City of Rolling Hills INCORPORATED JANUARY 24, 1957

NO. 2 PORTUGUESE BEND ROAD
ROLLING HILLS, CA 90274
(310) 377-1521
FAX (310) 377-7288

PLANNING COMMISSION
PUBLIC FORUM ON VIEW PRESERVATION

STAFF REPORT ATTACHMENT

#1
ROLLING HILLS

"View" means a view from a principal residence and any immediately adjoining patio or deck area at the same elevation as the residence which consists of a visually impressive scene or vista not located in the immediate vicinity of the residence, such as a scene of the Pacific Ocean, off-shore islands, city lights of the Los Angeles basin, the Palos Verdes Hills or Los Angeles Harbor.

"View impairment" means a significant interference with and obstruction of a view by landscaping, trees or any other planted vegetation. (Ord. 239 §11(part), 1993).

Chapter 17.26

VIEW PRESERVATION

Sections:

17.26.010 Intent and purpose.
17.26.020 Committee on trees and views.
17.26.030 Desirable and undesirable trees.
17.26.040 Abatement of view impairment--Procedure.
17.26.050 Hearing procedure and findings.
17.26.060 Implementation of restorative action.
17.26.070 Enforcement.
17.26.080 Notification of subsequent owners.

17.26.010 Intent and purpose. The City recognizes the contribution of views to the overall character and beauty of the City. Panoramic views of the Pacific Ocean, Catalina Island, City lights and Los Angeles Harbor are a special quality of property ownership for many residential lots in the City. These views have the potential to be diminished or eliminated by maturing landscaping located on private property. The purpose of this chapter is to protect this important community asset by establishing procedures for the protection and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal. (Ord. 239 §11(part), 1993).

17.26.020 Committee on trees and views. A Committee on Trees and Views is established for the purpose of administering the provisions of this chapter. The Committee shall be composed of three members of the Planning Commission appointed by the Commission annually at the same time as the Commission selects its officers, or whenever a vacancy occurs. Committee meetings shall be scheduled as adjourned or special meetings of the Commission. The Committee is authorized to consult with City officials and with specialists such as landscape architects and arborists as required, but shall not incur any expense on behalf of the City without prior approval of the City Council. (Ord. 292 §4, 2003: Ord. 239 §11(part), 1993).

17.26.030 Desirable and undesirable trees. The Committee is authorized and directed to prepare lists of types of desirable and undesirable trees for planting within the City. The list shall be based upon tree size and shape, rate of growth, depth of roots, fall rate of leaves or bark or fruit or branches, and other factors related to safety, maintenance and appearance. The purpose of this provision is to make information available to property owners which may serve to avoid future occasion for permits, complaints, and other proceedings authorized by this chapter. (Ord. 239 §11(part), 1993).

17.26.040 Abatement of view impairment--Procedure. Any person who owns or has lawful possession of a residence from which view is impaired by vegetation growing on property other than their own may seek abatement of the view impairment under the following procedure:

A. Application Required. The complainant shall submit a complete application for abatement of view impairment on a form provided by the City. The application shall be accompanied by a fee as provided for in Section 17.30.030 of this title. The complainant shall describe in the application what efforts have been made by the complainant to resolve the view impairment prior to filing the complaint. A complaint shall not be accepted for filing unless the complainant can demonstrate that the owner of the view-impairing vegetation has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so.

B. Mediation. Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for conduct of a mediation session to abate the view impairment. The mediator shall be responsible for notifying the property owner of the view-impairing vegetation of the application and for scheduling and managing the mediation process. If agreement is reached through mediation, it shall be implemented in accordance with Section 17.26.060.

C. Public Hearing. In the event mediation fails to achieve agreement, the matter shall be returned to the City Manager, who shall schedule the matter for a public hearing before the Committee on Trees and Views. (Ord. 292 §5, 2003; Ord. 239 §11(part), 1993).

