



## Text File

**Introduced:** 6/21/2019

**Bill No:** 2019-1800, **Version:** 2

**Committee:** Committee on Finance and Law

**Status:** Passed Finally

Resolution authorizing the City Solicitor, on behalf of the City of Pittsburgh (“City”) to Petition the Orphans Court Division of the Court of Common Pleas of Allegheny County to request the transfer of a portion of a certain lot (the “Subject Property”), now part of Enright Parklet in the East Liberty Neighborhood of the City of Pittsburgh, to Pennley Park South, Inc. (“PPS”), in exchange for an abutting parcel of land of approximately equal size and value as the Subject Property to be transferred from PPS to the City of Pittsburgh for consolidation with and use as part of Enright Parklet, plus all necessary or appropriate expenses incurred by the City, and / or upon such other terms and conditions as the Court or the City authorize and/or direct.

WHEREAS, pursuant to Chapter 121.02(e) of the City Code, the Director of Finance has the responsibility for the disposition of City-owned property and has responsibility for the disposition of City controlled property; and

WHEREAS, the property currently identified as Enright Parklet was purchased by the City from the Urban Redevelopment Authority of Pittsburgh (“URA”) as part of a multi-parcel purchase totaling 227,400.47 total square feet, and duly recorded at Deed Book Volume 4164, Page 537, dated July 27, 1964, and recorded September 25, 1964, in the Allegheny County Department of Real Estate, formerly known as the Recorder of Deeds Office, with Enright Parklet being 99,365.41 square feet more or less, thereof, said Property being designated as Block and Lot No. 84-A-176; and

WHEREAS, the Subject Property is the portion of Lot 84-A-176 located on the northern half of Enright Parklet, Lot 84-A-176. (See Exhibit A.); and

WHEREAS, since 1966, PPS has owned that certain 7.09 +/- acre parcel of ground known as 5600 Penn Avenue and 5704 Penn Avenue, which directly abuts three sides of the Subject Property. The PPS Parcel is known in the Allegheny County Office of Deed Registry as Block and Lot No. 83-N-125; and

WHEREAS, Commencing in 2015, the City and PPS entered into discussions about the redevelopment of both the PPS Parcel for development pursuant to their preliminary land development plan (“PPS Project”) and the re-configuration of Enright Parklet ; and

WHEREAS, On April 19, 2016, Pittsburgh City Council conditionally approved the rezoning of both the PPS Parcel and Enright Parklet to the AP Mixed Use Planned Unit Development designation under the City of Pittsburgh Zoning Code. Mayor William Peduto signed this rezoning legislation into law on April 22, 2016; and

WHEREAS, On August 2, 2016, PPS submitted revised preliminary land development plans (“PDLP”) for an amendment to the development of the PPS Parcel to the City of Pittsburgh Planning Commission. On January 10, 2017, the City of Pittsburgh Planning Commission denied the Amendment to the PLDP. PPS timely appealed this denial to the Court of Common Pleas of Allegheny County on January 17, 2017. This appeal was

docketed at Case No. SA-17-50; and

WHEREAS, On October 27, 2017, after approximately five (5) months of special mediation supervised by William Pietragallo, Esq., the City of Pittsburgh, various community groups and individuals (collectively, the “Intervenors”), and PPS finalized a settlement for the development of the PPS Parcel and the reconfiguration and redevelopment of Enright Parklet and memorialized the same into a “Consent Order of Court”; and

WHEREAS, pursuant to the Consent Order of Court, the City and PPS agreed to pursue the appropriate land swaps and conveyances in order to accomplish the re-configuration of Enright Parklet; and

WHEREAS, pursuant to the Consent Order of Court, up to \$1,000,000 of the PPS Transit Revitalization Investment District (“TRID”) funding shall be deposited into the Enright Park Improvement Account (“EPIA”); and

WHEREAS, pursuant to the Consent Order of Court, the City, the Intervenors and PPS agreed that the re-configured Enright Parklet shall be at least 2.28 acres; and

WHEREAS, pursuant to the clarification issued by Judge James on May 29, 2019, the 2.28 Acres shall be comprised of 2.201 acres of dedicated parkland and .178 acres to remain as public right-of-way for access to the park, totaling 2.379 acres; and

