



## Legislation Details (With Text)

**File #:** 13-0361      **Version:** 1      **Name:**  
**Type:** Agendas      **Status:** Passed  
**File created:** 6/20/2013      **In control:** Board of Aldermen  
**On agenda:** 6/25/2013      **Final action:** 6/25/2013  
**Title:** Request to Approve a Resolution Authorizing the Town Manager to Enter into an Agreement Allowing the Construction of the Homestead-Chapel Hill High School Multi-use Path on State of North Carolina-University of North Carolina Property

**PURPOSE:** The Board is asked to approve a resolution authorizing the Town Manager to enter into a right of entry agreement with the University of North Carolina and-or the State Property Office to allow for the construction of the Homestead-Chapel Hill High School Multi-use Path. The path will extend on State/UNC land east of Bolin Creek.

**Indexes:****Code sections:**

**Attachments:** 1. ATTACHMENT A - Resolution - Right of Entry authorization - June 2013

Date	Ver.	Action By	Action	Result
6/25/2013	1	Board of Aldermen	approved	Pass

**TITLE:**

Request to Approve a Resolution Authorizing the Town Manager to Enter into an Agreement Allowing the Construction of the Homestead-Chapel Hill High School Multi-use Path on State of North Carolina-University of North Carolina Property

**PURPOSE:** The Board is asked to approve a resolution authorizing the Town Manager to enter into a right of entry agreement with the University of North Carolina and-or the State Property Office to allow for the construction of the Homestead-Chapel Hill High School Multi-use Path. The path will extend on State/UNC land east of Bolin Creek.

**DEPARTMENT:** Planning

**CONTACT INFORMATION:** Jeff Brubaker - 918-7329; Racquel Benedict - 918-7308

**INFORMATION:** Preliminary engineering for the Homestead-Chapel Hill High School Multi-use Path (path) is nearly complete. Before approval of plans, specifications, and an estimate (PS&E) for the project by NCDOT, the Town is required to obtain right-of-way certification. ROW certification is the assurance that ROW has been obtained for the project corridor and that federal policy and regulations have been adhered to during ROW acquisition.

During pre-project planning and preliminary engineering, the Town has coordinated with UNC staff on the appropriate mechanism and process for obtaining right-of-entry. Town staff formally submitted a right-of-entry request to UNC on June 13, 2012. In May 2013, UNC staff stated that the State Property Office will execute a lease agreement with the Town to establish public greenway access. The property is already leased to Orange

County - with Chapel Hill-Carrboro City Schools as a sub-lessee - for the purpose of athletic facilities. Executed in 2001, the lease extends for 30 years. A joint use agreement between the Town and Orange County, covering one of the soccer fields (then-proposed), was executed in 2000.

Construction of the athletic facilities required a Conditional Use Permit with the Town, which was granted in 2001. The CUP included conditions regarding coordination between the Town, UNC, and CHCCS relating to establishing a public access easement on the property. Town staff are also coordinating with the private property owner (Parker Louis) on the west side of the creek to obtaining easements for the path as part of the Claremont and Claremont South residential subdivisions.

In order for the project to progress toward the construction phase beginning late summer, it is necessary to obtain ROW certification in a timely manner. Authorizing the Town Manager to execute an agreement allows for the Town to continue coordination and finalize the ROW certification this summer.

Two mechanisms for moving forward have been discussed. The lease agreement discussed by UNC would allow the Town to build the path and for public access on the path to be guaranteed. An interim right-of-entry agreement is an option for allowing the Town access to the site in order to begin constructing the project while a permanent lease agreement is being finalized. Town staff have been in communication with NCDOT ROW staff regarding a right-of-entry agreement that would be sufficient for ROW certification. The interim agreement mechanism may be the preferred approach to expedite the construction of the path.

Several factors suggest that beginning the construction phase in Summer 2013 is beneficial compared to a delay until Spring 2014, which will be the case if the lease agreement process is not completed until Fall 2013.

\* The path is being funded in part by federal Surface Transportation Program (STP-DA) funds, administered by NCDOT and managed by the MPO. MPO policy stipulates timely completion of STP-DA projects and outlines the process for redistribution of funds to other projects if they are not progressing.

\* The Town and NCDOT executed a Municipal Agreement for the project. The Municipal Agreement includes milestone dates for the completion of preliminary engineering, ROW acquisition, environmental documentation and construction of the project that must be extended in the case of significant project delays. The agreement also stipulates that for any period longer than six months during which an invoice is not submitted, an explanation is to be provided. The agreement also calls for quarterly progress reports.

\* STP-DA funding that is allocated but not authorized may be subject to Congressional rescission. Obligation occurs after FHWA authorization has been obtained. FHWA authorization of construction funding will not occur until final PS&E are approved by NCDOT. Final PS&E cannot be submitted for approval until ROW certification has been obtained.

\* The path is also being funded in part by Sidewalks and Greenways Bond program funding, to which certain timelines for use apply.

\* Construction costs may increase as the advertising period for construction is delayed further.

**FISCAL & STAFF IMPACT:** No substantial fiscal or staff impacts accrue from the authorization. The

Board has already directed that the project be implemented. Obtaining ROW certification is a necessary step in that implementation.

**RECOMMENDATION:** Staff recommend that the Board adopt the resolution in ATTACHMENT A.