

**CITY OF DALTON
RESOLUTION**

Resolution No. 23-07

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DALTON PURSUANT TO CHAPTER 1 OF TITLE 22 AND ARTICLE 2 OF CHAPTER 2 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED FOR THE EXERCISE OF THE POWER OF EMINENT DOMAIN FOR THAT PROPERTY KNOWN AS 312 W. WAUGH STREET, CITY OF DALTON; TO MAKE FINDINGS OF PUBLIC NECESSITY; AND TO AUTHORIZE THE CITY'S ATTORNEY TO PETITION THE SUPERIOR COURT FOR AN IN REM JUDGMENT AGAINST SAID REAL ESTATE AND APPURTENANCES; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council have authority to condemn private property for public use where it is necessary to take or damage such private property for public necessity and use; and

WHEREAS, the City of Dalton has determined that it requires the total taking of the real estate and appurtenances thereto known as "312 W. Waugh Street, City of Dalton" being Tax Parcel No. 12-219-39-002 ("the Property") for the construction of its Prater Alley Stormwater Improvement And Flood Mitigation Project in the Prater Alley drainage basin; and

WHEREAS, the City of Dalton has had the Property and its appurtenances appraised as to the fair market value and offered to the owner of the Property the amount of such appraisal believed to constitute just and adequate compensation along with relocation expense, but has been unable to acquire the Property by contract to date of this Resolution; and

WHEREAS, the City of Dalton has determined to proceed with its public works construction project for such stormwater improvements and flood mitigation in the Prater Alley drainage basin:

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Dalton and by authority of the same IT IS HEREBY RESOLVED as follows:

-1-

The Mayor and Council find it to be a matter of public necessity in order to construct the the stormwater improvements and flood mitigation project for the Prater Alley drainage basin to exercise its power of eminent domain over that Property which is described by Exhibit “A” and to take fee simple title to the entire tract and its appurtenances.

-2-

A plat of the Property along with photograph thereof is attached hereto as cumulative Exhibit “B.”

-3-

The City of Dalton has heretofore offered an amount to the owner of the Property as just compensation in accordance with its appraisal thereof, including an amount for an outdoor sign affixed to the building, and for relocation expenses.

-4-

The Owner has declined the City’s offer of just compensation countering with an amount (per Owner’s counsel’s letter of February 21, 2023) the Mayor and Council find to be in excess of its fair market value or other proper compensation and does hereby decline to accept.

-5-

Prior to consideration of this Resolution the City has posted a sign at the Property and provided notices as provided in O.C.G.A. § 22-1-10 (a) (1) and (2).

-6-

The City Attorney is hereby authorized to file an in rem action in Whitfield County Superior Court against the Property and its appurtenances pursuant to Article 2 of Chapter 2 of

Title 22 of the Official Code of Georgia Annotated it being necessary to have the Court supervise the process under O.C.G.A. 22-2-100 et. seq.

-7-

The City Clerk is directed to record this action and this Resolution in the minutes and proceedings of the Mayor and Council.

-8-

This Resolution shall be effective upon its passage by vote of the Mayor and Council approving same.

SO RESOLVED this _____ day of March, 2023.

City of Dalton

By: _____
Mayor

Attest:

City Clerk

The foregoing Resolution was read at regular meeting of the Mayor and Council on March 20, 2023. Upon Motion by Council member _____ and second by Council member _____ the question was called and the vote was _____ AYES, _____ NAYS and the Motion DOES pass.

City Clerk

EXHIBIT "A"

All that tract or parcel of land lying and being in the City of Dalton, Whitfield County, Georgia, commonly known as 312 W. Waugh Street, and of the following description:

Fronting 62 feet, more or less, along the north side of Waugh Street, and running back North therefrom 146 feet, more or less, being the identical lands conveyed to Mrs. Dixie Bradley Bandy by Warranty Deed of Mrs. J.C. Henderson dated September 6, 1955 and recorded in Deed Book 88, Page 194, in the Deed Records of Whitfield County, Georgia. Said lands being more particularly described as follows: COMMENCING on the north side of Waugh Street at the southeast corner of the lands now or formerly owned by W.L. Manton and W.C. Bryant, said point being 130 feet east of the northeast corner of the intersection of said Waugh Street with Thornton Avenue; thence north 100 feet, more or less; thence west 1 foot; thence north 46 feet, more or less; thence east 63 feet, more or less; thence south 146 feet, more or less to the north side of Waugh Street; thence west along the north side of Waugh Street 62 feet, more or less, to the point of beginning.

Tax parcel No. 12-219-39-002.