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JUL 17 2017

City of Rolling Hills

Subject: Draft View Ordinance ATTACHMENT A Comments

Date: Friday, July 14, 2017 11:30:02 AM Pacific Daylight Time

From: Lynn Gill < >

To: Yolanta Schwartz < >

CC: Richard Colyear < >, Spencer Karpf < >, By \_\_\_\_\_, James Wald2

Honorable Planning Commissioners:

The draft prepared by the City Attorney differs substantially from what the Planning Commission and Ad-Hoc Committee have decided. It will take hours of analysis to determine the overall negative impact.

Key changes determined so far:

1. Eliminates/weakens the clear establishment of the two basic property rights and duties of RH Property Owners, i.e, to
  1. Establish the rights and duties of a Property Owner (View Seeker) in the City of Rolling Hills to preserve and/or restore an Established View
  2. Establish the rights and duties of a Property Owner (Vegetation Owner) in the City Of Rolling Hills to preserve and maintain Established Vegetation
    - It appears you only get to keep your view as it existed 10 years ago, not as it was when you purchased. If that were even reasonable, how would you ever establish what that view was?
    - Completely eliminated a clear statement of the right of the property owner to maintain his established trees/vegetation as it existed on his original purchase date
2. Completely eliminated Spencer's Remedy Categories if an owner does not act timely to preserve his view
3. Weakens consideration of "mitigating factors" from a right to privacy, shade, soil stability, etc. to factors that "may be considered"
4. Eliminates most of the process steps that guide the view equity process. Depending on the ever changing makeup of the CTV, each property owner could get an entirely different result
5. Allows topping of trees, which is outlawed in most cities. This can be easily fixed on page circle 22 by adding the words "Heading back and Topping" in #4, and Heading back and topping is only permitted..," and deleting #5
6. Eliminated all the explanatory pictures from the ordinance that are included in virtually all other city view ordinances. "A picture is worth a thousand words."
7. It does change the role of the City to advisory. This is good, and brings RH's view ordinance closer to those of other cities

Overall, the draft ordinance significantly tilts the property rights balance in favor of the view seeker at the expense of the vegetation owner. The intent and purpose of the ordinance is to strikes an equitable balance of property rights.

Planning Commission has made progress by having the City take an advisory role, but in my opinion the draft ordinance takes several steps back.

Sincerely,  
Lynn

July 18, 2017

TO: Honorable Chairman and Members of the Planning Commission  
RE: Response to Agenda Item No. 8B; Meeting Date: 07/18/17  
FROM: Gary & Debi Fournier @ 30 Crest Road East

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City of Rolling Hills  
By \_\_\_\_\_

We are unable to attend the upcoming public meeting which will discuss the consideration of a new Resolution regarding Trees & View Preservation in Rolling Hills. However, we would like to comment on a couple of proposed changes that are of concern to us.

- 1) We disagree that the complainant's "Pre-Existing View" should be limited to the last 10 years of home ownership irrespective of when they purchased their home. It is irrelevant how many years pass between when a homeowner purchases their property, when a view becomes obstructed, and when a homeowner is forced to begin the dispute resolution process with the City in order to try to regain the view they lost over time from the growth of their neighbor's trees. There are many reasons why such a limit could create an unfair disadvantage to the complainant. For example:
  - a) Few properties are on completely level or flat land. Most have considerable slopes within their properties. A homeowner can plant large tree specimens downslope which can grow unseen over many years...sometimes over 10 years...before becoming a view problem to their upslope neighbor. At the time they become noticeable enough to create a view complaint, the tree is oftentimes considered "maturing" or "mature" to the point that it is deemed a "horrific act" to have it cut down. Or an arborist is paid to claim that the tree is susceptible to beetles and other pests that might kill it if it is trimmed, the tree grower gets a "pass" and the tree remains a view obstruction...particularly when the tree is a pine tree or eucalyptus tree which are the primary view problem culprits in our City.
  - b) Neighbors are encouraged by the City to work these view problems out before starting a resolution process. Most neighbors attempt to do this, but not all neighbors are sincere in their attempt to finding a workable solution to their disagreements. The back and forth between the parties can be very time consuming, during which the property owner who is obstructing the view gives false hope to the complainant as they intentionally delay decisions in order to buy time...additional growing time for their increasingly large trees. At first they might try to appear neighborly, but they oftentimes have no intention of actually finding a workable solution.
  - c) If the committee is compelled to put a time limit on the complainant's pre-existing view, it needs to be at least 20 years back. Ten years is not enough.
- 2) We disagree that there should be a distance requirement of 1000 feet of the complainant's property for view impairment complaints.

