

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Public Hearing: October 14, 2008

CONTACT PERSON/PHONE: Ernesto Arriola, 541-4723

DISTRICT(S) AFFECTED: 3

SUBJECT:

A resolution addressing the concerns of the possible use of Eminent Domain for the purposes of the Medical Center of the Americas Master Plan, study area plan, and further, that the City Council of the City of El Paso resolves not to consider the use of eminent domain as an implementation strategy within the study area for any project other than for public purposes for a twelve (12) month time period following the date of formal adoption of the plan for the proposed Medical Center of the Americas as a study area.

Applicant: City of El Paso and the Medical Center of the Americas Foundation (District 3)

BACKGROUND / DISCUSSION:

A request made by Representative Emma Acosta to the City Manager and Development Services to incorporate language that would address concerns of Eminent Domain with the adoption of the Medical Center of the Americas study area plan and amendment to the City's Comprehensive plan.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: _____ **DATE:** _____

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

WHEREAS, the City and Medical Center of the Americas (MCA) Foundation Board has developed a study area plan which identifies the concerns, objectives, guidelines and design standards that propose to position the greater Paso del Norte Region as the premier center of health delivery, education, and research for the Region's diverse and international population; and,

WHEREAS, the Medical Center of the Americas Master Plan serves as a study area plan and guide for the future growth and development of the area south of Interstate 10 Highway, north of Alameda Avenue, east of Boll Street, Radford Street, and Ledo Place, and west of Euclid Street to promote public health, safety, and welfare while supporting revitalization activities for redevelopment in the area; and,

WHEREAS, the proposed Medical Center of the Americas Master Plan encourages the future growth and development of facilities that emphasize patient focused care and utilize sound operational efficiencies for key medical services and staff and promotes public health, safety, and welfare while supporting revitalization activities for redevelopment; and,

WHEREAS, members of the community were invited to take part in the development of these study area plans to encourage community acceptance of this ongoing planning process and to establish a value for the goals and objectives enumerated in these plans; and,

WHEREAS, the City Council of the City of El Paso fully recognizes that discussions regarding the proposed Medical Center of the Americas Master Plan to encourage the future growth and development of new medically related facilities have raised citizen concerns regarding the potential use of the power of eminent domain by the City of El Paso; and,

WHEREAS, The area of El Paso located south of Interstate 10 Highway, north of Alameda Avenue, east of Boll Street, Radford Street, and Ledo Place, and west of Euclid Street is important to its citizens; and,

WHEREAS, no decisions have been made regarding the use of the power of eminent domain by the City of El Paso in order to implement a plan that proposes to position the greater Paso del Norte Region as the premier center of health delivery, education, and research for the Region's diverse and international population; and,

WHEREAS, the City Council of the City of El Paso is sensitive to and has respect for the private property rights of the citizens of the City of El Paso; and,

WHEREAS, the City Council wishes to allay the concerns of the citizens of El Paso regarding the issue of eminent domain; and,

WHEREAS, Government has a duty to promote its city within the scope of its responsibilities and duties;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

The City Council of the City of El Paso recognizes that the use of eminent domain for identifying the concerns, objectives, guidelines and design standards that propose to position the greater Paso del Norte Region as the premier center of health delivery, education, and research for the Region's diverse and international population is very limited under Texas law and has been recently further limited by Chapter 2206.001 of the Texas Government Code which provides as follows:

“A governmental or private entity may not take private property through the use of eminent domain if the taking:

- (1) confers a private benefit on a particular private party through the use of the property;
- (2) is for a public use that is merely a pretext to confer a private benefit on a particular private party; or
- (3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:
 - (A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or
 - (B) Section 311.005(a)(1)(I), Tax Code;”

And further, that the City Council of the City of El Paso resolves that eminent domain shall only be considered as a last resort and only when all negotiation efforts have failed. If eminent domain is considered for a particular property, City Council will comply with Chapter 2206 of the Texas Government Code and any other statutory requirements.

Finally, the City Council resolves not to consider the use of eminent domain as an implementation strategy within the study area for any project other than for public purposes for a twelve (12) month time period following the date of formal adoption of the plan for the proposed Medical Center of the Americas as a study area.

PASSED AND APPROVED this _____ day of _____, 2008.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Patricia D. Adatao, Deputy City Manager
Development & Infrastructure Services

JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

VICTOR Q. TORRES
DIRECTOR, DEVELOPMENT SERVICES

MATHEW McELROY
DEPUTY DIRECTOR, PLANNING



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN, JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

DEVELOPMENT SERVICES
PLANNING DIVISION

MEMORANDUM

DATE: October 8, 2008

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Ernesto Arriola, Planner

SUBJECT: **A Resolution addressing Eminent Domain Concerns of the adoption of the Medical Center of the Americas study area plan**

A resolution addressing the concerns of the possible use of Eminent Domain for the purposes of the Medical Center of the Americas Master Plan, study area plan, and further, that the City Council of the City of El Paso resolves not to consider the use of eminent domain as an implementation strategy within the study area for any project other than for public purposes for a twelve (12) month time period following the date of formal adoption of the plan for the proposed Medical Center of the Americas as a study area.

Attachment: Medical Center of the Americas Area Map

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