

Ordinance No. 2739

AN ORDINANCE OF THE COUNCIL OF THE CITY OF OXNARD, CALIFORNIA, DESCRIBING THE COMMUNITY DEVELOPMENT COMMISSION'S PROGRAM TO ACQUIRE PROPERTY BY EMINENT DOMAIN WITHIN THE SOUTHWINDS PROJECT AREA PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 33342.7(a)

WHEREAS, pursuant to Ordinance No. 2040, adopted on June 18, 1985, the City Council of the City of Oxnard ("City Council") adopted a final redevelopment plan for the Southwinds Project Area (the "Project"); and

WHEREAS, the Project was amended by the City Council by pursuant to Ordinance No. 2345 (adopted on November 8, 1994), and Ordinance No. 2479 (adopted on January 12, 1999), imposing various operative dates and financial limits in compliance with the Community Redevelopment Law (Health & Safety Code, Sections 33000, et seq.); and

WHEREAS, the City Council further amended the Project by adopting Ordinance No.2528 on July 18, 2000, approving and adopting the Amended and Restated Redevelopment Plan for the Southwinds Project Area (the Project and all amendments thereto including the Amended and Restated Redevelopment Plan for the Southwinds Project Area are hereinafter collectively referenced as the "Redevelopment Plan"); and

WHEREAS, in accordance with California Health and Safety Code section 33342.7(a), which went into effect on January 1, 2007, a legislative body that adopted a final redevelopment plan before January 1, 2007, shall adopt an ordinance on or before July 1, 2007, that contains a description of the redevelopment agency's ("Agency's") program to acquire real property by eminent domain ("Program"); and

WHEREAS, the Redevelopment Plan contains a description of the Community Development Commission of the City of Oxnard ("CDC")'s Program that is applicable to the Southwinds Project Area.

NOW, THEREFORE, BE IT ORDAINED, by the City Council, as follows:

Section 1. The City Council hereby finds and determines that all of the foregoing recitals are true and correct.

Section 2. In accordance with California Health and Safety Code Section 33342.7(a), the CDC's program for exercise of eminent domain powers within the Southwinds Project Area (the "Program") is as follows:

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A. The following provisions described in Section 307 of the Redevelopment Plan, entitled Real Property:

[T]he CDC may acquire, but is not required to acquire, any real property located in the Project Area by any means authorized by law. The use of eminent domain is restricted to the commercial area along Hueneme Road from J Street to Perkins Road and shall not be used in the residential area. The CDC shall not acquire, by eminent domain, any property on which any persons reside.

It is in the public interest and is necessary, in order to eliminate the conditions requiring redevelopment and in order to execute this Plan, for the power of eminent domain to be employed by the CDC to acquire real property in the Project Areas which cannot feasibly be acquired by gift, devise, exchange, purchase or any other lawful method. Eminent domain proceedings, if used, must be commenced within twelve (12) years from the date the City Council ordinance adopting this Amended and Restated Redevelopment Plan becomes effective. [Twelve (12) years from the effective date is August 17, 2012.]

The CDC is not authorized to acquire real property by eminent domain for those properties that conform to this Plan and for which a Certificate of Conformance has been issued prior to adoption of this Plan. Properties for which a Certificate of Conformance has been issued are listed in the "Eminent Domain Exclusions," attached hereto as Attachment C, incorporated by reference herein [in the Amended and Restated Redevelopment Plan]. The exclusion from eminent domain shall continue so long as the qualifying property continues to conform to this Plan and such further terms and conditions as the CDC may require as necessary or appropriate to carry out this Plan.

B. Such limitation may be extended only by amendment of the Plan in the manner required by law.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

Section 4. The City Council hereby authorizes and directs the City Manager to undertake such actions and execute such documents as may be reasonably necessary or convenient to the carrying out and administration of the actions authorized by this Ordinance.

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Section 5. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. ____ was first read on June 19, 2007, and finally adopted on June 26, 2007, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

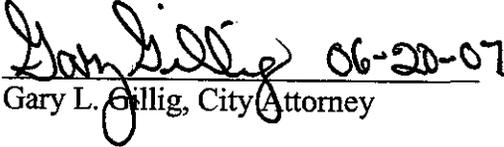
THE CITY OF OXNARD

Dr. Thomas E. Holden
Mayor

ATTEST:

Daniel Martinez
City Clerk

APPROVED AS TO FORM:



Gary L. Gillig, City Attorney

APPROVED AS TO FORM:
KANE BALLMER & BERKMAN

Murray O. Kane, Special Counsel

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