



MEETING DATE: 9/17/07

AGENDA ITEM: 5

COUNCIL AGENDA REPORT

DATE: AUGUST 16, 2006
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY
SUBJECT: ADOPT ORDINANCE PURSUANT TO RECENTLY ENACTED HEALTH AND SAFETY CODE SECTION 33342.7, ADOPTING A DESCRIPTION OF THE PROGRAM FOR THE ACQUISITION OF REAL PROPERTY BY EMINENT DOMAIN FOR THE REDEVELOPMENT PLAN OF THE CENTRAL LOS GATOS PROJECT AREA, AND APPROVING RELATED ACTIONS

RECOMMENDATION:

Adopt ordinance pursuant to Health and Safety Code section 33342.7.

DISCUSSION:

On September 4, 2007, Council voted to introduce an ordinance required by SB35 describing the program for the acquisition of property by eminent domain in the Central Los Gatos Redevelopment Project area. The description replicates the limited power of eminent domain already contained in the Redevelopment Plan for the Project. The ordinance was introduced with a text change in Section 5 adding "to be" between "Revised Statement" and "prepared." The ordinance becomes effective 30 days after adoption.

Attachments: Introduced Ordinance

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

Reviewed by: [Signature] Town Manager Assistant Town Manager Clerk
Finance Community Development

Rev: 9/12/07 1:14 pm

Reformatted: 7/19/99

## ORDINANCE

### ORDINANCE OF THE TOWN OF LOS GATOS PURSUANT TO RECENTLY ENACTED HEALTH AND SAFETY CODE SECTION 33342.7, ADOPTING A DESCRIPTION OF THE PROGRAM FOR THE ACQUISITION OF REAL PROPERTY BY EMINENT DOMAIN FOR THE REDEVELOPMENT PLAN OF THE CENTRAL LOS GATOS PROJECT AREA, AND APPROVING RELATED ACTIONS

#### WHEREAS:

- A. The Town Council of the Town of Los Gatos adopted the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area by Ordinance No. 1882, dated November 25, 1991, as amended by Ordinance No. 1992, adopted on December 5, 1994, and as further amended by Ordinance No. 2120, adopted on October 20, 2003 (the "Plan"), establishing the Central Los Gatos Redevelopment Project Area (the "Project Area").
- B. The Project Area is situated in the Town of Los Gatos, State of California, and is more particularly described on Exhibit A attached to the Plan, recorded with the County Recorder of Santa Clara County on December 5, 1991, in Book L955, at page 1734, Official Records.
- C. The Plan authorizes the use of eminent domain under specified circumstances to acquire real property by the Town of Los Gatos Redevelopment Agency (the "Agency").
- D. SB 53 added Health and Safety Code section 33342.7 to the Community Redevelopment Law, which requires the Town Council to adopt by ordinance a description of the Agency's program to acquire real property by eminent domain.
- E. The Agency has prepared the required description of its real property acquisition program (the "Acquisition Program"), which is attached to and incorporated in this Ordinance as Exhibit A.
- F. Town staff has prepared and placed on file with the Clerk Department of the Town a CEQA Notice of Exemption for this Ordinance.
- G. SB 1809 added Health and Safety Code section 33373(c) to the Community Redevelopment Law, which requires the Agency to record a revised Statement of Institution of Redevelopment Proceedings, which includes a description of the Agency's program to acquire real property by eminent domain (the "Revised Statement").
- H. Agency staff has prepared the Revised Statement and placed it on file with the Clerk Department of the Town.

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

Section 1. The Town Council hereby finds and determines that the above recitals are true and correct.

Section 2. The Town Council hereby finds and determines that the adoption of this Ordinance is required by law and is thus necessary and desirable

Section 3. In substantial compliance with Health and Safety Code section 33342.7, the Town Council hereby approves and adopts the description of the Agency's Acquisition Program for the Project Area, as set forth in the attached Exhibit A.

Section 4. The Town Council hereby approves the CEQA Notice of Exemption for this Ordinance and directs the Town Manager or designee to file the Notice of Exemption with the County Clerk of the County of Santa Clara.

Section 5. The Town Council hereby approves a Revised Statement to be prepared and recorded in the official records of the County Recorder of the County of Santa Clara in compliance with Health and Safety Code section 33373(c).

Section 6. The Clerk Administrator of the Town is hereby directed to file a copy of this Ordinance , the CEQA Notice of Exemption, and the Revised Statement with the minutes of this meeting and with the Agency.

Section 7. In the event that any part of this ordinance is held to be invalid, the invalid part or parts shall be severed from the remaining portions which shall remain in full force and effect.

Section 8. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on September \_\_, 2007, and adopted by the following vote as an Ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on September \_\_\_\_, 2007. This Ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

\_\_\_\_\_  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

\_\_\_\_\_  
TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

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## EXHIBIT A

### PROPERTY ACQUISITION BY EMINENT DOMAIN POLICY

Except as specifically exempted herein, the Agency may acquire, but is not required to acquire, any real property located in the Central Los Gatos Redevelopment Project Area by any means authorized by law.

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute the Redevelopment Plan for the Central Los Gatos Redevelopment Project (the "Plan") for the power of eminent domain to be employed by the Agency to acquire real property in the Project Area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method; except when:

a) The Agency may not acquire by eminent domain single-family residential dwellings which are located upon R-1 (Single-Family Residential) and R-1D (Single-Family Residential Downtown) zoned properties as defined by the Los Gatos Zoning Ordinance on the date the ordinance adopting the Plan becomes effective.

b) The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee.

c) The Agency shall not acquire real property on which an existing building is to be continued on its present site and is its present form and use without the consent of the owner unless:

1) Such building requires structural alteration, improvement, modernization or rehabilitation;

2) The site, or lot on which the building is situated, requires modification in size, shape or use; or

3) It is necessary to impose upon such property any of the controls, limitations, restrictions and requirements of the Plan, and the owner fails or refuses to execute a participation agreement in accordance with the provisions of the Plan.

d) The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before redevelopment of the Project Area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his responsibilities under the participation agreement.

The Agency must commence eminent domain proceedings by not later than December 15, 2015.