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MAR 05 2007

MEMO TO: Mayor and City Council

THRU: Michael D. House, City Attorney *MDH*

FROM: Glenn A. Brockman, Assistant City Attorney *GAB*

SUBJECT: Resolution No. 4049, determining that acquisition of the real property located at 201 North Colorado Street is needed for safe use and operation of the public roadway and to remove nonconforming structures, and is a matter of public necessity; authorizing the purchase of said real property; authorizing condemnation proceedings as needed to acquire said real property and to obtain immediate possession thereof; and authorizing such relocation assistance as may be required by law.

DATE: March 1, 2007

RECOMMENDATION: Staff recommends approval of Resolution No. 4049.

BACKGROUND/DISCUSSION: On December 18, 2003, Council approved the alignment for Chandler Boulevard from Nebraska Street to Colorado Street and Arizona Avenue from Buffalo Street to Detroit Street (the "Project"), and the Project has now been completed. One adverse result is that motorists attempting to turn east onto Chandler Boulevard from Colorado Street on the north have their visibility reduced to the point that it has been deemed unsafe so that this portion of Colorado Street has been closed. To correct this problem, the City needs to acquire the real property at 201 North Colorado Street, located at the northeast corner of the intersection of Chandler Boulevard and Colorado Street, and remove the building and structures thereon, which are nonconforming to City setback and other development standards.

The City has been negotiating with the property owner for some time to acquire the site, but the negotiations have been unsuccessful. The site needs to be cleared so that Colorado Street is not closed indefinitely. Thus, staff requests Council to approve Resolution No. 4049 in order to allow acquisition of the site to proceed, by purchase if possible, by condemnation if necessary – in which case, an order of immediate possession may also be sought to allow the expeditious removal of the structures on the site. Relocation assistance is authorized where required by law.

