

## REPORT TO THE CITY COUNCIL

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**DATE:** December 2, 2014

**TITLE:** Rancho del Oro Landscape Maintenance

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**Reviewed by:** Steve Quintanilla, City Attorney

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### RECOMMENDATION

**Consider options regarding the landscape maintenance of Rancho del Oro (formerly known as Arroyo Vista) and provide direction to Staff.**

### DISCUSSION

As background information, the following were the approved by the City Council for the Rancho del Oro development:

On July 13, 1989, the City Council approved:

- a. Environmental Assessment 11-89 (Minute Motion No.89-P-25),
- b. Arroyo Vista Specific Plan 1-89 (Ordinance No. 89-4),
- c. Tentative Tract Map 23866 (Minute Motion No. 89-P-26),
- d. Assessment District 92-1 (Public Improvements) and,
- e. Assessment District 93-1 (Public Safety).

The subdivision (Exhibit 1) is generally bounded by Mission Lakes Boulevard to the south, Sonora Drive to the west, West Drive to the east and mountains to the north. Tentative Tract Map No. 23866 (Exhibit 2) was recorded on October 22, 1992 and involved subdividing 155 acres into 494 lots for single-family detached residential dwelling units. The original developer received approval for the formation of two assessment districts for the acquisition of street, sewer, water, drainage and dry utilities within the project. The funds used to finance the assessment districts came from the proceeds of the sale of bonds. The improvements were to be completed by the original developer but failed. While the original developer did complete 88 acres of the property it went into foreclosure. The remainder of the tract map then expired. A new tract map would be required to complete the remainder portions of the project. However, this never happened and the remaining parcels on the northern part of the project were eventually purchased by the Palm Springs Unified School District to build schools (Painted Hills Middle School and Bella Vista Elementary School) which are currently under operation. The subdivision currently consists of 259 single family residential lots, all individually owned, with the exception of some open space lots.

On July 29, 1992, the City Council approved:

- a. Development Agreement (Ordinance No. 92-6).

A Development Agreement (DA) is a contract between the City and an applicant for a development project that typically outlines development rights, fees and other requirements, including provisions to allow the project's entitlements and conditions to be based on the rules and regulations.

According to the Development Agreement, the developer was responsible for the following:

1. Traffic Signal – Owner to pay fair share allocation of the cost of a traffic signal at the intersection of West Drive and Mission Lakes Boulevard. There is no evidence that this was done.

2. Park – A Condition of the tract map was for the owner to submit plans for a park for dedication in conjunction with the development of the first phase or at recordation of the final map for the first phase. The Development Agreement revised this Condition to have the owner restore the area to a natural condition for its function as a storm water retention basin. This area is a retention basin that has been dedicated to the City for public purposes.
3. Another Condition of the tract map was for the owner to agree to an operation and maintenance plan for the park for a period of one year, or for a time period as determined by the City Council following compliance with the landscaping plan as approved by the Planning Commission and City Council. The Development Agreement revised this Condition to have the owner maintain the retention basin mentioned above, until such time as the landscaping becomes established and self sustaining. There is no evidence that this was done.
4. Development Fees – Owner was to pay all applicable fees. It appears the developer did this for the homes that exist today.
5. Landscape Maintenance – Owner was to maintain all perimeter landscaping and the storm water retention basin before and after the expiration of the Development Agreement. Owner was to cooperate with the City in the formation of an assessment district to bear the full burden of maintaining the landscaping and retention basin. Owner was to pay all costs incurred by the City in the formation of the assessment district. Owner was to maintain the landscaping and retention basin until such time the assessment district in place was capable of assuming that responsibility. There is no evidence that the assessment district was ever formed. The tract map shows that the perimeter landscape lots are still owned by the successors which are the property owners within the Tract. However, the City has been maintaining and carrying the burden of maintaining the perimeter landscaping to the benefit of the residents at no cost to them. It is recommended that the City stop maintaining the perimeter landscaping and establish an assessment district for the maintenance of said landscaping.