17.26.050 Hearing procedure and findings. A. Notice Required. Public notice of the hearing shall be given a minimum of fifteen days prior to the hearing. The hearing shall not proceed unless proof is shown that the owner of the tree or other obstructing vegetation received notice of the hearing as provided herein:

1. Notice shall be given by certified mail, return receipt requested, to the owner of the tree or other obstructing vegetation and to the complainant;

2. Notice shall be given by first class mail to all property owners within one thousand feet of the exterior boundary of the property on which the tree or other obstructing vegetation are located and to other persons who, in the Committee's judgment, might be affected.

B. Content of Notice. The notice shall state the name of the complaining party, the name of the property owner against whom the complaint is filed, the location of the tree or other vegetation, and the time and place of hearing. The notice shall invite written comments to be submitted prior to or at the hearing.

C. Conduct of Hearing. The Committee shall adopt rules for the conduct of required hearings. At the hearing, the Committee shall consider all written and oral testimony and evidence presented in connection with the application. In the event the Committee requires expert advice in consideration of the matter, the cost of obtaining such evidence shall be borne by the complainant, pursuant to written agreement with the City.

D. Findings. Based on the evidence received and considered, the Committee may find any of the following:

1. That no view exists within the meaning of this chapter;

2. That a view exists within the meaning of this chapter, but that the view is not significantly impaired; or

3. That a view exists within the meaning of this chapter and that it is significantly impaired.

The Committee shall make specific written findings in support of the foregoing determinations.

E. Action. If the Committee makes finding subsection (D)(3) of this section, it shall order such restorative action as is necessary to abate the view impairment and to restore the complainant's view, including, but not limited to, removal, pruning, topping, thinning or similar

alteration of the vegetation. The Committee may impose conditions as are necessary to prevent future view impairments. In no event shall restorative action be required if such action would adversely affect the environment or would unreason-ably detract from the privacy or enjoyment of the property on which the objectionable vegetation is located.

F. Finality of Decision. The Committee's decision shall be final twenty days after adoption of its written findings, unless it is appealed to the City Council pursuant to the provisions of Chapter 17.54. (Ord. 295 §7 (Exh. B (part)), 2004; Ord. 239 §11(part), 1993)

17.26.060 Implementation of restorative action. A. Within thirty days of a final decision ordering restorative action, the complainant shall obtain and present to the owner of the obstructing vegetation three bids from licensed and qualified contractors for performance of the work, as well as a cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance which protects and indemnifies the City and the complainant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the City.

B. The owner of the obstructing vegetation may select any licensed and qualified contractor to perform the restorative action (as long as the insurance requirements of subsection A of this section are satisfied), but shall be responsible for any cost above the amount of the cash deposit. The work shall be completed no more than thirty days from receipt of the cash deposit.

C. Subsequent maintenance of the vegetation in question shall be performed as prescribed by the Committee's final decision at the cost and expense of the owner of the property on which the vegetation is growing. The vegetation shall be maintained in accordance with the final decision so as not to allow for future view impairments. A notice of the decision shall be recorded against the title of the property and shall run with the land, thereby giving notice of this obligation to all future owners.

D. The implementation method provided for in this section may be modified by the parties or in any final decision if grounds exist to justify such a modification. In particular, the Committee may allocate the cost of

restorative action as follows:

1. If the Committee finds that the tree or other vegetation constitutes a safety hazard to the complainant or his property, and is being maintained by the owner in disregard of the safety of others, the owner may be required to pay one hundred percent of the cost of correction; or

2. If the owner is maintaining a hedge fifteen feet or more in height, the Committee may allocate the cost of correction to the property owner, provided that the owner of the land on which the hedge exists shall not be required to pay more than twenty-five percent of the cost of such correction. (Ord. 239 §11(part), 1993).

17.26.070 Enforcement. A. Failure or refusal of any person to comply with a final decision under this chapter or to comply with any provision of this chapter shall constitute a misdemeanor and shall be punishable by a fine of one thousand dollars or six months in County Jail, or both. Failure or refusal of any person to comply with a final decision under this chapter shall further constitute a public nuisance which may be abated in accordance with the procedure contained in Chapter 8.24.

