings on site, there are paved and stoned surfaces to transport and store equipment and materials. Many years ago, K Five constructed a berm along the North Aurora Road side of the site to act as a buffer and provide screening.

Because the adjacent property (on the other side of North Aurora Road) is zoned Residential, the K Five property requires a 100-foot front yard setback, which applies to both the paved and stone surfaces. The proposed resolution states that following the land acquisition, the paved and stone surfaces will continue to be legal non-conforming and that the provisions of Section 6-2-19 of the Code allow:

1. Continued use and operation at the property in accordance with the Industrial zoned uses
2. Repairs and alterations to the paved surfaces that are within the requirements of the Code
3. Repairing, reconstructing and rebuilding portions of the paved surfaces if the work does not exceed 50% of the value of the total improvements
4. If repairs, reconstruction or rebuilding exceeds 50% of the total improvement value then any new paved surface must comply with the Code

The resolution also addresses the existing berm, affirming that while the Illinois Department of Transportation (IDOT) has setbacks for berms, the City of Naperville does not and that this berm is adjacent to a City of Naperville street and is not subject to IDOT's regulations. It further states that upon redevelopment of the property no portion of the berm will have to be relocated and that the berm conforms to the City's screening requirements.

The final provision of the resolution allows the owner to petition the City Council for reduced front yard setbacks in the future that would reflect the setback prior to the acquisition. Said another way, the owner can request a 20-foot setback reduction due to the hardship imposed by the City's acquisition. This provision does not grant the owner this variance, it simply states that they may request the variance.

*Contract for the sale of real property and grant of temporary construction easement agreement*

The agreement provides the following monetary compensation from the City to the seller:

1. \$72,630.75 for the 0.335 acres of land for future roadway right of way
2. \$600 for the 0.012 acre temporary construction easement
3. \$37,500 for the seller to widen the entrance on their property beyond the limits of the temporary construction easement and install other entrance enhancements

The agreement also obligates the City to complete the following work, either through the roadway contract or on its own:

1. Install a new street light at the entrance to replace the existing private property light that will be removed with the roadway widening
2. Install a new entrance gate south of the new right of way to replace the existing gate that will be removed as part of the roadway widening
3. Constructing a 36-foot wide entrance for the property as part of the improvements
4. Grading the berm at the entrance to the satisfaction of the owner to provide improved site distance
5. Installing trees on the berm to compensate on an inch for inch basis the trees being removed along the frontage as part of the widening
6. Adopt the resolution affirming the applicability of Section 6-2-19 of the Municipal Code

Full funding for the monetary compensation and the City obligations has been budgeted in the City's Capital Improvement Program under CIP Project SC033.

**FISCAL IMPACT:**

Funding of the \$110,730.75 and the City obligations is included in the CIP as part of project SC033.