

RESOLUTION NUMBER R- 267305

ADOPTED ON DEC 15 1986

WHEREAS, a proposal has been placed before the City Council to utilize its eminent domain power to acquire an easement for drainage purposes across a portion of Lots 3, 6 and 7 in fractional Section 3, Township 19 South, Range 1 West, S.B.B.M.; and

WHEREAS, said easement was a requirement for off-site improvements in connection with a subdivision map for Britannia Commerce Center, TM-84-0843; and

WHEREAS, at the hearing on December 15, 1986, on whether the public interest, convenience and necessity required the acquisition and construction of the easement pursuant to the City's eminent domain powers, representatives of Britannia Commerce Center and of the owner of the property on which the drainage rights were to be acquired, testified; and

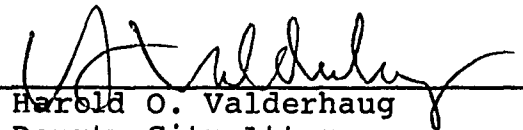
WHEREAS, both the representative of Britannia Commerce Center and the representative of the owner of the property on which drainage rights were to be acquired concurred that a preferable alternative to condemnation existed; and

WHEREAS, the preferable alternative was identified as the construction and operation of a pumping facility on the Britannia Commerce Center site; NOW, THEREFORE

BE IT RESOLVED, by the Council of The City of San Diego, that in lieu of exercising its power of eminent domain, the City

Council hereby approves the construction and operation of an on-site pumping facility by Britannia Commerce Center as an alternative to the acquisition and construction of drainage improvements as proposed in City Manager Report No. 86-576, a copy of which is attached hereto and by this reference incorporated herein.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Deputy City Attorney

HOV:ps
12/26/86 REV.1
Or.Dept:Clerk
R-87-1055
Form=r.none



The City of San Diego

MANAGER'S REPORT

RECEIVED
CITY CLERK'S OFFICE
1986 DEC 10 AM 8:39
SAN DIEGO, CALIF.

DATE ISSUED: December 10, 1986 REPORT NO. 86-576

ATTENTION: Council Docket of December 15, 1986

SUBJECT: Condemnation Action to Acquire an Off-Site Drainage Easement for
Britannia Commerce Center, Tentative Map 84-0843

REFERENCE: Off-Site Acquisition Agreement and Alternate Facility Agreement
Approved by City Council Resolutions 266482 and 266481 on September 8,
1986

SUMMARY

Issue - Should the City Council authorize a condemnation action to acquire drainage easements and temporary work strips required as a condition of tentative Map 84-0843, Britannia Commerce Center, approved by Subdivision Board Resolution 3993 on July 8, 1985?

Manager's Recommendation - Authorize condemnation action with order of immediate possession to acquire the necessary property rights.

Other Recommendations - None.

Fiscal Impact - None. All costs to acquire the necessary property rights will be paid for by the developer, Hall Properties, Inc. Hall Properties has deposited \$120,000 with the City toward acquisition costs.

BACKGROUND

On July 8, 1985, the Subdivision Board approved the tentative map for Britannia Commerce Center on property located in the Otay Mesa area between Siempre Viva Road and the U. S.-Mexico Border. The property has been farmed for several years. The area is very flat and there are very few well-defined water courses. Most of the fields are cultivated in a manner to maximize land use and to control storm runoff and irrigation water.

The Britannia Commerce Center is an industrial subdivision being developed by Hall Properties, Inc. The storm runoff from the property after development, to include drainage it already receives from others, will be significantly more than it was before development. Topographic maps for the area show a clear indication of direction of flow, but there is no clear indication of a concentrated flow. The drainage from this development must flow easterly across two adjoining properties, one owned by Martinez and the other by Ace Properties. The Martinez property, immediately adjoining the subject development, is under cultivation and they have not made provisions for drainage from the Hall property.

00185

R-267305

The drainage plan proposed by Rick Engineering and approved by the City requires the construction of a drainage channel across the Martinez and Ace properties. The two property owners affected have refused the City's offers and it appears condemnation will be necessary to acquire the necessary property rights so that construction of the project may proceed on schedule.

Eminent Domain Law requires that any person subject to condemnation proceedings be given the opportunity to speak and be heard regarding the following questions to which the Council must address itself:

1. Does the public interest and necessity require the proposed project?

The Otay Mesa area is currently in a state of transition from vacant land and farming to subdivision and development of a variety of uses. Along with this transition, it is necessary to provide an adequate system to handle drainage of surface waters in order to protect both the public and private sectors against flooding.

The drainage channel is necessary to carry the storm runoff from the Britannia Commerce Center Subdivision. The development of the property is consistent with the General Plan and Otay Mesa Community Plan.

2. Is the proposed project planned or located in a manner that will be compatible with the greatest public good and the least private injury?

The proposed drainage channel is located along the alignment of the natural flow of drainage as indicated by the most recent topography maps.

3. Is the property sought to be acquired necessary for the proposed project?

All of the proposed easement is necessary to construct and maintain the proposed channel.

ALTERNATIVE

Do not condemn and, instead, require the construction of a temporary pumping facility in accordance with City Council approved agreement, Resolution 266481 adopted September 8, 1986. This action is not recommended as it would only be a temporary solution to the problem.

Respectfully submitted,


John P. Fowler
Assistant City Manager

SPOTTS:SAC:jw(66-4)
11-12-86
Dept:Prop:MR:519

211a

DEC 15 1986

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Celia Ballesteros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

Barbara Bayer
Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **R-267305** Adopted **DEC 15 1986**