B. A final decision rendered under this chapter may be enforced civilly by way of action for injunctive or other appropriate relief, in which event the prevailing party may be awarded attorney's fees and costs as determined by the court.

C. Nothing in this chapter shall preclude the prosecution of any civil cause of action under the law by any person with respect to the matters covered herein. (Ord. 239 §11(part), 1993).

17.26.080 Notification of subsequent owners. The owner on whose property the offending vegetation exists shall notify all successor owners of the final decision in any proceeding under this chapter, and such decision shall be binding upon all such successors in interest. Within thirty days of the final decision, an informational covenant shall be recorded against the title of the property on a form provided by the City. (Ord. 239 §11(part), 1993).

City of Rolling Hills INCORPORATED JANUARY 24, 1957

NO. 2 PORTUGUESE BEND ROAD
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MAINTAINING SCENIC VIEWS IN ROLLING HILLS
FREQUENTLY ASKED QUESTIONS

In 1936, at the inception of Rolling Hills, property owners built homes and non-native trees, mainly eucalyptus and California pepper, were introduced into a semi-arid peninsula that had only native shrubs and grasses. Since then, Rolling Hills has been transformed by trees and landscaping. The numerous trees and hedges, rising above the low silhouette of homes, block views and vistas and cause, in large part, the City's designation as a Very High Fire Hazard Severity Zone area.

In his book, Rolling Hills, the Early Years (1930-1941), A.E. Hanson describes Rolling Hills as country, private, lots of sunshine and a "view that could never be obscured" and, the City's General Plan is based on this vision. The General Plan prescribes the goal of preserving the rural environment, preserving open space and protecting scenic views. Existing ordinances and development standards, in turn, limit the profile of homes to one story, protect against the mansionization of homes, minimize the amount of grading, and *preserve the right of all residents to have a scenic view.*

All property in Rolling Hills is subject to the laws and regulations of two governing entities: the City of Rolling Hills and the Rolling Hills Community Association. Herein are answers to frequently asked questions about the City's regulations and procedures for abating existing view obstructions.

What view(s) are protected for residents?

A scene of the Pacific Ocean, off-shore islands, city lights of Los Angeles basin, the Palos Verdes Hills or Los Angeles Harbor from a principal residence and any immediately adjoining patio or deck area at the same elevation (M.C. 17.12.230-17.12.250).

Are there any limits on what the City can require to protect a view?

A City's view restorative action cannot adversely affect the environment or unreasonably detract from the privacy or enjoyment of the property on which the objectionable vegetation is located (M.C. 17.26.050.E.).

From what point in time are residents entitled to have a view from "a principal residence and any immediately adjoining patio or deck area at the same elevation"?

The Municipal Code provides that scenic views are to be preserved and maintained on the basis that they are a community asset and a factor in the overall character and beauty of the City. The Municipal Code does not establish a point in time from which a view must be preserved such as the date of the subdivision, final certificate of occupancy for a current or future house, the move-in date of a current resident, or any specific date (M.C. 17.26.010).

Why is there no specific date from which a view must be preserved?

In 1987/1988, the Planning Commission and City Council, taking into consideration the private property rights of homeowners, and after many public meetings, concluded that all residences are entitled to scenic views.

Virtually all the landscaping in Rolling Hills, not in canyon areas, is not native; the vegetation was planted within the past 75 years as the community developed. Without creating and maintaining an extensive photographic record of vegetation planted on properties, one of the most objective means of evaluating a view impairment is without consideration of when vegetation was planted. As such, Municipal Code simply provides that views cannot be significantly impaired by the maturing landscaping (M.C. 17.26.050 D).