WHEREAS, PPS agreed to convey approximately 48,701 contiguous square feet, of Parcel No. 83-N-125, in a rough graded condition, to the City to consolidate into Enright Parklet and to facilitate the creation of a new, reconfigured Enright Parklet. (Exhibit B and Exhibit C); and

WHEREAS, approximately 7758 square feet, of the current Eva St. right-of-way will serve as public right-of-way with access to the reconfigured Enright Parklet. (See Exhibit D.); and

WHEREAS, in return for the PPS conveyance from Parcel No. 83-N-125, the City agreed to seek to convey approximately 55,443 square feet of Enright Parklet, previously identified as the Subject Property (Exhibit A and Exhibit C), to PPS to consolidate into Parcel No. 83-N-125 in order to facilitate the development of the PPS Project; and

WHEREAS, PPS will grant a public easement in approximately 25,242 square feet of property abutting the northern border of the reconfigured Enright Park to use as a reconfigured Eva St. (See Exhibit E.); and

WHEREAS, PPS will grant a public easement in approximately 14,788 square feet property running from the northern edge of the reconfigured Eva St. to the southern edge of Penn Avenue to use as a reconfigured South St. Clair St. (See Exhibit F.); and

WHEREAS, the City is now seeking City Council permission to petition for court-approval to transfer said portion of Enright Parklet identified as the Subject Property to PPS in compliance with applicable law including 53 P.S. § 3381 et seq; and

WHEREAS, City Council has made the necessary findings below to authorize such petition and any court-approved transfer to move forward.

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1.

A. After careful consideration, this Council hereby finds:

- 1) Upon completion, the reconfigured Enright Parklet, currently at approximately 2.28 acres, will contain approximately 2.201 acres. The Eva St. access public right-of-way to the park will contain approximately .178 acres, bringing the combined total to 2.379 acres. (See Exhibit D and Exhibit G.); and
- 2) The Subject Property portion of Enright Parklet currently contains a play area of approximately 3,600 square feet in total. In addition to the play area, the Subject Property offers approximately 10 benches, a small spray park, a drinking fountain and one of the 2 Enright Park basketball courts for public use. The Subject Property does not contain any type of pavilion or shelter to provide shade and rain protection. The Subject Property does not contain nighttime lighting for the play area and access pathways; and
- 3) The Subject Property also has limited lighting around the basketball court. Due to the location, age and design of the lighting, there is measurable light pollution for the abutting neighborhood; and
- 4) The Subject Property contains obsolete play equipment and wire fencing, minimal signage, and lacks a formally identified access point to the play area; and
- 5) Without the assistance of the PPS TRID funds designated in the EPIA, it is estimated that it would require two to three fiscal years for the City to designate appropriate funding to adequately outfit the Subject Property, if such funding was available; and
- 6) Enright Parklet, including the Subject Property area, is only accessible and visible from two neighborhood side streets on the south side of park, limiting the access and placing an impracticable traffic burden on the abutting neighborhood. There is currently no formally identified entryway for the Park and Subject Property. Additionally, there is no legal access to Enright Parklet from the North, East and West sides of Enright Parklet. Current emergency vehicle access is limited to a small portion of the southerly side of Enright Parklet; and
- 7) If Enright Parklet remains in its current configuration, the proposed construction of the abutting PPS property will surround the Subject Property on three sides. The proposed construction will contain structures approximately 150 feet in height, which would directly abut the Subject Property and Enright Parklet would

continue to lack legal access to the Subject Property from the East, West, and North sides. The proposed construction would also significantly reduce natural light at the Subject Property; and

8) The proposed re-configured Enright Parklet will contain a play area of approximately 6,700 square feet. In addition to the expanded play area, the proposed reconfiguration includes a new pavilion with 4 picnic tables, 3 tables for seating/play along Eva Street, 1.5 basketball courts, 130 total linear feet of benches, expanded and modernized spray area, modern Americans with Disabilities Act ("ADA") compliant bi-level drinking fountain, and bike racks; and

9) The proposed re-configured Enright Parklet will feature modernized and targeted lighting to both increase safety at the subject property and reduce light pollution effects on the surrounding community. Two pedestrian-scale pole lights are proposed within the park. The pavilion/shelter is also proposed to have local lighting, as well as targeted lighting along any paths through the park; and

