



TO: John McDonough, City Manager
FROM: Cecil McLendon, Assistant City Attorney
DATE: February 11, 2013, for Submission onto the Agenda for the February 19, 2013
City Council Meeting
ITEM: Consideration of Approval of the Appropriation of the Property Located at 6360 Roswell
Road (Parcel #5) through the Use of Eminent Domain

Assistant City Attorney's Recommendation:

The Assistant City Attorney recommends that the Mayor and City Council approve the use of the condemnation process for the property located at 6360 Roswell Road, lying within Land Lot 88 of the 17th District, in connection with the T-0012/CSSTP-0006-00(728) Project.

Background:

The subject property is currently a BP Convenience/Retail business that is owned by 6360 Roswell, LLC. The acquisition of 1,083.42 square feet of fee simple right of way, 906.12 square feet of permanent easement and various related improvements is required for the construction of the above referenced project. Negotiations have taken place for over 90 days and the title has certain defects that will not allow the City to acquire clean title to the required rights of way unless a condemnation action occurs.

Discussion:

The amount of the independent fair market value appraisal is \$71,850.00. This project contains State and Federal Aid and per the Reimbursable Contract the City has with GDOT, the City shall be reimbursed for a total not to exceed \$2,160,000.00 upon completion and certification of the project. Upon completion of all negotiations, the City will have paid out a total of about \$1,100,000.00 for the rights of way.

Alternatives:

Acquisition by use of Eminent Domain alternative is required to insure that the City acquires free and clear title to the properties in a manner that adheres to the project's schedule. The City is approximately 90% complete with the required acquisitions and a delay in the acquiring the required rights of way could result in deadlines not being met and funding for the project could be negatively affected.

Financial Impact:

Purchase of this property has been budgeted in the T-0012 Roswell Road Streetscapes from Johnson Ferry Road to Abernathy Road Project's budget.

Attachments:

- I. Exhibits
 - A. Aerial Map and GIS Map
 - B. Project Plans
 - C. Legal Description

II. Resolution



6360 Roswell Road / Parcel #5 / T-0012 Project			
Parcel: 17 008800010636 Acres: 0			
Name:	6360 ROSWELL LLC	Land Value	\$ 765,550
Site:	6360 ROSWELL RD	Building Value	\$ 134,400
Sale:	0 on 2011-10-25 Reason=U Qual=T	Misc Value	0
Mail:	9748 ESTES RD MACON, GA 31220	Total Value:	\$ 899,950



The Fulton County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER FULTON COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 02/11/13 : 09:39:40

KC1
 PI Sta - 117+24.36
 PI Nor1b - 1429573.10
 PI East - 2232126.15
 Delta - 19°35'02"
 D - 2°36'16"
 T - 380.02
 L - 752.61
 R - 2200.00
 E - 32.58
 e - N/A