The intent of this provision is to maintain scenic views and vistas for all residences. Based on the City's geographical location and topography, views represent a unique and special characteristic of the community; the open space and expansive views throughout the community are a foundation upon which A.E. Hanson created the original Rancho Elasitco subdivision. Strict development restrictions and standards in the City limit the size and location of residences and, for the most part, the City is built-out. New construction consists of remodels or re-construction in place, so new view sites are not typically created now.

How can I get a view that is currently blocked?

The best, most direct, efficient and least impactful method of obtaining a view that is currently impaired by vegetation is to communicate directly and make arrangements with the neighbor owning the trees that cause the obstruction. If such efforts are not successful, a resident may apply to the City of Rolling Hills and/or the Rolling Hills Community Association with a complaint.

Talking directly with your neighbor and visiting each other's property promotes the good will and understanding that usually results in view restoration that pleases everyone – it works better than writing letters. Usually, there will be "give and take" to come to a workable agreement and sometimes, shared costs in tree trimming and/or removal is the best way to arrive at a sustainable, affordable and fair plan. After initial restoration, it is usually the responsibility of the owner of the obstructing trees to bear the costs of recurrent tree trimming or thinning needed to maintain the view. If directly talking among neighbors fails to achieve an agreement, the property owners may want to use a skilled and experienced mediator. The City can provide references to mediators.

As the "last resort", a resident may apply to either the City of Rolling Hills or the Rolling Hills Community Association. The City's process is formal and lengthy and, to initiate it, the complainant must show evidence that they have sincerely tried to independently resolve the problem with the neighbor. Specific information about the City's application requirements can be found at www.Rolling-Hills.org or from City Hall at 310.377.1521.

What is the City's formal process for resolving view impairment complaints?

Upon submitting to the City a fully completed application and the application fee, the complainant and tree owner will participate in mediation to privately and independently attempt to resolve the complaint. If mediation is not successful, the complainant can appeal to the Committee on Trees and Views. The Committee will hold publicly noticed meetings to assess the complaint, weigh the arguments presented by the parties and determine an outcome. Following the public hearing, the Committee has the authority to require full restoration of the complainant's view as long as the restorative action does not adversely affect the environment or unreasonably detract "from the privacy or enjoyment of the property on which the objectionable vegetation is located" (M.C. 17.26.050 E). The Committee's decision will be formalized into a Resolution that will be recorded on the property unless the Committee's decision is appealed to the City Council. If the decision is appealed, then the City Council will in turn assess the complaint and determine an outcome. The City Council's decision will then be formalized into a Resolution that will be recorded on the property. The City Council's decision is final.

Who pays for restoring and maintaining the view?

When the complaint is resolved by the Committee on Trees and Views or the City Council, the Municipal Code places the responsibility for restoring the view on the complainant. Typically, this also includes mitigating the impact of trees that are removed. Thereafter, it is the tree owner's responsibility to maintain the view in accordance with the adopted Resolution. In certain situations, when appropriately justified, this assignment of costs may be modified (M.C. 17.26.060).

What happens if the view isn't maintained in accordance with the approved Resolution?

Upon receiving a complaint that the view is not being maintained per the approved Resolution, City staff will evaluate the situation. If staff concurs that the view is not in conformance with the Resolution, staff will begin working with the tree-owner to resolve the situation in a reasonable manner. If efforts are not successful in achieving compliance, nuisance abatement procedures will commence. Failure or refusal to comply with the adopted Resolution constitutes a misdemeanor.

MAINTAINING SCENIC VIEWS IN ROLLING HILLS.docx

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City of Rolling Hills INCORPORATED JANUARY 24, 1957

NO. 2 PORTUGUESE BEND ROAD
ROLLING HILLS, CA 90274
(310) 377-1521
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VIEW IMPAIRMENT COMPLAINT

VIEW IMPAIRMENT AFFIDAVIT

Any person who owns or has lawful possession of a residence from which a view is impaired by vegetation growing on property other than their own may seek abatement of a view impairment pursuant to Chapter 17.26 of the Municipal Code (attached).

