

## MINUTES

### JOINT CITY COUNCIL/REDEVELOPMENT AGENCY OF THE CITY OF DUARTE REGULAR MEETING – APRIL 24, 2007

At 5:30 p.m., two Closed Sessions were held (as stated below). Mayor Gaston called the meeting to order at 5:38 p.m., with three members present (Fasana and Finlay arrived during the Closed Sessions).

#### ADOPTION OF AGENDA

Slater stated a request from the League of California Cities pertaining to SB 964 (Romero) was received after the Agenda was posted, and it could be added to the Agenda as an urgency item if the City Council would like to discuss it at tonight's meeting. Paras-Caracci moved, Reyes seconded to add SB 964 (Romero) to the Agenda, and carried unanimously. Reyes moved, Paras-Caracci seconded to adopt the Agenda, as amended to add SB 964 (Romero) as a Special Item, and carried unanimously.

#### CLOSED SESSIONS

- 1) Anticipated Litigation
- 2) 2222 Huntington Drive

Slater stated the first Closed Session is pursuant to Government Code 54956.9(c), Conference with Legal Council; Initiation of Litigation; Number of potential cases: changed from two to one.

Slater stated the second Closed Session is pursuant to Government Code Section 54956.8; Conference with Real Property Negotiators, Agency negotiators: Darrell George, Kristen Petersen; Negotiating parties: Redevelopment Agency of the City of Duarte and Sarla Gupta; Under negotiation: Price and terms of payment; Concerning: 2222 Huntington Drive, Duarte; APN 8529-011-049, 8529-011-050, 8529-001-051, 8529-011-052, 8529-011-053. The Closed Sessions concluded at 6:35 p.m.

The City Council/Redevelopment Agency of the City of Duarte met in a regular meeting in the Council Chambers, 1600 Huntington Drive, Duarte, California. Mayor Gaston called the meeting to order at 7:09 p.m.

#### RECORDATION OF ATTENDANCE

The following were in attendance:

PRESENT: Fasana, Finlay, Paras-Caracci, Reyes, Gaston

ABSENT: None

ADMINISTRATIVE STAFF PRESENT: City Manager  
George, City Attorney Slater

#### PLEDGE TO THE FLAG

Byron Beasley led the Pledge of Allegiance to the Flag.

#### MOMENT OF REFLECTION

A moment of reflection was observed.

#### FITNESS WARM-UP

Finlay led the group in a series of warm-up exercises.

#### PUBLIC REPORT OF CLOSED SESSION

Slater stated during the first Closed Session, the City Council discussed legal issues that could expose the City to litigation, and direction was given to staff, with no further action taken. During the second Closed Session, the Agency Board discussed price and terms of payment, and unanimously directed staff to continue discussions with the property owner, with no further action taken.

#### ANNOUNCEMENTS

Bill Baca, Senator Romero's office, announced Pancake Breakfast on May 19 in appreciation of those serving in the military, and stated the Senator's Sacramento office can answer questions concerning SB 964.

Pui-Ching Ho, Duarte Library, announced Asian Pacific Heritage Month celebration on May 12 at 2:00 p.m.

Karen Herrera announced Rebuilding Together event on April 28 and Immunization Fair on May 5.

Jan Wight, Duarte Chamber, stated the Chamber has created the Hans Sulzer Award, and thanked Mike Yelton for working with her during the last 13 years.

Mary Barrow announced Hero's Tribute event on April 26-28, and event to commemorate the 20<sup>th</sup> anniversary of the landmark Supreme Court decision about the Duarte Rotary on May 4.

Mark Montgomery announced 1972 class reunion in mid-May and the passing of Representative Millender-McDonald.

#### SPECIAL ITEMS

Recognition – Michael Yelton

Mayor Gaston presented Michael Yelton with a plaque in appreciation of his 15 years of dedicated service to the City of Duarte as the Finance Director/Assistant City Manager, and wished him well on his retirement.

Recognition – Valley View students

Mayor Gaston read the story endings to The Butter Battle Book by Dr. Seuss that were submitted by the students, and presented Certificates of Appreciation to Viviana Acevedo, Byron Beasley, and Dominic Foley.

Recognition – Arbi Lazar

Mayor Gaston presented Arbi Lazar a plaque in appreciation of his service to the City of Duarte as a Community Services Commissioner from January 2006 to March 2007.

Proclamation – Rebuilding Together Day

Mayor Gaston read and presented the Proclamation for Rebuilding Together Day to Sandi Shannon, who described the program and invited all to participate in the event on April 28.