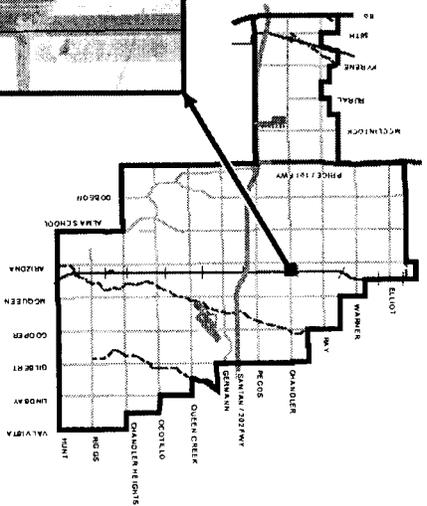
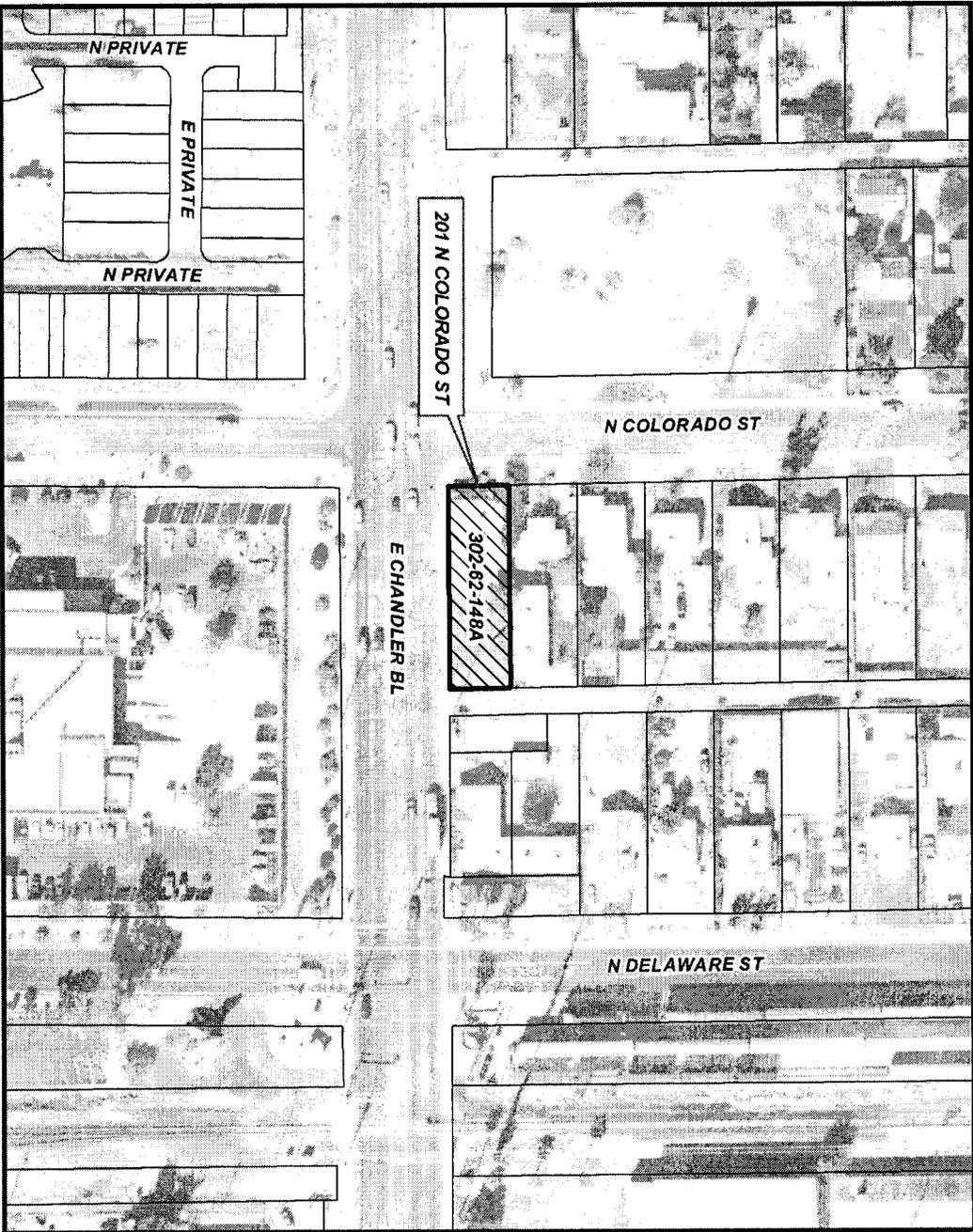
FINANCIAL IMPLICATIONS: The expense of the acquisition of the site and removal of the structures will come from funds maintained by Public Works.

PROPOSED MOTION: Move to adopt Resolution No. 4049 to determine that acquisition of the real property located at 201 North Colorado Street is needed for safe use and operation of the public roadway and to remove nonconforming structures, and is a matter of public necessity; to authorize the purchase of said real property; to authorize condemnation proceedings as needed to acquire said real property and to obtain immediate possession thereof; and to authorize such relocation assistance as may be required by law.

Attachments: Vicinity Map
Resolution 4049



AUTHORIZING CONDEMNATION AUTHORITY FOR 201 N. COLORADO ST



RESOLUTION NO. 4049

LEGEND
 **AUTHORIZING CONDEMNATION AUTHORITY**



RESOLUTION NO. 4049

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, DETERMINING THAT ACQUISITION OF THE REAL PROPERTY LOCATED AT 201 NORTH COLORADO STREET IS NEEDED FOR THE PUBLIC PURPOSE OF ALLOWING THE SAFE USE AND OPERATION OF PUBLIC ROADWAY AND FOR THE PUBLIC PURPOSE OF REMOVING NONCONFORMING STRUCTURES ON SAID REAL PROPERTY, AND THAT SUCH ACQUISITION IS A MATTER OF PUBLIC NECESSITY; AUTHORIZING THE PURCHASE OF SAID REAL PROPERTY; AUTHORIZING CONDEMNATION PROCEEDINGS AS NEEDED TO ACQUIRE SAID REAL PROPERTY AND TO OBTAIN IMMEDIATE POSSESSION THEREOF; AND AUTHORIZING SUCH RELOCATION ASSISTANCE AS MAY BE REQUIRED BY LAW.

