



## Legislation Details (With Text)

**File #:** 2024-0387    **Version:** 1    **Name:**  
**Type:** Resolution    **Status:** Public Hearing  
**File created:** 3/8/2024    **In control:** Board of Commissioners - Zoning Meeting  
**On agenda:** 3/28/2024    **Final action:**  
**Title:** Commission District(s): District 4 and District 6  
??Request for a Resolution authorizing the acquisition of certain property located at 304 Creighton Avenue, Scottdale GA: 18 010 03 012 through the use of eminent domain pursuant to O.C.G.A. § 22-1-1, et seq. for public park and recreational purposes as part of the Cedar Park Project.

### Indexes:

**Attachments:** 1. Exhibit A-Boundary 304 Creighton Ave, 2. Exhibit B-Legal Description 304 Creighton Ave, 3. Exhibit C-Location Map, 4. Resolution for Signature

| Date      | Ver. | Action By                               | Action    | Result |
|-----------|------|-----------------------------------------|-----------|--------|
| 3/28/2024 | 1    | Board of Commissioners - Zoning Meeting | withdrawn | Pass   |

**Public Hearing:** YES ☒ NO ☐

**Department:** Recreation, Parks and Cultural Affairs

### SUBJECT:

**Commission District(s):** District 4 and District 6

Request for a Resolution authorizing the acquisition of certain property located at 304 Creighton Avenue, Scottdale GA: 18 010 03 012 through the use of eminent domain pursuant to O.C.G.A. § 22-1-1, et seq. for public park and recreational purposes as part of the Cedar Park Project.

**Information Contact:** Chuck O. Ellis, Director RPCA

**Phone Number:** 404-371-2475

### PURPOSE:

To authorize the exercise of the power of eminent domain to acquire the property located at 304 Creighton Avenue, Scottdale GA: 18 010 03 012 (further shown on the boundary map attached Exhibit A and described in the attached legal description Exhibit B) pursuant to O.C.G.A. § 22-1-1, et seq. for public recreational purposes, and thereby authorize the County Attorney's Office, or its outside counsel or assignees and designees, to file condemnation proceedings to acquire the title, estate or interest in said lands in accordance with the provisions of the aforesaid Code. Counties may acquire private property in fee simple or in any lesser interest by eminent domain for public purposes pursuant to Article 9, Section 2, Paragraph 5 of the Georgia Constitution. Counties may acquire lands for parks, playgrounds, recreation centers and other recreational purposes pursuant to O.C.G.A. §36-64-2.

DeKalb County presently owns, manages and maintains a public park known as Cedar Park in Scottdale, Georgia. In June 2020, DeKalb County initiated a project to study the existing conditions of the Park and how the Park may be improved. Accordingly, DeKalb County determined it necessary

to provide additional recreational space and connectivity to Cedar Park. To do, DeKalb County identified the +/- 0.2340-acre vacant property located at 304 Creighton Avenue, Scottdale GA: 18 010 03 012 as being critical to achieve the public purpose. This property is further shown on the attached Boundary Map as Exhibit A to the Resolution and described on Exhibit B to the Resolution.

To achieve the public purpose, DeKalb County desires to acquire fee simple title to the Subject Property as part of this Project and it is in the public's interest to acquire fee simple title to the same. Use of the desired property for the possession, occupation, or use by the general public or by the state or local governmental entities constitutes "public use" within the meaning of O.C.G.A. § 22-1-1, et seq. Because DeKalb County could not acquire the desired property by negotiation, it must exercise the power of eminent domain pursuant to Article IX, Section 2, Paragraph 3 of the Georgia Constitution and O.C.G.A. § 22-1-1, et seq. using any of the allowable methods thereunder.

#### **NEED/IMPACT:**

To maintain the projected schedule of construction and development it is necessary for DeKalb County to acquire the property located at 304 Creighton Avenue, Scottdale GA: 18 010 03 012 through eminent domain which will allow for future development of Cedar Park. The acquisition of the property provides additional recreational space and connectivity to the park. It is in the public's interest to acquire fee simple title to this property.

#### **FISCAL IMPACT:**

To be funded from the FY2024 operating budget to be determined by the Court appointed Special Master and the DeKalb County Superior Court. DeKalb County made every reasonable effort to acquire the desired property expeditiously by negotiation. DeKalb County engaged an independent and state-certified appraiser who estimated the fair market value of the property to be \$112,200.00.

#### **RECOMMENDATION:**

To approve and authorize the exercise of the power of eminent domain to acquire the property located at 304 Creighton Avenue, Scottdale GA: 18 010 03 012 in accordance with O.C.G.A. § 22-1-1, et seq. and any method allowed thereunder including the Special Master method; to authorize the Chief Executive Officer and any presiding officer to execute all necessary documents to further the filing of the condemnation proceedings; and to authorize the County Attorney's Office, or its outside counsel or assignees or designees, to file condemnation proceedings in the DeKalb County Superior Court to acquire the title, estate or interest in the said lands in accordance with that Code.