Discussion – SB 964 (Romero)

Slater provided a description of SB 964 (Romero), as well as information from the League of California Cities. Fasana moved, Finlay seconded to adopt a position to work with the author and asked for a meeting to be held with Senator Romero to discuss concerns about SB 964, and carried unanimously.

#### CONSENT CALENDAR

Finlay moved, Paras-Caracci seconded to approve the Consent Calendar as follows, and carried unanimously.  
Approve Items A, B, C.

#### PUBLIC HEARING

Conditional Use Permit 05-2  
2333 High Mesa Drive

Mayor Gaston announced this was the time and place set for a Public Hearing to consider a request for approval of Conditional Use Permit (CUP) 05-2 for a 4,061-square foot single-family home to exceed the 18' height limit in the R-1D zone. The applicant is proposing to build a two-story residence with a building height of 23'11" at 2333 High Mesa Drive.

Mayor Gaston asked if any written communications had been filed in the matter. City Clerk Akana stated written correspondence was received from Duarte Mesa Association, Gary Barta, Fred Klumb, and Gordon/Seta Whitby, and copies had been provided to the City Council. Notice of the public hearing was published and posted in accordance with legal requirements, and the affidavit is on file in the City Clerk's office.

Jason Golding, Senior Planner, provided a detailed staff report and visual presentation about the proposed CUP, the required findings in order to grant a CUP, and the suggested conditions if the CUP is approved.

Slater stated copies of the re-noticed Mitigated Negative Declaration and Mitigated Monitoring Program were distributed to City Council, and copies were available for the public on the back table. Slater further stated Councilmember Finlay is able to participate in the Public Hearing, as her home sits outside of the conflict of interest area.

Mayor Gaston asked if anyone in the audience wished to be heard on the matter.

Mr. Jimmy Lee, applicant and designer, stated he worked closely with City staff to develop the design, the height limit of 18' does not apply to homes on the canyon, the City's code and criteria

were followed, the plan was approved by the Architectural Review Board, and he was surprised when the Planning Commission denied the request.

Bruce Schwartz, on behalf of property owners Garrett and Pamela Gomez, stated they have agreed to the mitigating effects set forth in the mitigated declaration, they do not want to interfere with views and lifestyles of the neighbors, there are a number of two-story residences on the same side of the street that are 24-25' high, the proposed home is below that, discussed photos of views of neighboring properties, displayed drawings of the proposed project showing no impact to the view due to the large trees, noted the 18' limit in the CCR's applies to the other side of the street, he feels the request for a conditional use permit is justified, and stated he would like to respond to any objections or questions.

Michael Ressler stated the Mesa is a relaxed neighborhood with nice houses and good views, he is worried about a large house, it is out of character with the neighborhood, and stated his is an emotional appeal.

Marcy Roschitsch stated the Mesa's architectural committee and board of directors want homeowners to have the home of their dreams but not at the expense of other homes, felt we have to mitigate to be equitable to all involved, and read a letter of opposition from the Duarte Mesa Board that had been previously submitted to the City Council.

Gordon Whitby stated the proposed remodeling project exceeds the zoning ordinance by almost six feet, it obstructs views of surrounding homes and intrudes upon the privacy of neighbors, provided information about heights of other two-story homes on the Mesa, stated it will encourage mansion-size hillside homes and increase use of utilities, there will be additional traffic and parking on the streets, and stated the Mesa association believes all new construction should enhance and not detract from property values.

Jim Kelley stated the photos were taken from odd angles, it would destroy the view of certain homes, it is necessary to look from that property to make a decision, trees are not solid walls, felt story poles should have been put up, it is an immense house, he thinks it could be built down six feet, the reason for the hillside ordinance is to not block views, and feels additional rooms could be added to the plan.

Katherine Hancock stated she lived through the fire on the Mesa and chose to rebuild, the Mesa association fought hard to preserve views and worked hard to keep all new homes at 18', they did not want new buyers to come in and build two-story homes except for a few exceptions, the association halted construction of some proposed new homes, she is opposed to the proposed remodel, and stated she and the association want to protect and preserve views.

Carie Osburn stated the Planning Department has enforced the 18' limit for 25 years, another homeowner graded down the design and stayed in compliance with the 18' height limit, the Mesa's architectural board has granted variances for minor deviations with concurrence of residents, this project intrudes on backyard properties, a view can add to property value, this would be a financial and emotional burden on residents, and urged the City Council to deny the project as proposed.

