

**WEEKLY INFORMATION PACKET
MEMORANDUM**

To: Mayor Shaun McGrath and Members of Council

From: Frank Bruno, City Manager
Stephanie Grainger, Deputy City Manager
Robert E. Williams, Director of Public Work for Utilities
Robert Harberg, Utilities Planning and Project Management Coordinator
Anne Noble, Greenways Coordinator

Date: November 29, 2007

Subject: Information Item - Elmer's Twomile Greenways project property acquisition

EXECUTIVE SUMMARY:

The Elmer's Twomile Greenways project includes a grade-separated, multi-use path connection from Goose Creek to Glenwood Drive, an underpass at Valmont Road and flood mitigation improvements. Attached is a map showing the project location (**Attachment A**). The transportation improvements will provide a missing link between the area north of Glenwood Drive and the entire Greenways trail system. Flood mitigation will address flooding that would occur south of Glenwood Drive to the confluence with Goose Creek during a 100-year storm event. Several properties west of the Elmer's Twomile channel and east of 28th Street are currently in the 100-year conveyance zone, and portions are also in the high-hazard zone. This project would remove these properties from the 100-year floodplain by containing the flows within the Elmer's Twomile channel (or a box culvert). Attached is a floodplain map showing current conditions (**Attachment B**).

Twenty-two easements from nine property owners are needed to complete this project. None of the easements require the purchase and removal of homes. Eight of the easements are through common areas or outlots within homeowners associations, requiring 67% approval of the homeowners for conveyance. Water rights issues and a ditch crossing agreement also need to be negotiated with the Boulder & Whiterock Ditch Company. Easement acquisition was anticipated to be completed by December 2007 in order to bid this project in the spring of 2008. Staff had hoped to be able negotiate with property owners through the appraisal process. However, based on the current progress of the negotiations, staff is anticipating the need to consider eminent domain in order to construct this project within a reasonable timeframe. Staff plans to move forward with a request from City Council for an ordinance authorizing the use of eminent domain to acquire the necessary easements in January or February 2008. This item is being provided as background information about the project.

Community Sustainability Impacts:

- **Economic**: This project will remove several commercial properties from the floodplain and thereby allow for greater redevelopment potential. It will also eliminate the need for property owners to pay for flood insurance. Once the path connection is completed, access, mobility and aesthetics will be greatly improved.
- **Environmental**: This project will provide improved bicycling and pedestrian transportation options.
- **Social**: This project will provide bicycle and pedestrian transportation options for a diverse segment of the public.

BACKGROUND:

Federal Transportation Improvement Program (TIP) funding was requested in October 2003 for the southern section of the project and additional funding was requested in September 2005 for the northern portion of the project. Both phases of the project were granted federal funds totaling \$3.2 million, with a total estimated project cost of \$8.4 million. The city's contribution is being funded through the Flood and Greenways Capital Improvement Program (CIP) (2005-2008). Funding is also being provided by the Urban Drainage and Flood Control District (\$250,000).

The public process for this project was initiated in 2004. Several public meetings were held to obtain input on the conceptual design of the path and the channel. A Community and Environmental Assessment Process (CEAP) was completed and approved in October 2004, which proposed a wider open channel north of Valmont Road and a combined pedestrian and flood underpass at Valmont Road. The CEAP acknowledged the limitation of available space and recognized the need to work with adjacent property owners to minimize impacts. As the design progressed, the plans were modified to include an underground box culvert between the Willow Brook Condominiums and Tebo Plaza rather than an open channel. This modification was made to limit impacts on trees and reduce encroachment on the Willow Brook properties and parking spaces at Tebo Plaza. An amendment to the CEAP was approved by the Greenways Advisory Committee in February 2007 and City Council in March 2007.

The Elmer's Twomile Greenways project is currently in the property acquisition phase. A property acquisition agent, Western States Land Services and an appraiser, the Rothweiler Group were hired to insure that the acquisition process followed federal requirements. Right of way plans, which show the proposed improvements, the existing easements and the proposed easements, were developed and approved by the Colorado Department of Transportation in January 2007. Appraisals were completed for each property to establish the "fair market value" of each of the easements. Property owners were also given the opportunity to hire their own appraiser, at the city's expense, to develop an independent value for the easement. Offers were made to all of the property owners in July 2007.

Attached are three exhibits (**Attachments C, D and E**) that show plans for the proposed improvements, the existing easements and the new easements needed. The path connection is shown in yellow, drainage improvements are in red, existing easements are shown with white dots and proposed easements are shown as cross hatched in different colors for each property.

Many of the proposed easements overlay existing drainage easements and are being requested to expand the use of the easement to include bicycle and pedestrian access. Also attached is the Right of Way Tabulation of Properties (**Attachment F**) which lists the property owner and the purpose of the easement, and assigns a parcel number, which is also referenced on Attachments C through E.

Three of the properties (eight easements) are within common areas or outlots held by homeowner's associations (Shady Hollow, Eden East and Willow Brook). In order for homeowner's associations to convey property, 67% approval of the property owners is needed. Staff has been working with representatives of each of the homeowners associations to develop a project that meets the interests of the adjacent property owners, as well as the city. However, while these representatives have been very supportive of the project, they are concerned about getting their members to respond to a vote. The remainder of the properties, with the exception of the Boulder and Whiterock Ditch Company, are commercial and have various business interests. None of the easements require the purchase and removal of homes.

NEXT STEPS

Staff, along with our consultant, Western States Land Services, have been working with the affected property owners to negotiate easements. Staff will provide City Council with a status update of the easement negotiations in January or February and will request authorization of an ordinance approving condemnation for those easements that have not been successfully negotiated at that time.

ATTACHMENTS:

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| Attachment A | Greenways Map with project location |
| Attachment B | Floodplain Map |
| Attachment C | Property Acquisition Exhibit, Goose Creek to Valmont Road |
| Attachment D | Property Acquisition Exhibit, Valmont Road to Tebo Plaza |
| Attachment E | Property Acquisition Exhibit, Tebo Plaza to Glenwood Drive |
| Attachment F | Tabulation of Properties |