

ORDINANCE NO. 07-5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA CLARITA, CALIFORNIA, CONTAINING A DESCRIPTION OF  
THE SANTA CLARITA REDEVELOPMENT AGENCY'S PROGRAM TO  
ACQUIRE REAL PROPERTY BY EMINENT DOMAIN FOR THE  
NEWHALL REDEVELOPMENT PROJECT AREA

WHEREAS, the City Council of the City of Santa Clarita, California ("City Council") adopted Ordinance No.89-27 on November 28, 1989, establishing and creating the Santa Clarita Redevelopment Agency; and

WHEREAS, the Santa Clarita Redevelopment Agency ("Agency") has been designated as the official redevelopment agency in the City of Santa Clarita to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, the City Council adopted Ordinance No. 97-12 on July 8, 1997, approving and adopting the Newhall Redevelopment Project Area ("Project Area"); and

WHEREAS, Section III of the Newhall Redevelopment Project Area Plan ("Plan") contains the authority regarding Agency use of eminent domain; and

WHEREAS, Section 33342.7 of the Health and Safety Code, added by Senate Bill 53 ("SB 53"), which took effect on January 1, 2007, requires the legislative body that adopted a redevelopment plan containing eminent domain authority before January 1, 2007, to adopt an ordinance on or before July 1, 2007, containing a description of the agency's program to acquire real property by eminent domain.

THE CITY COUNCIL OF THE CITY OF SANTA CLARITA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to Section 33342.7 of the Health and Safety Code, a description of the Agency's program to acquire real property by eminent domain is set forth in Exhibit A, attached hereto and incorporated herein by this reference. The Agency's program to acquire real property by eminent domain may be amended only by amending the applicable Redevelopment Plan pursuant to Article 12 of the Community Redevelopment Law (commencing with Health and Safety Code Section 33450).

SECTION 2. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

SECTION 3. This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED AND ADOPTED this 26th day of June, 2007.

Marsha M'Lean  
MAYOR

ATTEST:

Sharon L. Dawson  
CITY CLERK

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss.  
CITY OF SANTA CLARITA         )

I, Sharon L. Dawson, CMC, City Clerk of the City of Santa Clarita, do hereby certify that the foregoing Ordinance No. 07-5 was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 12th day of June, 2007. That thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council on the 26th day of June, 2007, by the following vote, to wit:

AYES:           COUNCILMEMBERS: Boydston, Ferry, Weste, Kellar, McLean

NOES:           COUNCILMEMBERS: None

ABSENT:         COUNCILMEMBERS: None

Sharon L. Dawson  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.  
CITY OF SANTA CLARITA )

CERTIFICATION OF  
CITY COUNCIL ORDINANCE

I, Sharon L. Dawson, City Clerk of the City of Santa Clarita, do hereby certify that this is a true and correct copy of the original Ordinance No. 07-5, adopted by the City Council of the City of Santa Clarita, CA on June 26, 2007, which is now on file in my office.

Witness my hand and seal of the City of Santa Clarita, California, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Sharon L. Dawson, CMC  
City Clerk

By \_\_\_\_\_  
Susan Caputo  
Deputy City Clerk

SANTA CLARITA REDEVELOPMENT AGENCY  
23920 Valencia Boulevard Santa Clarita, CA 91355

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SENATE BILL 53 PROGRAM  
Newhall Redevelopment Project

Adopted June \_\_\_\_, 2007



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#### INTRODUCTION

This document is the Senate Bill 53 Program ("SB 53 Program") for the Newhall Redevelopment Project ("Project") of the Santa Clarita Redevelopment Agency ("Agency"). Section 33342.7 of the California Community Redevelopment Law, Health and Safety Code ("Law"), requires the City Council to prepare and adopt this SB 53 Program by ordinance. The purpose of this SB 53 Program is to describe the Agency's program to acquire real property by eminent domain.