There was no performance schedule in this Development Agreement. The outstanding issue is the maintenance of certain landscaped areas. The area in question is approximately eleven (11) feet in width between the perimeter wall and the city's right-of-way (Exhibit 3). The City has been maintaining this landscaping including covering the costs of water, electricity and green waste fees for approximately twenty one (21) years with no cost recovery from the residents because the assessment district was never established. Staff had several meetings with some residents of the subdivision to discuss options on how the landscaping maintenance can be resolved. Based on the last meeting of November 6, 2014, it was decided that there are three options for the City Council to consider. These included the following:

1. Accept the landscaped area into LMD No.1 and have the City continue to maintain it. LMD No. 1 includes two Zones (A and B). Zone A includes maintenance of street lights and parks for the entire City. Zone B includes the territory known as the Palm Tree Lighting and Parkway Maintenance boundary (Exhibit 4). It is staff's opinion that LMD No.1 does not include Rancho del Oro subdivision.
2. Establish an assessment district whereby each property owner is assessed an amount to help cover the costs of maintaining it.

The 1972 Act allows areas to be annexed into an existing District if and when the areas to be annexed receive substantially the same degree of benefit from the improvements that the other District properties receive. Back in 2013, Albert A. Webb Associates was retained to prepare the Annexation Engineer's Report (Exhibit 5), which indicates how the annexed property benefits from the existing District improvements, provides an estimate of the total costs to the Annexed Property Owners and the method of apportioning these costs to the 259 individual lots, and

provides a diagram of the area to be annexed into the District. In summary, based on the report, the assessment would be \$98,575.40, or \$380.60 annually or \$ \$31.72 a month for Fiscal Year 2013-14. This figure would need to be updated to reflect current numbers but this is good estimate.

There were two other estimates provided by the then landscape contractor that included a \$60,000 option (Exhibit 6) and a \$30,000 option (Exhibit 7) annually. At \$60,000 annually, the assessment would be \$231.66 annually or \$19.31 a month. At \$30,000 annually, the assessment would be \$115.83 annually or \$9.65 a month. It should be noted that while the lesser amounts may seem more acceptable, it would result in less man hours for maintenance.

Based on the requirements of California State Constitution Article XIII C and XIII D and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750, et seq.), a property owner ballot protest procedure will be required in order to annex property into the District and to levy an assessment on the Annexed Property. Following the adoption of the Resolution of Intention by the City Council, ballots will be mailed to each property owner located within the Annexed Property so that they may indicate whether they are in favor of or opposed to the maximum assessments rates as described in this report. City staff will hold outreach meetings to provide information on the assessment and answer any questions. The City will then hold a Public Hearing on the matter of annexing in the property and assessing a levy on the Annexed Property and all property owners' ballots to be counted must be returned prior to the close of the Public Hearing scheduled for a date yet to be determined. Following the conclusion of the Public Hearing, the ballots will be tallied. If there is not a majority protest and the ballot procedure is successful, the City Council can confirm Annexation 18, Zone 19 Engineer's Report and order the levy and collection of assessments as soon as possible. If the ballot procedure is unsuccessful, the levy cannot be collected.

3. Remove all landscaping and irrigation and install gravel.

If the ballot procedure mentioned above is unsuccessful, then Staff recommends that option number 3 be implemented. All landscaping and irrigation will be removed within the six (6) foot wide landscaped area within the City's right-of-way and replace it with decomposed granite. This would leave eleven (11) feet of landscaping for the Rancho Del Oro residents to maintain as they choose. Most likely, to continue maintenance of this area, the residents may need to establish a Homeowner's Association or some other formal procedure to determine how the area will be maintained. Either a private landscape contractor will be hired by the residents or the residents themselves may maintain the area.

### **FISCAL IMPACT**

Currently, the costs of maintaining the Rancho Del Oro landscaping and maintenance costs are being provided by the City. If the assessment is approved, the annexed property will generate approximately \$98,575.00 per year to help offset the costs of maintaining and servicing the improvements in the existing Rancho Del Oro areas. This option would result in an annual cost of \$380.60 annually or \$ \$31.72 a month. The \$60,000 option would result in an annual assessment of \$231.66 or \$19.31 a month. The \$30,000 option would result in an annual assessment of \$115.83 or \$9.65 a month.

### **EXHIBIT(S)**

- 1) Site Aerial Map
- 2) Tract Map 23866
- 3) Rancho el Oro Landscaped Lots
- 4) LMD No.1 Description
- 5) Rancho del Oro LMD No.1 Engineer's Report
- 6) Rancho del Oro Landscape Bid (02-14-13)
- 7) Rancho del Oro Landscape Bid (06-25-13)