

Agencymember Anduri said he wanted to leave the language the way it is, however, he questioned if any Agencymember would not support \$2.2 million if the Agency had a great project coming. Agencymember Tatzin agreed, and noted if we do not believe it will reduce the number of proposals received, the wording did not need to be changed.

The Agency agreed the only change would be the sustainability clarification of bronze level.

Ms. Srivatsa said they would release the list of sites with the RFQ, and they include properties for which the property owners have said they do as well as do not want to be considered and the developer would work directly with the property owner(s).

Agencymember Tatzin suggested drafting a letter to each property owner in advance of the RFQ being issued for information and staff agreed.

ACTION: It was M/S/C (Anduri/Federighi) to approve (1) the proposed Request for Qualifications (RFQ), as amended by adding a bronze level; (2) the final list of potential sites, and (3) the amount of Redevelopment 20% Funds that the Agency is willing to set aside for this project. Vote: 5-0 (Ayes: Samson, Federighi, Anderson, Anduri and Tatzin; Noes: None).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Anderson) to adjourn Redevelopment Agency. Vote 5-0 (Ayes: Samson, Federighi, Anderson, Anduri and Tatzin; Noes: None).

8. STAFF REPORTS

9. PUBLIC HEARINGS

A. Greg Wolff, Senior Planner

Appeal of the Planning Commission's approval of HDP-1805 Ward-Young Architects (applicants) Paul & Alison Cocotis (owners): Request for Hillside Development Permit for a single family residence located on a vacant lot at 11 Hawk Canyon Place, APN 238-190-002

Recommendation: Adopt Resolution 2006-025 approving the project with the newly proposed landscape screening, subject to landscape screening adequacy review in five years.

Senior Planner Greg Wolff gave the staff report and background of the appeal. Councilmember Tatzin noted it was clear that Condition 14 was separate from the potential for additional mitigation which was in Condition 4.

David Bowie, Attorney for the Cocotis', said they were prepared to stand behind to replace any of the special trees should they fail to survive. In addition, they agreed to the \$15,000 landscaping in the event there is a determination made after 5 years that more landscaping is needed. The major issue that arose last time was whether screening could be done with replacement vegetation as opposed to existing, which has been agreed to by all parties and they are in favor of all conditions.

The public hearing was opened.

CLIFF TONG, 9 Dianne Court, Burtonvalley.com, commended Mr. Cocotis for his efforts and willingness to stick with the process, and felt it was a difficult lot to develop. He discussed the discussion regarding economic factors in permitting a 6,000 square foot house and whether it should have an impact in the approval or not, and said the City should evaluate the project under the findings of the hillside ordinance for visibility, whether findings can be made, general plan conformity and felt economic factors should not come into play. Secondly, he said one of the conditions in Section 6206.9 deals with allowing an exception to a Class II ridgeline, and specifically the statement that begins with "special circumstances and unique characteristics". To say that a development should be allowed in a ridgeline setback, this was the second incidence seen in less than one week which he views is a stretch of the applicability and interpretation of the hillside ordinance. He encouraged the Council to go back and determine if the findings can be made for the application and also review the Soldier Field for consistency in the ordinance so it is being applied fairly and consistently.

Mr. Bowie noted Section 6-2085 of the ordinance talks about factors and determination of an exceptions finding and those factors are listed and most deal with fair market value and the effect of an imposition of a restriction on that fair market value. So, he felt it was relevant. Regarding the Class II exceptions finding, special conditions and unique characteristics of the subject property exist. They have a pre-existing pad already graded and a pre-existing road that goes to that pad, this is the only place one can build on the site, and there is a pre-existing lot of record, so there is entitlement to build. He felt this was a situation where one can act within the scope of all of the ordinances and find that indeed it is a proper project to approve.

The public hearing was closed.