Nita Norgard asked that City Council enforce an ordinance to maintain the natural beauty of the hillside neighborhood, if not it will be detrimental to the view of future Mesa residents, stated one-third of the houses are 50 years old, and the proposed project would be the linchpin to obliterating the scenic neighborhood.

Rick Forintos described the items in the staff report, stated all have dream houses, he changed his plans from a two-story to a one-story, he made some concessions, the proposed house is awesome but too tall, it could be made a split-level, and thinks we need to look at story poles.

Jeanie Barta stated she is against the project because her easterly view will be impacted, as well as the view of the valley and mountains, her view would be of a large house, she is concerned about her privacy, made a presentation of how her view would be impacted, stated if the new house is sold, she would expect that a larger family would move in with more cars, lights, and noise, and feels there are other building possibilities.

Gary Barta stated he lives adjacent and west of the subject property, made a presentation about the difference between the CUP he obtained when he remodeled his home and the one under consideration, he rejected his plan for the second-story as neighborhood unfriendly, he shared ideas with neighbors and the Mesa association before plans were drawn, he gained their acceptance and incorporated their requests, and he loves the neighborhood because of unobstructed views.

Fred Klumb stated the City uses the term two-story for what he calls split-level, described the design of the nine split level homes built in 1964/65, displayed a map showing field clarifications to the map exhibit in the CUP, and provided information about the prevailing heights of a number of homes on the same street as the subject property.

Dave Denstaedt encouraged City Council to look through the eyes of the person living there, stated an ordinance becomes irrelevant when there are exceptions, some experience risk due to exceptions, there are other ways to solve the problem, and encouraged City Council to go to the area and look at it before making a decision.

Leticia Marquez stated before moving to the Mesa, she lived in a two-story home and saw her neighbors' yards out of her window, she moved to the Mesa for the view, it is important to have a great view, and stated although this does not affect her view, if approved, it would open the door for other projects to be built and her view might be obstructed.

Al Zamora inquired if the side yards were going to change or stay the same, and if the trees would be removed or be left.

Helen Ferguson stated she is concerned about the character of the neighborhood, the Mesa is an area of single-story ranch-style homes with some exceptions, she thinks this home should be on a mountaintop in Bradbury rather than hidden behind trees and bushes, and she is concerned that this is the beginning of the changing the character of the Mesa.

Billy Chang stated he would not like the Mesa to look like Arcadia with property being overbuilt with huge homes and creating a mansion oddity, he is concerned about too many bedrooms and opportunities for bedrooms, that is not why he moved to the Mesa, there was a reason ordinances were passed, the reason is still there, and he does not want an opportunity to say it is an exception after many before have gone through hard work and expense to keep within the regulations.

Bruce Schwartz thanked the neighbors who spoke, stated Mr. and Mrs. Gomez did not want to cause any upheavals, that is why Mr. Lee designed the property to not make this a mansion, it cannot be deemed a mansion, the setbacks exceed the code requirements, although many spoke about privacy and view, only one uphill neighbor presented a photo of the side of the Gomez property, the window on that side is not clear glass and was planned that way as the Gomez' want privacy also, Mrs. Gomez offered a story pole, months ago she offered to stand on

the roof where the addition would be, that offer was rejected by Mr. Barta, this is not a single-story neighborhood, six out of eight homes on that side of the street are two-story, there is 66' between the upper story of Mr. Barta's structure and the upper structure of the Gomez home, it was designed that way by Mr. Lee to preserve views, there are no plans to remove any trees, there would be no additional traffic, the Gomez family has two adults and two children, the design of the garage allows parking in back of the house and would not interfere with neighbors or parking on hill slope, the pad cannot be lowered due to geological and drainage problems, the owners painstakingly attempted not to block views and to build a home that would appreciate the value of homes in the area, it is nothing unusual, and this beautiful home will add to the value of the neighborhood.

Fasana moved, Finlay seconded to close the Public Hearing, and carried unanimously.

Slater stated it would be appropriate for City Council to have questions answered by staff and to deliberate.

Fasana moved, Finlay seconded to deny Conditional Use Permit 05-2 for the following reasons: (Fasana) Incompatibility of the height; (Finlay) Finding #7 relating to impact on general views was not made.

There was discussion, and questions were answered pertaining to the required findings, Duarte Mesa Association CCR's being outside the scope of City Council consideration, number and height of two-story homes in the area, and zoning.

Reyes moved, Paras-Caracci seconded a substitute motion to approve Conditional Use Permit 05-2 for the following reasons: (Reyes) It is in the proper zone, a precedent has been set, and when he walked the property, he did not see an intrusion of views; (Paras-Caracci) Trees make it look less obtrusive, does not understand why this home is a bad thing or how the home affects the neighborhood negatively.

