

Issuing Determination And Findings Pursuant To Eminent Domain Procedure Law For The Ulster County Midtown Linear Park - PIN 8761.82 - In The City Of Kingston - Department Of Planning

Referred to: The Economic Development, Tourism, Housing, Planning and Transit Committee (Chairman Woltman and Legislators Archer, Delaune, Litts, Maio, Joseph Maloney, and Rodriguez)

Chairman of the Economic Development, Tourism, Housing, Planning, and Transit Committee, Brian J. Woltman, and Deputy Chair Lynn Archer offer the following:

WHEREAS, the County of Ulster (the “County”) is proposing to construct an approximately 0.8-mile pedestrian and bicycle facility (“shared-use path”) in the City of Kingston, Ulster County, New York, which is known as the Ulster County Midtown Linear Park (the “Project”); and

WHEREAS, the Project is a locally administered federal-aid project receiving funds from United States Department of Transportation, which are administered by the New York State Department of Transportation (“NYSDOT”) through PIN 8761.82; and

WHEREAS, the preferred alternative for the Project requires the County to acquire eleven permanent real property interests and one temporary construction easement (“Acquisitions”); and

WHEREAS, the County owns the Project corridor right-of-way, but in several sections, the right-of-way is an easement for railroad purposes only rather than fee ownership, and in order to construct the Project, the County needs to consolidate its ownership interest from easements-only to fee ownership; and

WHEREAS, the eleven proposed acquisitions are for fee property interests not held by current adjoining landowners but rather by the heirs and assigns of the original owners of these properties from the 1870’s to early 1900’s as these fee ownership interests were not included in the succession of deeds for the adjoining property parcels; and

WHEREAS, since it is infeasible to identify and locate any heirs and assigns that might retain some or all fee ownership of the small sections of County right-of-way on the Project corridor, it is therefore necessary to consolidate the County’s ownership through the use of Eminent Domain Procedure Law since these ownership interests are more than a century old with no apparent succession of ownership; and

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WHEREAS, in accordance with Article 2 of the Eminent Domain Procedure Law, a Public Hearing was held on November 12, 2019 at 6:05 p.m. at the Legislative Chambers, 6th Floor, Ulster County Office Building, 244 Fair Street, Kingston, New York, for the purpose of informing the public, reviewing the public use to be served and public benefit to be obtained by the aforementioned proposed public Project, and considering all other matters appropriate to that Project; and

WHEREAS, during the oral presentation phase of the Public Hearing, all matters required by the Eminent Domain Procedure Law and appropriate to such public hearing were identified and explained to persons then in attendance, and such persons in attendance were given an opportunity to speak and comment on the proposed public Project and to examine documents presented; and

WHEREAS, the minutes of such Public Hearing were transcribed and made available, together with the exhibits and other documents, for inspection and examination by the public; now, therefore, be it

RESOLVED, that the Ulster County Legislature issues the following Determination and Findings (“D&F”) with respect to the proposed Ulster County Midtown Linear Park Project (PIN 8761.82), City of Kingston, New York:

I. THE PUBLIC USE, BENEFIT, OR PURPOSE TO BE SERVED BY THE PROPOSED PUBLIC PROJECT INCLUDE:

1. Provide and expand non-motorized transportation opportunities for pedestrians and bicyclists in the City of Kingston.
2. Expand recreational opportunities for local residents and visitors, including for persons with disabilities and for those of all skill levels and age groups.
3. Transform the midtown Kingston neighborhood by connecting pedestrian access to the only supermarket and major public bus (Ulster County Area Transit) hub in the area, while also revitalizing a blighted corridor by creating a safe recreation space.

