



Date: September 8, 2015

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Jina B. Propst, Assistant Director, General Services Department

Subject: Proposed Temporary Construction Easement and Revocable Use Easement with Empress Development LLC for shared use of alley adjacent to 112 W. Main Street

Executive Summary

Empress Development LLC (“Empress”), owner of the building located at 112 West Main Street (the “Building”), and identified as parcel # 102775, requests permission to improve an adjacent public alley (the “Alley”). A temporary construction easement and a revocable use easement agreement between Empress and the City will be required for these improvements. The planned improvements include constructing a 410 square foot paver walkway and adding landscape plantings to make the Alley more visually appealing (the “Improvements”).

The General Services Department previously installed concrete pavers on City-owned parcels # 102777, # 102776, and #102762 (collectively referred to as the “City Property”) that are adjacent to the Building and that serve as public open space. The pavers form a circle with three spokes that serve as walking paths from Mangum, Parrish and Main Streets. Empress proposes to add a fourth spoke using materials that match the existing walkways and that stretches from the current circle to the concrete pad adjacent to the Building’s side doors. The Improvements will be mutually beneficial to Empress and the City by enhancing the City Property with the addition of a fourth spoke and by creating a more convenient navigable path for the Building’s tenants who traverse the City Property in order to access another alley where a dumpster is available for trash disposal. The Alley will be available for public use at all times, and Empress will be responsible for maintaining the Improvements.

Recommendation

The General Services Department recommends City Council: 1) accept Empress Development LLC’s request to improve 410 square feet of public alley adjacent to 112 W. Main Street by granting a temporary construction easement and a revocable use easement (collectively the “Easement”); and 2) authorize the City Manager or the Mayor to convey the Easement by deed.

Background

Empress is renovating the Building into a mixed-use development consisting of ground-floor retail/restaurant space and second-floor Class A office space. The L-shaped Alley adjacent to the Building is approximately 15 feet wide where it starts at West Parrish Street and runs

approximately 81 feet before it takes a right turn, widens to approximately 20 feet and runs approximately 46 feet, ending at the Building's side doors.

The City provided a building improvement grant to Empress for \$45,000, the contract for which was executed on July 31, 2013. The grant funds enabled Empress to revitalize and redevelop the Building, including restoration of the historic West Parrish Street façade.

On April 7, 2014, Durham City Council approved granting an easement that allowed Empress to install exterior windows on the first and second floors of the Building.

The Building houses a ground-floor restaurant that recently opened, and other retail space tenants are being secured. Plans are underway to install dry cleaning locker drop-off in a portion of the Building's West Parrish Street storefront. Demising walls will be built to separate this approximately 290 square foot area from the remaining portion of the space, and the dry cleaning tenant will not have access to the doorway opening into Alley.

Issues/Analysis

The proposed Easement is not anticipated to negatively affect the use of the Alley. Instead, the Improvements will add to the existing look and feel of the adjacent City Property. Additionally, the proposed Easement will provide Empress the ability to increase the utility of the Building by providing for improved ingress/egress. Adding concrete pavers along the walkway will make the process of waste disposal easier for the tenants by having a solid surface to traverse.

The Real Estate Division conferred with City departments to determine if there is a current or future public use or purpose for the proposed location of the Easement. There are no objections from City departments to the granting of this Easement, and the City-owned parcel containing the proposed Easement area is designated as open space in the Downtown Open Space Plan adopted October 20, 2014.

If installation of pavers and landscaping is approved, Empress will be responsible for complying with all applicable building codes and other applicable municipal regulations. The City will provide a materials list, specifications sheet and other details regarding proper installation. Empress will be responsible for the installation costs and future maintenance expenses.

Empress will be responsible for all costs associated with this transaction. The costs include, but are not limited to, obtaining legal descriptions of the Easement area and paying applicable recording fees, along with any other costs such as Planning Department fees and County Land Records fees.

Development review by the City/County Planning Department indicates the proposed Improvements are in the Downtown Local Historic District and will require a certificate of appropriateness (COA) per UDO section 3.17.1.A. Empress has indicated its understanding of this requirement and its willingness to apply for the COA.

Alternatives

City Council has the discretion to not approve granting the Easement. This alternative is not recommended because granting the Easement serves the public purpose of improving both the utility and aesthetics of a public alley.

Financial Impact

The City will not receive financial compensation for the Easement, but Empress will install and maintain the Improvements at its expense.

SDBE Summary

This item does not require review by the Equal Opportunity/Equity Assurance Department.

Attachments

Exhibit A provided by Empress

Boundary and Physical Survey prepared for Empress Development LLC by Jason Failla, dated August 2, 2007

GIS map with aerial photo of parcel # 102775 owned by Empress Development LLC and three parcels owned by the City (#102777, # 102776, # 102762)

Photo Image of Improvement Area

Temporary Construction Easement and Revocable Use Easement