10) The proposed re-configured Enright Parklet will contain new ADA compliant curb cuts, pathways, and surface paving. Five swings are proposed, including an adaptive swing with harness that is ADA compliant. The site furnishings such as a bi-level drinking fountain will increase the accessibility of the park; and

11) The proposed re-configured Enright Parklet will increase safety by updating play equipment, and removing obsolete and uninviting features such as the wire fencing perimeter. Increased signage will help to create formal access points and better connectivity to the park. Appropriate pedestrian scale lighting will be developed to increase safety while being mindful of creating light pollution for surrounding neighbors; and

12) The proposed re-configured Enright Parklet will include legal access points on all four sides of the property (Eva Street on the Northside, Topaz Street on the Southside, S. Euclid Avenue on the Eastside, and Amber Street and Negley Avenue on the Westside) that will serve to increase the accessibility, legal access and visibility of the Subject Property to all of the surrounding neighborhoods; and

13) The proposed re-configured Enright Parklet will also serve to create a connection between Negley Ave and S. Euclid Ave. by extending Eva Street and connecting both avenues. The re-configuration will also allow for the connection of the Subject Property to the reconfigured South St.Clair St, which will in turn connect the Subject Property to Penn Avenue and neighboring Garland Park; and

14) The proposed re-configured Enright Parklet will be larger and have a broader range of access and amenities to better serve the public interest, including the Friendship, Garfield and East Liberty communities' needs for space for recreational and other outdoor programming and activities.

B. Based on the above, this Council further finds:

1) The continuation of the Subject Property as a park purpose is no longer practicable in its current and future condition because;

a. The Subject Property lacks sufficient play and picnic amenities and legal access to effectively serve the current surrounding communities; and

b. The Subject Property contains obsolete equipment and access areas that limit Enright Park's usefulness to the surrounding community; and

c. The Subject Property creates measurable light pollution for the surrounding community; and

d. The Subject Property is not visible or legally accessible from the major roads in the area, or the communities to the North, East and West, limiting the use of the Subject Property only to residents of the abutting neighborhood to the south; and

e. The Subject Property contains limited access points for emergency vehicles; and

f. The planned construction at the abutting property would continue to surround the Subject Property on three sides, eliminating visibility and legal access from all but the small abutting neighborhood to the South, and severely reducing natural light.

2) Continued use of the Subject Property as parkland does not serve the public's interest particularly given the alternative of the proposed land swap which will provide legal access to all of the surrounding communities. In addition, the proposed land swap will provide a substantial investment for necessary renovation. Even if public funds were to be diverted from other essential services for the purpose of renovating the Subject

Property, the result would nonetheless be undesirable as the planned construction on abutting property would significantly reduce the parkland character of the Subject property and the problem of legal access for all of the surrounding communities would still remain.

3) Due to the impracticability of maintaining the Subject Property, in its current and future condition, as parkland; and in consideration that such maintenance would not be in the public interest; and given the proposed alternative land swap which would confer a significant and substantial benefit on all of the surrounding communities, Council hereby finds that it is in the public's interest to discontinue use of the Subject Property as parkland and transfer said property, pursuant to the "Consent Order of Court" in exchange for the property to be transferred to the City by PPS pursuant to said Consent Order of Court, which incorporated the public's interest in the Park. Under this arrangement, Enright Parklet will be re-configured and updated as part of an overall redesign of the immediate area that will result in larger play and picnic areas, safer equipment, lighting and pathways, ADA compliant amenities and legal access points in all directions, and increased accessibility and visibility to the larger surrounding communities of East Liberty, Garfield, and Friendship.

## Section 2

A. Based on such findings, the City Solicitor, on behalf of the City, is hereby authorized to file a Petition with the Orphans Court Division of the Allegheny County Court of Common Pleas to request the transfer of a portion of a certain lot (the "Subject Property"), now part of Enright Parklet in the East Liberty Neighborhood of the City of Pittsburgh, to Pennley Park South, Inc. ("PPS"), in exchange for an abutting parcel of land of approximately equal size and value as the Subject Property to be transferred from PPS to the City of Pittsburgh for consolidation with and use as part of Enright Parklet, plus all necessary or appropriate expenses incurred by the City, and / or upon such other terms and conditions as the Court or the City authorize and/or direct.