II. THE APPROXIMATE LOCATION FOR THE PROPOSED PUBLIC PROJECT AND THE REASONS FOR SELECTION OF THAT LOCATION:

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The proposed public Project is .80 miles long and located in the City of Kingston extending from Westbrook Lane by Kingston Plaza to Cornell Street in midtown Kingston along the abandoned Ulster & Delaware Railroad right-of-way. The location was selected as it creates a direct and safe off-road connection between midtown Kingston and the Kingston Plaza and uptown Kingston, including the City's only major supermarket and the public bus transit hub. It also creates much-needed park space for low- and moderate-income residents in midtown Kingston with limited park facilities near their neighborhoods.

The following alternatives were considered for the proposed public Project:

Null Alternative: The No Build "Null" Alternative proposes no action. This alternative does not address any of the Project public purposes. This alternative was retained only as a baseline for comparison to the preferred alternative and does not meet the public purposes of the Project.

Alternative A: This alternative would utilize the existing Ulster and Delaware railroad alignment from I-587 to Westbrook Lane. This alternative meets the public purposes of the Project but was rejected because it would not allow tourism railroad passengers to load at the eastern end of Kingston Plaza.

Alternative B: This alternative would deviate from the Ulster and Delaware railroad alignment and follow the interim trail to the south of that alignment for a distance of 800 feet to 1100 feet between Westbrook Lane and the I-587 underpass. This alternative meets the public purposes of the Project and was determined to be the Preferred Alternative. The Project may reduce or eliminate the 300 remaining feet of track based on future Legislative determinations on the matter.

III. THE GENERAL EFFECT OF THE PROPOSED PUBLIC PROJECT ON THE ENVIRONMENT AND RESIDENTS OF THE LOCALITY:

State Environmental Quality Review Act Classification: The Project as proposed is classified as a Type I Action per 6 NYCRR Part 617, Subpart 4(b)(9) of Title 6 of the Implementing Regulations of the Official Codes, Rules, and Regulations of New York State ("SEQRA"). The County of Ulster conducted a coordinated review as permitted under SEQRA. After review of the Environmental Assessment and Draft Design Report prepared by the County's consultants, the County Legislature pursuant to Resolution No. 391 of September 17, 2019, issued a

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determination of non-significance (“Negative Declaration”) in accordance with SEQRA, identifying the Project as one that will not have a significant adverse effect on the environment.

National Environmental Policy Act (“NEPA”): This project is being progressed as a NEPA Class II action (Categorical Exclusion). In accordance with the Federal Highway Administration’s regulations in 23 CFR 771.117(c) this is an action which will not have significant environmental effects and does not normally require additional federal approval regarding NEPA. Specifically, this action meets the description in 23 CFR 771.117(c)(3) described as “Construction of bicycle and pedestrian lanes, paths, and facilities”. The NYSDOT/FHWA is the lead agency for the final environmental determination under provisions of NEPA concurrence, which is pending.

The proposed Project has been designed to minimize environmental impacts to the greatest extent possible and maximize positive impacts on the local community. The proposed Project will have no adverse effect on the residents of the locality, cultural resources, or the environment.

and, be it further,

RESOLVED, that pursuant to Section 204 (A) of the EDPL, the County shall publish a brief synopsis of such Determination and Findings in at least two successive issues of an official newspaper if there is one designated in the locality where the project will be situated and in at least two successive issues of a newspaper of general circulation in such locality,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 18 NOES: 3
(Noes: Legislators Donaldson, Joseph Maloney,
and Petit)
(Absent: Legislators Eckert and Fabiano)

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Passed Committee: Economic Development, Tourism, Housing, Planning and Transit as amended on December 3, 2019

FINANCIAL IMPACT:
NONE

STATE OF NEW YORK

ss:

COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 18th Day of December in the year Two Thousand and Nineteen, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 20th Day of December in the year Two Thousand and Nineteen.

|s| Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

Submitted to the County Executive this
20th Day of December, 2019.

|s| Victoria A. Fabella
Victoria A. Fabella, Clerk

Approved by the County Executive this
24th Day of December, 2019.

|s| Patrick K. Ryan
Patrick K. Ryan, County Executive