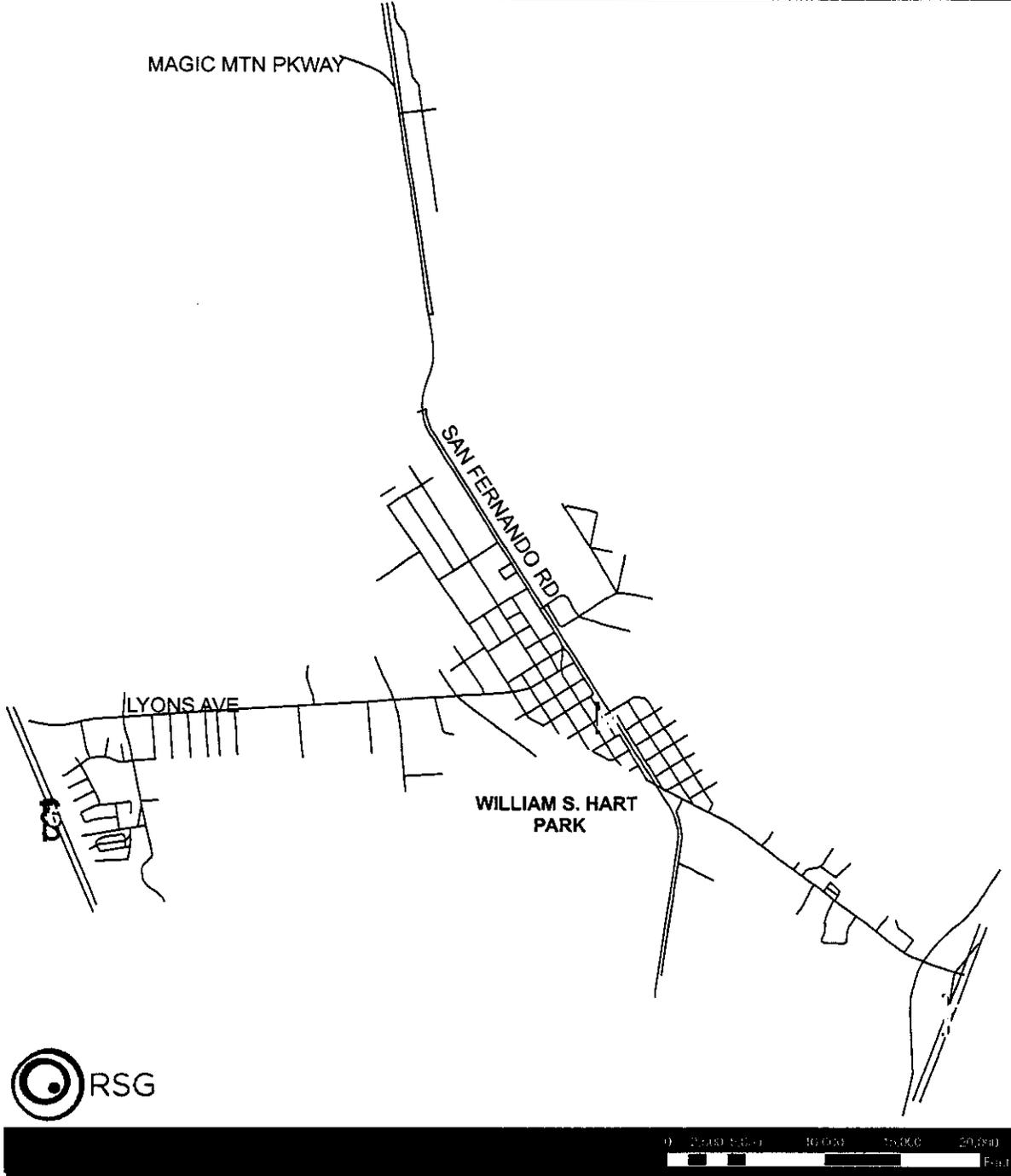
#### BACKGROUND

The Agency was created by the City of Santa Clarita ("City") City Council on November 28, 1989 by Ordinance No. 89-27 to undertake redevelopment activities that remove physically and economically blighted conditions that inhibit and continue to plague economic growth in the City.

