ORDINANCE NO. 2007-216

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR CONTAINING A DESCRIPTION OF THE WINDSOR REDEVELOPMENT AGENCY'S PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN IN THE TOWN OF WINDSOR REDEVELOPMENT PROJECT AREA

WHEREAS, the Sonoma County Board of Supervisors adopted Ordinance No. 3378 on November 27, 1984, approving and adopting the Redevelopment Plan for the Windsor Redevelopment Project; and

WHEREAS, Sonoma County Ordinance 3378 and the Redevelopment Plan for the Windsor Redevelopment Project authorized the power to acquire property by eminent domain with certain limitations and restrictions; and

WHEREAS, jurisdiction of the Project Area was transferred from the County of Sonoma Community Development Commission to the Town of Windsor Redevelopment Agency by a Transfer Agreement dated February 24, 1993, and effective July 1, 1993, prepared pursuant to Health and Safety Code section 33215; and

WHEREAS, the Windsor Redevelopment Agency, a public body corporate and politic (the "Agency") is a redevelopment agency duly organized pursuant to Community Redevelopment Law (California Health and Safety Code section 3300 et seq.) and pursuant thereto has responsibility to carry out the Redevelopment Plan for the Town of Windsor Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Town Council of the Town of Windsor adopted Ordinance No. 97-93 on February 5, 1997, approving and adopting the Windsor Redevelopment Plan, Amendment No. 1 which, among other things, extended the time limit for commencement of eminent domain proceedings by twelve (12) years from the date of the adoption of Ordinance 97-93 and found that the authority to exercise the powers of eminent domain was necessary to effectuate the purpose of redevelopment in those portions of the Project Area identified in the Redevelopment Plan; and

WHEREAS, effective January 1, 2007, SB 53 added Section 33342.7 to the Health and Safety Code pursuant to which legislative bodies that adopted a final redevelopment plan prior to January 1, 2007, are required to adopt on or before July 1, 2007, an ordinance that describes the redevelopment agency's program to acquire real property by eminent domain; and

WHEREAS, SB 53 provides that following adoption of an ordinance describing the redevelopment agency's program to acquire real property by eminent domain, such program may only be modified pursuant to an amendment of the redevelopment plan; and

NOW, THEREFORE, the Town Council of the Town of Windsor does ordain as follows:

Section 1. Pursuant to Health and Safety Code Section 33342.7, a description of the Agency's program to acquire real property by eminent domain is set forth below. Agency's program to acquire real property by eminent domain may be amended only by amending the Redevelopment Plan pursuant to Article 12 of the Community Redevelopment Law (commencing with Health and Safety Code Section 33450). The Agency's program to acquire real property by eminent domain is as follows:

The Redevelopment Plan for the Town of Windsor Project Area authorizes the Agency, with certain limitations and restrictions, to acquire real property by eminent domain within Activity Areas 1 and 2 as shown on the Map 2 in the Redevelopment Plan and attached hereto as Exhibit A.

The Redevelopment Plan does not authorize the acquisition of real property owned by public bodies which do not consent to such acquisition. The Agency is authorized to acquire property devoted to a public use if it is transferred to private ownership before the Agency completes land disposition within the Project Area.

However, the Redevelopment Plan provides that the power of eminent domain may not be exercised by the Agency when the following exists:

(a) The property in question is improved with a structure and the Agency has determined that it conforms to the Redevelopment Plan and in the sole determination of the Agency:

(1) Is not needed for those specific activities outlined in the Redevelopment Plan;

(2) Is not needed for the development of replacement housing for those displaced by Agency activity, if any;

(3) Is not needed for any other public improvement or facility;

(4) Is not needed to promote historical or architectural preservation;

(5) Is not needed to remove a blighting influence on surrounding properties which prevents achievement of the objectives of this Redevelopment Plan;

(6) Is not needed for the elimination of environmental deficiency including, among other things, inadequate circulation, access or street layout, incompatible and mixed uses, overcrowding and small parcel size; or

(7) Is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation and utilities.

(b) The property in question is improved with a structure and although not conforming to the Redevelopment Plan, the Agency has determined that the property and structure can so conform pursuant to the "Rules Governing Participation and Preferences for Owners, Operators of Businesses and Tenants" kept on file by the Agency and that the owners faithfully performed under the terms of the owner participation agreement; or

(c) The property in question is owned by a public body.

The Agency must commence eminent domain proceedings with respect to any property which it intends to acquire within 12 years of the adoption of Ordinance 97-93 which was adopted on February 5, 1997. This time limit for commencement of eminent domain proceedings may be extended at further amendment of the Plan.

Prior to any acquisition through eminent domain an Agency shall adopt a resolution declaring a need to acquire any specific property and authorizing the acquisition by such method.

The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. However, the Agency is authorized to acquire property devoted to a public use, if it is transferred to private ownership before the Agency completes land disposition within the Project Area.