There was further discussion about consistency with the General Plan, and prevailing heights of homes in the immediate neighborhood.

Slater stated once City Council makes a determination, the evidence would be noted in the record as to why findings can or cannot be made.

Mayor Gaston stated the reason for codes and restrictions is to be sure that whatever is built blends with whatever is already there, and asked for a vote to be taken on the motions.

The substitute motion to approve Conditional Use Permit 05-2 failed by the following Roll Call vote:

AYES: Reyes, Paras-Caracci

NOES: Fasana, Finlay, Gaston

The main motion to deny Conditional Use Permit 05-2 carried by the following Roll Call vote:

AYES: Fasana, Finlay, Gaston

NOES: Reyes, Paras-Caracci

## RESOLUTIONS

Council Bill 07-R-07

Vacate portion – Park Rose

RESOLUTION NO. 07-07

Council Bill 07-O-04

Senate Bill 53 – Real Property  
(Second Reading)

Slater read by title Council Bill 07-R-07:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUARTE DECLARING ITS INTENTION TO VACATE A PORTION OF PARK ROSE AVENUE

Fasana moved, Reyes seconded to adopt Resolution No. 07-07, and carried unanimously.

Slater read by title Council Bill 07-O-04:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE CONFORMING TO THE REQUIREMENTS

OF SENATE BILL 53, CHAPTER 591 OF THE STATUTES OF 2006, AS CODIFIED IN CALIFORNIA HEALTH AND SAFETY CODE SECTION 33342.7, TO DESCRIBE THE PROGRAM OF THE REDEVELOPMENT AGENCY OF THE CITY OF DUARTE TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN (Second Reading)

ORDINANCE NO. 790

Fasana moved, Reyes seconded to adopt ordinance No. 790, and carried unanimously.

BUSINESS ITEMS

Contract – Auditing Services  
Lance Soll & Lunghard

Fasana moved, Finlay seconded to approve a five-year contract with Lance Soll & Lunghard for independent auditing services, per staff recommendation, and to authorize the City Manager to execute the contract, and carried unanimously.

Notice of Completion  
Cape Seal Phase II and III Streets  
All American Asphalt

Fasana moved, Finlay seconded to accept the Cape Seal Phase II and III Streets project, per staff recommendation, and authorize the City Clerk to file the necessary Notice of Completion together with release of bonds, and carried unanimously.

ITEMS FROM CITY COUNCIL/  
CITY MANAGER

REYES: Thanked the Chamber for naming an award in Hans Sulzer's name; stated we need to make sure we recognize our volunteers; and thanked Mike Yelton for his work and keeping the City in good financial shape, and wished him the best in his retirement.

PARAS-CARACCI: Welcomed and thanked Assemblymember Portantino for the meeting last week; stated the Foothill Unity Hoop Challenge was amazing, the Duarte Route 66ers beat the ABC team, and encouraged residents to participate next year; and stated she appreciates public attendance and comments at meetings, and appreciates that the City Council can stand as individuals in making decisions.

FASANA: Appreciated Assemblyman Portantino meeting with the City Council; stated Mike Yelton guided the City through some turbulent times in the past and has done a great job for the City; stated there were compelling arguments on both sides of the issue at tonight's meeting; and asked that the meeting be adjourned in memory of Congresswoman Juanita Millender-McDonald.

GASTON: Stated advance reservations can be made for A Hero's Tribute event on April 26-28; attended Hoops event, thanked all the participants, and stated she would like to have the Route 66ers attend a Council Meeting to be recognized; attended a meeting with Girl Scouts Troop 454, she would like to take the leaders on a Sanitation District boat tour, they will be special escorts for Miss California at the parade, and thanked volunteer Debbie Cook; she heard the hike up to the falls was beautiful and that there is more graffiti on the trail; and thanked all who acknowledged her mother's passing.

GEORGE: Stated he appreciates Mike Yelton assisting him over the last three years, he is looking forward to working with Kristen Petersen as Interim Assistant City Manager, and announced Budget Workshop on April 30 at 5:00 p.m.

ADJOURNMENT

Paras-Caracci moved, Fasana seconded to adjourn the meeting at 10:37 p.m., in memory of Congressmember Juanita Millender-McDonald, to the Budget Workshop, April 30, 2007, 5:00 p.m., and carried unanimously.

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Mayor Lois Gaston

ATTEST:

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City Clerk