ESTATE OF PARIS BENNETT
 (6)
 SEE SHEETS 4, 9

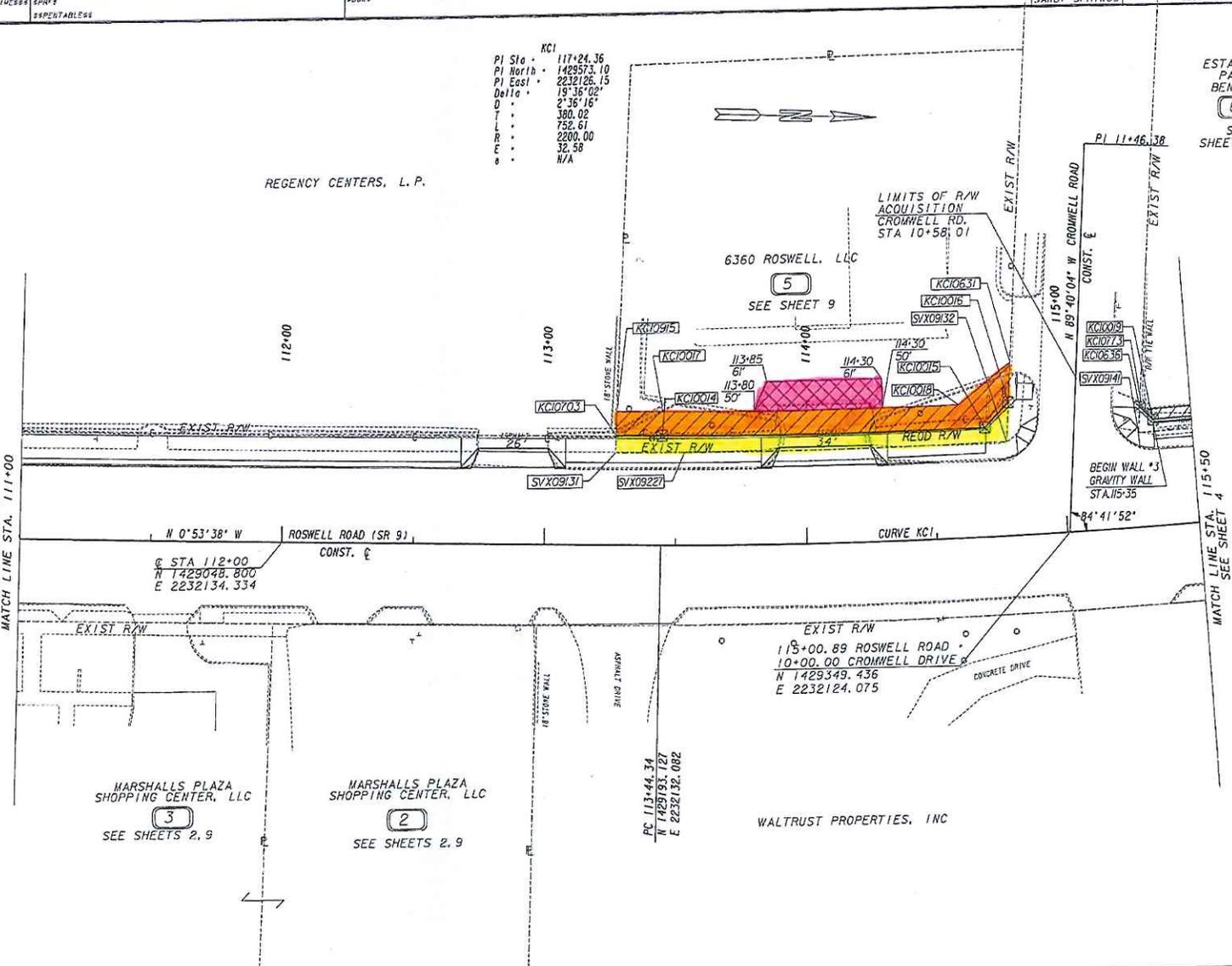
REGENCY CENTERS, L.P.

LIMITS OF R/W ACQUISITION CROWMELL RD. STA 10+58.01

6360 ROSWELL, LLC
 (5)
 SEE SHEET 9

SEE SHEET 2
 MATCH LINE STA. 111+00

MATCH LINE STA. 115+50
 SEE SHEET 4



N 0°53'38" W
 @ STA 112+00
 N 1429048.800
 E 2232134.334

EXIST R/W
 113+00.89 ROSWELL ROAD
 10+00.00 CROWMELL DRIVE
 N 1429349.436
 E 2232124.075

MARSHALLS PLAZA SHOPPING CENTER, LLC
 (3)
 SEE SHEETS 2, 9

MARSHALLS PLAZA SHOPPING CENTER, LLC
 (2)
 SEE SHEETS 2, 9

WALTRUST PROPERTIES, INC

PROPERTY AND EXISTING R/W LINE ---E---
 REQUIRED R/W LINE ---G---F---
 CONSTRUCTION LIMITS
 EASEMENT FOR CONSTR
 & MAINTENANCE OF SLOPES
 EASFWNT FOR CONSTR OF SLOPES

BEGIN LIMIT OF ACCESS.....BLA
 END LIMIT OF ACCESS.....ELA
 LIMIT OF ACCESS
 REQUIRED R/W AND LIMIT OF ACCESS

SCALE IN FEET



DATE	REVISIONS
3-9-12	Par 4 Removed Esm't, Added Ex. Esm't
5-9-12	Par 5 Added Ex. Esm't
5-9-12	Par 5 Removed Req'd Esm't
6-19-12	Par 4 & 5 Removed Ex. Esm't
6-19-12	Par 5 Added Req'd Esm't
6-19-12	Par 5 Updated IM Esm't & Req'd R/W

DATE	REVISIONS

STATE OF GEORGIA
 DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY MAP
 PROJECT NO: CSSTP-0006-0017281
 COUNTY: FULTON
 LAND LOT NO. 88
 LAND DISTRICT 7
 GMD 1100

EXHIBIT "A"

PROJECT NO.: T-0012 Sandy Springs / Roswell Road Sidewalk Project
PARCEL NO.: 13
DATE OF R/W PLANS: June 25, 2012
REVISION DATE: July 13, 2012

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All that tract or parcel of land lying and being in Land Lot 88 of the 17th Land District of Fulton County, Georgia, being more particularly described as follows:

RIGHT-OF-WAY

Beginning at a point 34.17 feet left of and opposite station 119+25.63 on the centerline of Roswell Road the City of Sandy Springs Project No T-0012; thence South 83°00'14" West a distance of 3.87 feet to a point 38.00 feet left of and opposite station 119+26.24 on said construction centerline laid out for Roswell Road; thence northwesterly 23.345 feet along the arc of a curve (said curve having a radius of 2162.000 feet and a chord distance of 23.345 feet on a bearing of North 16°21'29" West) to the point 38.00 feet left of and opposite station 119+50.00 on said construction centerline laid out for Roswell Road; thence North 73°19'58" East a distance of 1.00 feet to a point 37.00 feet left of and opposite station 119+50.00 on said construction centerline laid out for Roswell Road; thence northwesterly 81.207 feet along the arc of a curve (said curve having a radius of 2163.000 feet and a chord distance of 81.202 feet on a bearing of North 17°44'34" West) to the point 24.84 feet left of and opposite station 10+30.71 on said construction centerline laid out for Chaseland Road; thence North 89°01'59" East a distance of 4.00 feet to a point 33.19 feet left of and opposite station 120+31.35 on said construction centerline laid out for Roswell Road; thence southeasterly 104.109 feet along the arc of a curve (said curve having a radius of 2291.067 feet and a chord distance of 104.100 feet on a bearing of South 16°51'58" East) back to the point of beginning. **Containing 0.008 acres (367.97 square feet) more or less.**

PERMANENT EASEMENT

Beginning at a point 38.00 feet left of and opposite station 119+26.24 on the centerline of Roswell Road the City of Sandy Springs Project No T-0012; thence South 83°00'14" West a distance of 6.08 feet to a point 44.00 feet left of and opposite station 119+27.22 on said construction centerline laid out for Roswell Road; thence northwesterly 105.523 feet along the arc of a curve (said curve having a radius of 2156.000 feet and a chord distance of 105.513 feet on a bearing of North 17°28'34" West) to the point 24.90 feet left of and opposite station 10+38.07 on said construction centerline laid out for Chaseland Road; thence North 89°01'59" East a distance of 7.36 feet to a point 24.84 feet left of and opposite station 10+30.71 on said construction centerline laid out for Chaseland Road; thence southeasterly 81.207 feet along the arc of a curve (said curve having a radius of 2163.000 feet and a chord distance of 81.202 feet on a bearing of South 17°44'34" East) to the point 37.00 feet left of and opposite station 119+50.00

on said construction centerline laid out for Roswell Road; thence South $73^{\circ}19'58''$ West a distance of 1.00 feet to a point 38.00 feet left of and opposite station 119+50.00 on said construction centerline laid out for Roswell Road; thence southeasterly 23.345 feet along the arc of a curve (said curve having a radius of 2162.000 feet and a chord distance of 23.345 feet on a bearing of South $16^{\circ}21'29''$ East) back to the point of beginning. **Containing 0.016 acres (712.43 square feet) more or less.**

Grantor further agrees to grant the Grantee a Temporary Driveway Easement for the reconstruction of that portion of the Grantor's driveway shown in the easement areas on Exhibit "B". Said Temporary Driveway Easement rights shall expire upon the completion and the acceptance of the project by the Grantee.

RESOLUTION NO. 2013-02-__

STATE OF GEORGIA
COUNTY FULTON

**A RESOLUTION TO AUTHORIZE THE USE OF EMINENT DOMAIN
TO ACQUIRE PROPERTY AT 6360 ROSWELL ROAD, SANDY SPRINGS, GEORGIA
FOR ROAD PROJECT**

WHEREAS, the City has determined that it is necessary to conduct a sidewalk and infrastructure project on Roswell Road from Johnson Ferry Road to Abernathy Road (the "Project"); and

WHEREAS, in order to conduct the Project, certain rights are required over under and through the property of 6360 Roswell, LLC located at 6360 Roswell road within the City of Sandy Springs; and

WHEREAS, the Mayor and Council has considered the Project and determined that it is necessary and must be carried out expediently to insure the timely completion of the City's sidewalk and infrastructure project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy Springs, Georgia while in regular session on _____, 2013, at __:00 p.m. as follows:

In order to insure the timely completion of the City's sidewalk and infrastructure project the Mayor and Council authorize the City Attorney's Office to acquire through the use of Eminent Domain by any method allowed by law the necessary property rights over, under, and across the property located at 6360 Roswell Road in order to insure the timely completion of the City's sidewalk and infrastructure project T0012 Roswell Road Streetscapes from Johnson Ferry Road to Abernathy Road. Further the Mayor is specifically authorized to execute any documents necessary to further the filing of any Petition related to the same.

APPROVED AND ADOPTED this _____ day of _____, 2013.

Approved: _____, 2013

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk
(Seal)