The Agency's first and only redevelopment project area to date was established by the City Council on July 8, 1997 by Ordinance No. 97-12. The Redevelopment Plan for the Newhall Redevelopment Project ("Redevelopment Plan") has not been amended since its original adoption. The Redevelopment Plan governs the use of redevelopment tools within the 913.63-acre Newhall Redevelopment Project Area ("Project Area"), as shown in Exhibit 1 below. The Project Area contains retail, industrial, public and residential properties generally located along the Lyons Avenue and San Fernando Road corridors. The historic Downtown Newhall area, nearly 2,000 residential units and the Metrolink station are also within the Project Area boundaries.

EXHIBIT 1: NEWHALL REDEVELOPMENT PROJECT AREA

**Old Town Newhall Redevelopment Project Area**



GOALS OF THE NEWHALL REDEVELOPMENT PLAN

The Newhall Redevelopment Plan sets out certain redevelopment goals for the Project Area and to encourage the use of financial, land use, and land assembly tools to achieve these goals. The following strategies and objectives are those relevant to land assembly activities authorized in the Plan:

- Develop programs and incentives for the rehabilitation of old, obsolescent, and deteriorating structures in the Project Area.
- Promote the comprehensive planning, redesign, replanning, reconstruction, and/or rehabilitation in such a manner as to achieve a higher and better utilization of the land within the Project Area.
- Provide for adequate parcels and required public improvements to induce new construction and/or rehabilitation by private enterprise.
- Consolidate parcels as needed to induce new or expanded, centralized, commercial development in the Project Area.
- Remove economic impediments to land assembly and in-fill development in areas that are not properly subdivided for development or redevelopment.

EMINENT DOMAIN AUTHORITY IN REDEVELOPMENT PLAN

The Newhall Redevelopment Plan authorizes the Agency to acquire property by a number of means including gift, negotiated purchase, or under certain circumstances eminent domain (also known as condemnation).

Specifically, Section 321 of the Newhall Redevelopment Plan reads:

*"The Agency may acquire, but is not required to acquire, any Real Property located in the Project Area by gift, devise, exchange, purchase or any other lawful method, including eminent domain. The eminent domain provisions of this Plan do not apply to any Real Property which has been continuously occupied as a residence during the 90-day period preceding the adoption by Agency of a resolution of necessity for acquisition of the property. Eminent domain proceedings, if used, must be commenced within twelve (12) years from the effective date of the ordinance adopting this Plan. Such time limit may only be extended by further amendment to this Plan.*

*The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire any interest in Real Property less than a fee.*

*Properties may be acquired and cleared by the Agency if a determination is made that one or more of the following conditions exist:*

1. *The buildings and/or structures must be removed in order to assemble land into parcels of reasonable size and shape to eliminate an impediment to optimal land development;*
2. *The buildings and/or structures are substandard as demonstrated by an inspection of the property by the Building and Safety Division of the City of Santa Clarita;*
3. *The buildings and/or structures must be removed in order to eliminate an environmental deficiency, including, but not limited to, incompatible land uses and small and irregular lot subdivisions;*
4. *The buildings and/ or structures must be removed to provide land for needed public facilities, including among others, rights-of-way, public parking facilities, open space, or public utilities;*
5. *The acquisition of property is allowed by the California Community Redevelopment Law and will promote the implementation of the Plan.*

*Other provisions of this section notwithstanding, the Agency shall not acquire from any of its members or officers any property or interest in property except through eminent domain proceedings.*

*The Acquisition of Personal Property is discussed in Section 322 of the Plan. "Generally, personal property shall not be acquired. However, where necessary for the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means."*

#### WHY IS EMINENT DOMAIN NEEDED BY THE AGENCY?

Though it has never been used by the Agency, eminent domain is an essential component of the Agency's redevelopment program, where consolidation of undeveloped and underdeveloped lots is one of the many reasons why redevelopment exists in the City. The Project Area is fraught with numerous instances of conflicting land uses and undersized parcels under multiple ownership that make it very difficult for the private sector to invest in redevelopment projects. By today's standards, larger parcels are needed to achieve successful development in this area.