Although, generally, personal property shall not be acquired, when necessary in the execution of the Redevelopment Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means.

Section 2: The Town Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 3. California Environmental Quality Act ("CEQA")

The Town Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, either directly or indirectly.

Section 4. Statutory Severability.

If any section, subsection, clause or phrase of this Ordinance is for any reason held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalid of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 5. Effective Date and Publication.

Within 15 days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation in accordance with California Government Code section 36933. This Ordinance shall take effect thirty (30) days after its adoption.

PASSED, APPROVED, AND ADOPTED this 6th day of June 2007, by vote as follows:

AYES: **COUNCILMEMBERS ALLEN, FUDGE, GOBLE, SALMON AND MAYOR PARKER**
NOES: **NONE**
ABSTAIN: **NONE**
ABSENT: **NONE**

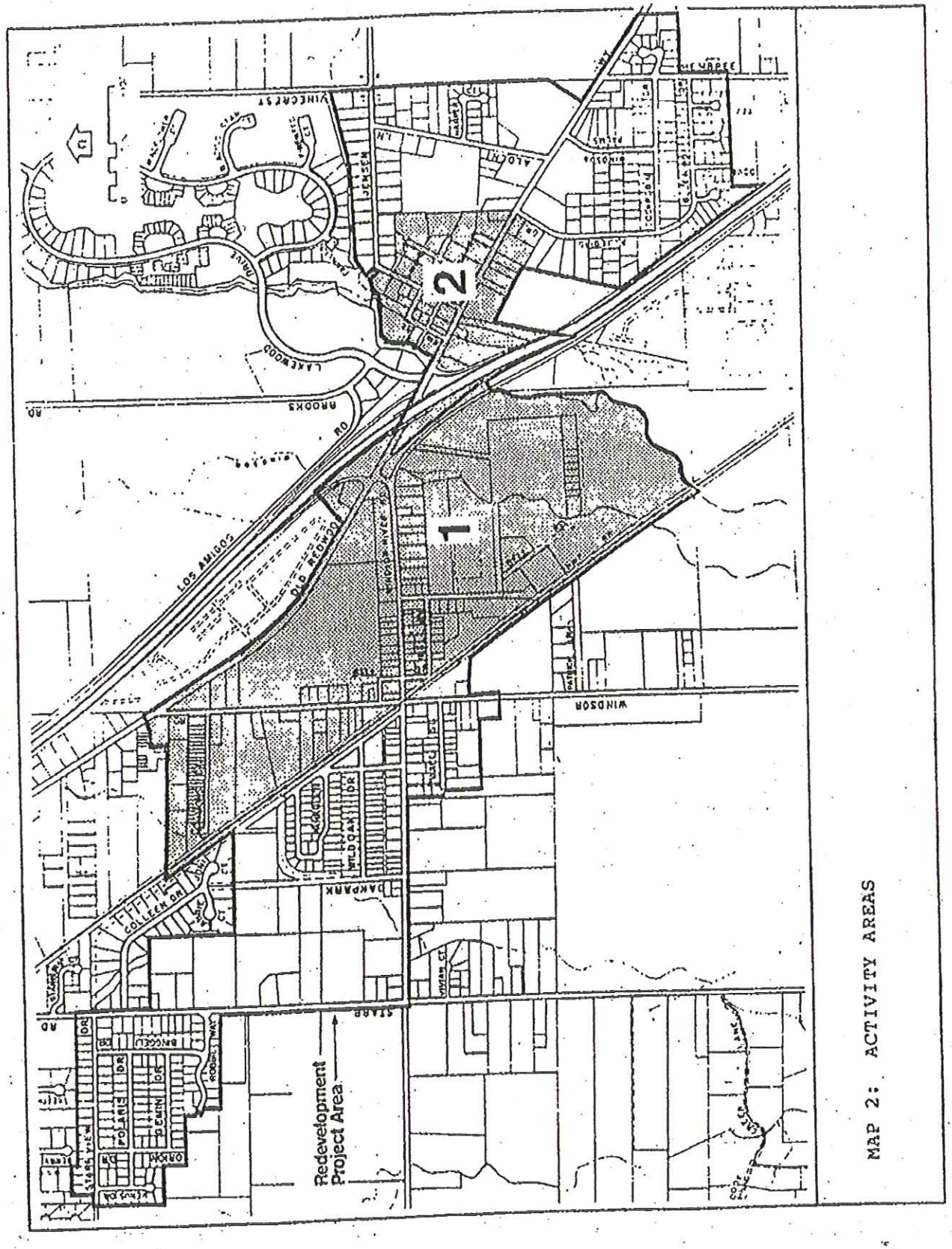
WARIN J. PARKER, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK

Attachment:
Exhibit "A"

EXHIBIT "A"



MAP 2: ACTIVITY AREAS