- a. A view is a view is a view. If a tree becomes a view obstruction, it is irrelevant from where it is growing or how far away it is planted. The tree has grown into the view enough to be a problem to cause a complaint. It should be able to be considered for removal. This is why the City has a Tree & View Committee-- to review such complaints and render a decision as to whether or not the complaint is reasonable. It is our opinion that this footage restriction appears to be unfairly created in favor of the homeowner who has view-blocking trees & is hugely unfavorable toward the view seeker.
  - b. Being able to apply a uniform measurement of 1000 feet basically eliminates the cutting or removal of many trees which we are guessing is the intent in its creation. Each property is unique. Each view situation is unique. Each vegetation planting and growth is unique to both parties at odds with one another. That is why the view & tree disagreements can be so challenging. The final decision cannot fairly be narrowed down into a precise number of feet or distance. Each decision needs to be made on a case to case basis.
  - c. Most properties in Rolling Hills are quite large—at least one acre, although the sizes vary considerably. When you consider this fact, it's hard to rationalize a 1000 foot limit for a view obstruction. There are 43,560 feet in an acre. There are approximately 208.71 feet per side of a square acre. (Note: most properties are not in the shape of a square.) Let's say the property with the trees obstructing the complainant's view is 5 acres. And let's say there is a street and easements between the disagreeing parties that are several hundred feet. And let's say the offending trees are at the back or bottom half of that property or on the far side. It's feasible that the trees could be just beyond the 1000 feet limit and even though they are blocking one's view they cannot be touched. We don't see how anyone can think that this measurement will uniformly create a fair decision. We repeat, each property & view situation is unique. Vegetation is either blocking the view or not blocking the view. A decision should be based on that fact alone. Period.
- 3) It is our opinion that when a view obstruction is resulting from vegetation in an easement which is supposed to be free and clear of plantings, it should be considered for removal per RHCA regulations. Otherwise our "trails" are going to continue to be overrun with plantings. Homeowners are supposed to keep these easements free and clear of vegetation and structures unless they have otherwise received a special permit to do otherwise.
  - 4) It is our opinion that the present dispute resolution process places an unfair burden on the person with the view complaint who has done nothing wrong. The person with the view obstruction is the victim. The person who has planted the trees is the perpetrator. Sometimes the planting of trees is an innocent act. Sometimes it is intentional. Either way, the property owner with the trees blocking one's view oftentimes needs to have some "skin in the game" earlier in the process in order to move everything forward in a reasonable time frame. Many homeowners cannot afford to fight to regain their views because they are told they must pay for the initial costs (dispute filing, arborists, surveys, tree trimming, etc.) which can be extremely expensive and a deterrent for those on a fixed budget. We hope that you will take this into consideration when finalizing your decisions about Trees and Views regulations.

- 5) We feel it would be prudent for the City to somehow include the need for realtors to disclose the Tree & View regulations upon the sell/purchase of properties so that the new homeowner is aware of our unique and important regulations. Such measures could go a long way in helping residents to retain their views and avoid future disagreements and/or lawsuits. A new homeowner might avoid planting a tree that could grow into their neighbor's view if they realized the repercussions beforehand. A data base might need to be developed, as previously discussed, in order to assure a new homeowner has been given this information.

We would like to take the time to thank those individuals who have given much time and energy with the intent to create a more fair Resolution. All residents in the City of Rolling Hills have the opportunity to elect representatives as well as support other residents who have volunteered to be on various committees making important decisions that can have a huge impact on the community at large. Hopefully, these selected individuals are not pushing their own agenda while in their positions. Residents should not be labeled as "tree people" or "view people", as such polarization does not do justice to our community. We all have trees on our properties. Most have views they love, whether an ocean view or canyon view. Each view dispute should be considered within its unique situation and not have a committee decision that is so micromanaged by a set of regulations that it creates bigger problems for everyone in the long run.

We encourage the committee and staff to continue their modifications. **We hope they do NOT adopt the present Draft Resolution as presented today.**