

ORDINANCE NO. 1368

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA APPROVING AND ADOPTING TECHNICAL AMENDMENTS TO THE REDEVELOPMENT PLAN OF THE ARCATA COMMUNITY DEVELOPMENT PROJECT AREA

The City Council of the City of Arcata does ordain as follows:

Section 1. The City Council of the City of Arcata hereby finds and determines that:

1. The Plan of the Arcata Community Development Project Area ("Redevelopment Plan"), adopted by the City Council by Ordinance No. 1036 on November 29, 1983, contains provisions for real property acquisition. Said provisions allow the Arcata Community Development Agency (the "Agency") to use the power of eminent domain, (that is, acquisition of private property for public use upon the payment of just compensation) to acquire real property in the Redevelopment Project Area ("Project Area") in limited situations only. Eminent domain powers may not be exercised when the property is improved with a structure which is consistent with the Redevelopment Plan objectives and the owner has entered into an Owner Participation Agreement where necessary, or the property is owned by a public body and the public body has not given consent to acquisition by public domain.

2. The Redevelopment Plan allows the Agency to commence eminent domain proceedings any time before November 15, 2007.

3. The Agency has determined that significant blight exists within the Redevelopment Project Area which cannot be eliminated without the Agency's authority to exercise eminent domain.

4. Although so authorized, the Agency has not exercised the power of eminent domain with respect to any real property located in the Project Area. The Agency has, at present, no plan to exercise eminent domain powers with respect to any specific property in the Project Area, but wishes to preserve the power to exercise eminent domain in the event such exercise of eminent domain powers is consistent with the Redevelopment Plan objectives.

5. Health and Safety Code Section 33333.4(g)(2) of the Community Development Law allows amendment of the Redevelopment Plan to extend the time period in which to commence eminent domain proceedings by a time limit not to exceed 12 years.

6. The Agency has submitted Resolution No. 08-03 adopted October 17, 2007, to the City Council finding that significant blight exists in the Project Area that cannot be eliminated without the Agency's authority to exercise eminent domain consistent with Plan objectives, and therefore recommending that the time period in which to commence eminent domain proceedings be extended in the Plan by an additional 12 years in accordance with the Community Development Law.

Section 2. Based on the above findings, the purpose and intent of the City Council with respect to amending Ordinance No. 1036 and the Redevelopment Plan is as follows:

1. To make a technical revision as authorized by Health & Safety Code Section 33333.4(g)(2) extending the time period in which the Agency may commence eminent domain proceedings an addition 12 years; and
2. To leave in full force and effect all limitations and proscriptions on the use of eminent domain powers as exist in the Redevelopment Plan originally adopted.

Section 3. In accordance with the Community Redevelopment Law pertaining to the amendment of Redevelopment Plans, Health & Safety Code Sections 33450 et seq., the Agency made its recommendation to the Council after holding a duly noticed public hearing on the amendment. Notification of the public hearing was provided to each property owner, resident, business and governmental taxing authority within the Project Area. A Notice of Public Hearing was published in the *Arcata Eye* newspaper in accordance with Government Code Section 6063.

Section 4. The City Council takes action on the recommendation of the Agency after conducting a public hearing in accordance with Community Development law pertaining to the amendment of Redevelopment Plans, Health & Safety Code Section 33450 et seq. Notification of the public hearing before the City Council was provided to each assessee within the Project Area by first class mail and, additionally, by certified mail, return receipt requested, to the governing body of each of the taxing entities located within the Project Area. A Notice of Public Hearing was published in the *Arcata Eye* newspaper in accordance with Government Code Section 6063.

Section 5. Ordinance No. 1036, Section 6, approving and adopting a plan of the Arcata Community Development Project Area is hereby amended to change said Plan at Chapter V, Section B(1) "Acquisition of Real Property" to read as follows:

Except as specifically exempted herein, the Agency may, but is not required to, acquire or obtain options to acquire real property located in the Project Area, by gift, devise, exchange, purchase, eminent domain or any other lawful method whatsoever. The Agency may also acquire any other interest in real property less than fee interest.

Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency in some instances to acquire real property in the project area. However, said power of eminent domain will not be exercised if:

- (a) The property in question is improved with a structure and the Agency has determined by resolution that the rehabilitation of the structure and its proposed use is consistent with the objectives of the Plan and that such rehabilitation is in the best interest of the Project and the owner has thereafter entered into an Owner Participation Agreement

with the Agency and is faithfully performing under the terms of the Agreement.

- (b) The property in question is improved by a structure and the Agency has determined by resolution that said structure and its use is consistent with the objectives of the Plan and that no Owner Participation Agreement is necessary so long as the structure is adequately maintained and properly landscaped.
- (c) The property in question is owned by a public body, unless prior consent is obtained by that public body. Prior to any acquisition through eminent domain, the Agency shall adopt a resolution declaring a need to acquire any specific property and authorizing the acquisition by such a method.

The Agency must commence eminent domain proceedings by November 14, 2019. The time limit in commencing an action in eminent domain cannot be extended without further amendment to the Plan.

Section 6. The Plan of the Arcata Community Development Project Area as amended herein is hereby incorporated in this Ordinance by reference and made a part hereof, and as so incorporated, is hereby approved and adopted as the official Redevelopment Plan for the Project Area, designated "Plan of the Arcata Community Development Project Area." A copy of the Redevelopment Plan as amended and adopted herein is on file in the office of the City Clerk.

Section 7. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 8. If any part of this Ordinance, or the Redevelopment Plan which it amends and approves, is held to be invalid for any reason, such decision shall not effect the validity of the remaining portion of this Ordinance or of the Redevelopment Plan as amended, and this Council hereby declares that it would have passed the remainder of the Ordinance and approved the remainder of the amendment to the Redevelopment Plan, if such invalid portion thereof had been deleted.

Section 9. This Ordinance shall be effective 30 days after adoption.

DATE: November 7, 2007

ATTEST:

APPROVED:

/s/ Michael Hackett
City Clerk, City of Arcata

/s/ Harmony Groves
Mayor, City of Arcata

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Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1368**, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 7th day of November, 2007, by the following vote:

AYES: GROVES, WHEETLEY, MACHI, PITINO, STILLMAN

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Michael Hackett
City Clerk, City of Arcata