Mayor Samson agreed that Mr. Cocotis has done everything that one could reasonably expect to do to accommodate and mitigate. Councilmember Tatzin stated in his case, the economic factors played no consideration. He felt it was interesting that during earlier versions of the hearing, the Council heard the applicant's representative tell the Council that land was the residual value and then at another point, it was said this was an expensive lot and the Council should allow them to build a large house, so it was contradictory. However, he supported the project with the additional mitigations proposed, the project as defined and sited is substantially concealed with existing and new vegetation and landscaping.

Councilmember Anduri said he would not support the project and felt the Council was making a mistake in terms of how we apply the hillside ordinances. He referred to Mr. Bowie's letter dated June 26 where it talks about the statute of the ordinance, Section 2034 as applicable, and he read it. The problem with this is that it ignores Section 2023 which is the development restriction on Class I or II ridge, 2023b states, "no development may take place within 250 feet of a Class II ridge." Then, this takes you to Section 2027, the Grant of Exception Permitting development within a Class II Ridgeline; "the Planning Commission may grant an exception to the restriction of development on a Class II ridge by Section 62023 if it makes the findings with required by Section 62069 and that takes you to the Section that Mr. Tong referred to, which has two sections to it; 2069(b) is the one referring to economics, which clearly does not apply.

Councilmember Anduri said he agreed completely with how Mr. Tong presented the economics issue. He felt the relevant paragraph was A; which is special conditions and unique characteristics of the subject property exists and the site plan and design that such the proposed development would provide and satisfies the policies in Section 62067 and 62070, and would otherwise satisfy the strict standards of Section 62023 or 62024. He felt this was a

very unfortunate provision because it basically does not mean anything. The only thing it could mean is that if you are seeking an exception from Section 62023, that you will be held to a higher standard in the way you meet 62067 and 62070, and makes no sense at all.

So, looking at 62067 which are the general findings, he felt the development does not meet item 3 of the section. He read number 4 regarding structures being located away from ridgelines, hills and slopes, which was not the case. Section 62070, number A talks about structures being concealed and he still did not feel it met the criteria. He took great exception to the statement that the home was not visible at 2,000 square foot. He does not feel the distance makes a difference. In any case, it does not meet that requirement, and felt the structure did not have to be as big as it is on the property and there is a strong argument that the house was designed to meet an economic goal rather than to meet the City's regulations. He disagreed with number 3 and felt the project would have a significant visual impact. He said he was sorry the project would be approved, hoped that it does not set a precedent, and he knows the Council will have other applications who will be citing this project as a precedent, which will be a real problem.

Mayor Samson noted, regarding the economics, he believed the Council needed to be practical and questioned why the base was started at 4,000 square feet rather than 2,000 or something smaller. He was also of the belief it was amply demonstrated on the record that size does not matter in this case and did not create any proportional increase in its visibility. From this extent, he felt economics was irrelevant because what the Council was looking at was visibility which has been substantially mitigated by existing or new vegetation as required under the appropriate statute.

ACTION: It was M/S/C (Samson/Federighi) to adopt Resolution 2006-025 approving the project with the newly proposed landscape screening, subject to landscape screening adequacy review in five years. Vote: 4-1 (Ayes: Samson, Federighi, Anderson and Tatzin; Noes: Anduri).

- B. Tracy Robinson, Administrative Services Director**
Police Services Funding Ballot Measure language and consolidation resolutions to place the tax measure on the November 7, 2006 Ballot
Recommendation: Take public testimony and adopt Resolutions 2006-22 and 2006-23.

The public hearing was opened.

Public Comments:

TRACI REILLY, 3435 Silver Springs Court, said campaign letters went out early in June, response has been good, to date they have about \$4600 in the bank, 50 people who have offered time and/or money, they are getting more organized each day, are meeting on Thursday to work on their plan and she appreciated the Council's support. She thanked Council for the inclusion of the oversight committee which she felt would generate support.

The public hearing was closed.

ACTION: It was M/S/C (Tatzin/Anderson) to adopt Resolutions 2006-22 and 2006-23. Vote: 5-0 (Ayes: Samson, Federighi, Anderson, Anduri and Tatzin; Noes: None).