APPLICATION AND REQUEST FOR HEARING

In order to obtain abatement of view impairment, a property owner must submit an application and request a hearing before the View Impairment Review Committee. To do so, the applicant shall assemble the necessary application documents and submit them to City Hall. City staff will review your application.

SUBMITTAL INFORMATION

Complete and submit for each application:

1. "Request for Hearing" Application (attached).

2. Owner's Declaration (attached).

3. Ownership List: Prepare a complete list of names and mailing addresses of all property owners of each parcel, within or partially within a 1,000 foot radius of the exterior boundaries of the property under consideration with vegetation, including the owner of the subject property. This information must be as it appears on the latest available assessment roll of the Los Angeles County Assessor. This list shall be certified to be true and correct (complete Certified Property Owner's Affidavit).

   Type Self-Adhesive Mailing Labels: In addition to the Ownership List required, submit three complete sets of typed self-adhesive mailing labels for all property owners listed on the Ownership List.

4. Filing Fee (per Resolution No. 1119)

a. Application Fee (includes costs of mediation)	$1,000
b. Review by Committee on Trees and Views Processing fee	$2,000
Environmental Review Fees:	
c. Preparation and Staff Review of Initial Study	$200
d. Preparation of Negative Declaration or Mitigated Negative Declaration	$1,000 (plus fee charged by CA Dept of Fish & Game, if applicable, as adjusted annually)

REGULAR MEETINGS

Once an application has been accepted as complete by the City, a meeting will be set before the Mediation Service. If mediation does not resolve the matter, a public hearing will be set before the View Impairment Review Committee. Applications must be submitted to the City Manager's Office with sufficient time in your plans to attend at least three meetings to allow the mediator and/or the View Impairment Review Committee to study the facts presented and to make a field trip to review the physical conditions. The applicant or a representative must appear at the meeting.

AUTHORITY AND RESPONSIBILITY

Based on the evidence received and considered, the Committee may find any of the following:

1. Whether no view exists within the meaning of the View Preservation Ordinance;
2. Whether a view exists within the meaning of the View Preservation Ordinance, but that the view is not significantly impaired; or
3. Whether a view exists within the meaning of the View Preservation Ordinance and that it is significantly impaired.

DECISION OF THE VIEW IMPAIRMENT REVIEW COMMITTEE:

The action of the View Impairment Review Committee will be final unless within twenty (20) days following the notice to the applicant of the decision, an appeal in writing is filed with the City Clerk by:

1. The applicant;
2. Any person who protested, either orally or in writing, as a matter of record, prior to the final vote of the View Impairment Review Committee on the matter and who, in addition, received or was entitled to receive the written notice specified in Section 17.26.050 of the Rolling Hills Municipal Code; or
3. The City Council, upon the affirmative vote of three members of the Council.

Upon obtaining a view impairment judgment, it will be necessary for the complainant and

complainee to sign a copy of the findings that they understand and accept the conditions of approval.

CHECKLIST FOR APPLICATION SUBMITTAL

In addition to the required information in the attached application materials, the following information must be submitted in order for an application to be deemed complete:

1. Name, address and telephone number of applicant.

2. Vicinity map showing the properties involved in the case (City staff can assist with this).

3. Photographs depicting the view impairment as per the Municipal Code.

4. Designate the area(s) for which the Abatement of View Impairment is requested and identify whether the vegetation is within an easement.

5. Copies of written, oral or other communications attempting to resolve the matter prior to submitting the application to the City and copies of evidence that the owner of the vegetation has refused to comply.