The Agency has had eminent domain authority as an option to address projects in the Project Area since 1997. Under the Law, the time limit on eminent domain lasts for 12 years, unless extended by amendment. The time limit will expire on July 8, 2009. Under the Redevelopment Plan, occupied residential property is exempt from eminent domain. This is true even in areas when residential uses exist in commercial zones in which long-term, recycling of these nonconforming residential uses in commercial zones is a possibility.

The goals of the Redevelopment Plan cannot be addressed without the ability to acquire and assemble property. With eminent domain, the Agency has the ability to become more involved in achieving the Redevelopment Plan goals, by removing fractured ownership, creating larger, more

developable parcels, and removing incompatible and conflicting uses. While relatively few acquisition projects may require the Agency to implement its eminent domain authority, the ability to use this tool can also be essential in negotiations to acquire property. This program is not proposing that any particular property be acquired through the use of eminent domain at this time. Simply because properties are located in an area where the Agency is permitted to use eminent domain does not necessarily mean that a property will in fact be acquired by the Agency.

#### PROPERTY ACQUISITION PROCESS

In the event that eminent domain is necessary, the Agency is required as a public agency to follow a process prescribed in state law before a property can be condemned. At present, the process involves the following major steps and actions:

- If property is offered for sale (by owner or through a broker/agent) the Agency may discuss and negotiate the purchase with the owner (or broker/agent) as any other buyer.
- If the property is not for sale but the Agency is interested in buying the property, the Agency must undertake certain steps before it can acquire the property:
  - The Agency must appraise the property. A written "notice to appraise" must be sent to the property owner and the property owner has the right to accompany the appraiser on a site visit.
  - If the Agency decides to make an offer, the Agency must offer the appraised value and provide the property owner with certain information concerning how the appraised price was determined.
  - The Agency must offer to pay the reasonable costs, not to exceed \$5,000, of an independent appraisal ordered by the owner of the property that the Agency offers to purchase under a threat of eminent domain, as specified, at the time the Agency makes the offer to purchase the property.
  - Once the offer is made, the Agency and property owner are to negotiate for a reasonable period of time, usually up to 30 days, to see if the parties can arrive at a negotiated agreement.
  - If a negotiated agreement cannot be reached, the Agency cannot acquire the property unless the Agency has current condemnation authority in its Redevelopment Plan.
  - If the Agency has condemnation authority and desires to consider acquisition by condemnation, the Agency must first hold a hearing and give notice of that hearing to the property owner who has the right to appear and be heard concerning the proposed acquisition by condemnation.
  - If after the conclusion of the hearing the Agency desires to proceed with the acquisition by condemnation, it cannot do so unless it adopts, by a 2/3 "super majority" of the Agency board, a "resolution of necessity" that identifies the public use for the property and make other findings required by California Eminent Domain Law.
  - If the resolution of necessity is adopted, the Agency may then proceed to file a court action seeking acquisition of the property by condemnation, but must also at that time deposit in court the full amount of probable compensation to be paid to the property owner (normally

the appraised value).

- The Agency, when it files the condemnation action or later, may seek an order of possession so it can gain possession of the property while the litigation proceeds concerning the value of the property. The owner may also challenge the Agency's right to use its condemnation authority.
- The condemnation litigation then proceeds until its conclusion (or until a settlement is reached).
- If a court finds, on motion of the defendant, that the offer of the Agency was unreasonable and the offer of the defendant was reasonable in light of the evidence admitted and the compensation awarded in the proceeding, then the costs allowed shall include the defendant's litigation expenses. Litigation expenses are defined in Section 1250.410 (e) as "the party's reasonable attorney's fees and costs, including reasonable expert witness and appraiser fees."
- Because condemnation involves purchasing private property for a public purpose, federal and state laws offer the following benefits to the owner whose property is acquired through condemnation:
  - The redevelopment agency must pay cash unless the owner desires otherwise.
  - The property owner receives certain tax benefits, such as a right to reinvest the sale proceeds within 2 calendar years (3 years for business property) before incurring capital gains liabilities, and the property owner may transfer the assessed value of the property purchased through condemnation to a new property acquired by the property owner, provided that the value of the new property does not exceed 110% of the value of the condemned property.