

BOROUGH OF DARBY

DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE NO. 814

AN ORDINANCE OF THE BOROUGH OF DARBY, DELAWARE COUNTY, PENNSYLVANIA, AUTHORIZING THE CONDEMNATION AND TAKING BY EMINENT DOMAIN OF A FEE SIMPLE INTEREST OVER TAX MAP PARCEL NO. 14000088900 (COMMONLY KNOWN AS 28 SOUTH 5TH STREET) N/F PROPERTY OF MAY UNITED, LLC, FOR PUBLIC PURPOSES; AUTHORIZING THE BOROUGH SOLICITOR TO PROCEED WITH THE ACQUISITION OF A FEE SIMPLE INTEREST THEREIN THROUGH EMINENT DOMAIN; AUTHORIZING THE PAYMENT OF JUST COMPENSATION; AND AUTHORIZING THE PROPER OFFICERS OF THE BOROUGH TO UNDERTAKE SUCH ACTS AS NECESSARY TO ACQUIRE THE PROPERTY INTERESTS CONDEMNED UNDER THIS ORDINANCE; CONTAINING A SEVERABILITY CLAUSE, REPEALING PRIOR INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES, AND CONTAINING AN EFFECTIVE DATE.

WHEREAS, the Borough Code, 8 Pa.C.S. § 101, *et seq.*, and the Eminent Domain Code, 26 Pa.C.S. § 101, *et seq.*, authorize the Borough Council of the Borough of Darby to condemn private property for public purposes.

WHEREAS, the Borough Council of the Borough of Darby has identified certain properties within the Borough of Darby uniquely situated within the Borough to serve the needs of the Borough and its residents, businesses, and the general public of the Borough.

WHEREAS, more specifically, the Borough Council of the Borough of Darby has deemed it in the best interest of the Borough to exercise eminent domain and acquire a fee simple interest in the entirety of tax parcel no. 14000088900, commonly known as 28 South 5th Street, Darby, PA (referred to hereinbelow as the "Property").

WHEREAS, in order to exercise the power of eminent domain, the Borough Code requires the Borough to pass an ordinance to declare its intention to take private property.

WHEREAS, the Borough Council of the Borough of Darby, through this ordinance, declares its intention to acquire a fee simple interest in the Property, and to authorize the Borough Solicitor and other proper Borough officials to take all actions necessary to effectuate the acquisition of the Property through eminent domain.

NOW THEREFORE, it is hereby **RESOLVED** by the Borough Council of the Borough of Darby as follows:

SECTION 1. EXERCISE OF THE POWER OF EMINENT DOMAIN.

- A. The Borough Council of the Borough of Darby hereby exercises the powers of eminent domain pursuant to the Borough Code and Eminent Domain Code and declares its intention to acquire a fee simple interest in the entirety of the Property.
- B. The Borough Council of the Borough of Darby hereby authorizes the Borough Solicitor and other Borough Officials to take all actions necessary to effectuate acquisition of the Property through eminent domain, including, but not limited to, advertising this ordinance, drafting and filing a declaration of taking in accordance with the procedures set forth in the Eminent Domain Code, as well as such other documentation as is required under the Borough Code and Eminent Domain Code.
- C. The Borough Council of the Borough of Darby hereby authorizes the proper officials of the Borough of Darby to tender estimated compensation as required by law, and further to make such other expenditures as shall be required by law to effectuate the filing of the declaration of taking, including such fees as shall be required in connection with such filing.
- D. The property interest condemned herein shall be for public purpose only, including, but not necessarily limited to, public open space, parks, recreation, and public parking.

SECTION 2. SEVERABILITY CLAUSE.

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, the Borough Council hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, non-enforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION 3. REPEALER

Any and all other Ordinances or parts of Ordinances in violation or in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall become effective at the earliest date permissible under Pennsylvania law.

RESOLVED and **ADOPTED** by the Borough Council of the Borough of Darby this 21st day of August, 2024.

BOROUGH OF DARBY:



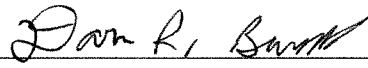
LUCILLE PRATT, COUNCIL PRESIDENT
DARLENE HILL VICE

ATTEST:



BOROUGH SECRETARY

Examined and Approved by me this 21st day
of August, 2024



DARREN BURRELL, MAYOR