WHEREAS, on December 18, 2003, the Chandler City Council approved the alignment for Chandler Boulevard from Nebraska Street to Colorado Street and Arizona Avenue from Buffalo Street to Detroit Street (the "Project"), in order to improve transportation and vehicular traffic movement within the City of Chandler, and the construction of the Project has been completed; and

WHEREAS, as a result of the Project, the structures on the real property at 201 N. Colorado Street, which is located at the northeast corner of the intersection of Chandler Boulevard and Colorado Street and legally described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Subject Property"), impede the visibility of motorist entering on to Chandler Boulevard from Colorado Street on the north so that it has been necessary to temporarily close that portion of the intersection; and

WHEREAS, the City is authorized by law to acquire, whether by purchase, dedication or condemnation proceedings (eminent domain), such real property as is needed for public roadway purposes, including property needed to regulate the safe use of public roadway, and is further authorized by law to similarly acquire private property for the removal of nonconforming uses and structures; and

WHEREAS, the City needs to obtain immediate possession of the Subject Property in order to expeditiously demolish and remove the structures located upon the Subject Property and reopen Colorado Street at Chandler Boulevard; and

WHEREAS, the acquisition of the Subject Property may result in the relocation of persons, businesses or personal property;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. It is hereby determined that the acquisition of the Subject Property is needed in order to regulate and allow the safe use and operation of the public roadway at and near Chandler Boulevard and Colorado Street, including entry on to Chandler Boulevard from Colorado Street, and in order to remove one or more nonconforming structures situated upon the

Subject Property; that the acquisition of the Subject Property and the securing of immediate possession of said real property, is a matter of public necessity, is for a public and necessary purpose, and is in the best interest of the citizens of the City of Chandler; and that the property to be acquired is located so that the acquisition for public use will be most compatible with the greatest public good and the least private injury.

Section 2. The City is authorized and directed to purchase the Subject Property for an amount equal to the fair market value of the property as determined by appraisal. A written offer shall be in a form approved by the Chandler City Attorney and a purchase agreement entered into with the property owner shall be individually approved as to form by the Chandler City Attorney prior to being deposited into escrow.

Section 3. The City shall deliver to the property owner the written offer for the Subject Property and, where accepted, shall execute, deliver and deposit into escrow the approved purchase agreement, along with all other documents and instructions necessary to consummate the purchase of said real property.

Section 4. If such written offer is not accepted, then after at least twenty (20) days following the delivery of the offer, the Chandler City Attorney shall commence condemnation (eminent domain) proceedings to acquire, in the name of the City of Chandler, the Subject Property, including any improvements thereon, and to secure immediate possession of said real property, in order to expeditiously demolish and remove the structures located upon the Subject Property and reopen Colorado Street and Chandler Boulevard for safe public use, and is further directed to do and to perform all acts necessary in furtherance of the acquisition of title to and immediate possession of the Subject Property.

Section 5. The City is authorized to provide such relocation assistance, including benefits, as may be required by law. The City's Real Estate Manager shall make the initial determination of any claim received for relocation benefits; any administrative appeal from such decision shall be considered and acted upon by the Chandler City Manager or the City Manager's designee for such purpose, whose decision shall be final in accordance with applicable law.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4049 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2007, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY GAB

EXHIBIT "A"

Lot 391, Chandler, according to Book 5 of Maps, page 34, records of Maricopa County, Arizona;
EXCEPT the South 5 feet of said lot 391.