6. Filing Fee (per Resolution No. 1119)

Application Fee (includes costs of mediation)	$1,000
Review by Committee on Trees and Views Processing fee	$2,000
Environmental Review Fees:	
Preparation and Staff Review of Initial Study	$200
Preparation of Negative Declaration or Mitigated Negative Declaration	$1,000 (plus fee charged by CA Dept. of Fish & Game, if applicable, as adjusted annually)

PUBLIC:COMMITTEE ON TREES & VIEWS:Forms:ViewComplaintForm.doc

REQUEST FOR HEARING

ABATEMENT OF VIEW IMPAIRMENT

PROPERTY OWNER: _____

OWNER'S ADDRESS: _____

TELEPHONE NO: _____

PROPERTY'S ADDRESS: _____

LEGAL DESCRIPTION: **LOT NO.** _____

ASSESSORS BOOK NO. _____ **PAGE** _____ **PARCEL** _____

AGENT'S NAME: _____

AGENT'S ADDRESS: _____

TELEPHONE NO: _____

NATURE OF PROPOSED PROJECT

Describe in detail the nature of the proposed view restoration. Include documentation showing a good faith effort to effect a solution to the view impairment with complainee and evidence that the owner of the vegetation has refused to comply.

_____

_____

_____

_____

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_____

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_____

Describe how the view is impaired.

_____

_____

_____

_____

_____

_____

Describe what views will be restored by elimination or trimming of the vegetation.

_____

_____

_____

_____

_____

_____

Describe what action is specifically proposed to restore the view (i.e. topping, trimming, removal of vegetation).

_____

_____

_____

_____

_____

_____

FILING FEE

A filling fee of $1,000.00 for must accompany the application. Make check payable to the **CITY OF ROLLING HILLS**. Additional fees will occur if review by Committee on Trees and Views is needed (please see page 3 of the application for details).

OWNER'S DECLARATION

I (We) declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California,

this _____ day of _____, 20 _____

By: _____

By: _____

_____
Address

_____

NOTE: The Owner's Declaration can only be used if this application is signed in California. If this application is signed outside of California, the applicant should acknowledge before a Notary Public of the State where the signature is fixed, or before another officer of that State authorized by its laws to take acknowledgments, that he (it) owns the property described herein, and that the information accompanying this application is true to the best of his (its) knowledge and belief. Attach appropriate acknowledgment here.

_____

APPLICANT:_____ DATE FILED:_____

REPRESENTATIVE:_____ FEE:_____

COMPANY NAME:_____ RECEIPT NO:_____

COMPANY ADDRESS: BY:_____

_____

_____

COMPANY PHONE NO. (____)_____

PROPERTY ADDRESS:

_____

_____

CITY OF ROLLING HILLS VIEW IMPAIRMENT CASE

CERTIFIED PROPERTY OWNER'S LIST

AFFIDAVIT

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF ROLLING HILLS)

I, _____, declare under penalty of perjury that the attached list contains the names and addresses of all persons to whom all property is assessed as they appear on the latest available assessment roll of the County within the area described and for a distance of one thousand (1,000) feet from the exterior boundaries of property legally described as:

_____

_____

_____

_____

_____

Executed at _____, California, this _____ day of _____, 20 _____.

_____
SIGNATURE

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June 16, 1987

PROPOSED ORDINANCE PERTAINING TO TENNIS COURTS

The City Manager reported that at the City Council meeting on June 8, 1987 a proposed ordinance pertaining to tennis courts and repealing Ordinance No. U-51, which extended the moratorium on tennis courts to July 28, 1987, was introduced. If adopted at the next meeting of the City Council on Monday, June 22, 1987, the ordinance will become effective on July 23, 1987, and the moratorium will terminate on that date.

ZONING CASE NO. 330, NORMAN LA CAZE, C.U.P. - TENNIS COURT

The request by Mr. Norman La Caze for a Conditional Use Permit for construction of a tennis court on Lot 90-RH, located at 24 Portuguese Bend Road, was held on the agenda pending action by the City Council on June 22, 1987.

ZONING CASE NO. 331, DR. MEHDI HEMMAT, C.U.P - TENNIS COURT

The request by Dr. Mehdi Hemmat for a Conditional Use Permit for construction of a tennis court on Lot 106-EF, located at 64 Eastfield Drive, was held on the agenda pending action by the City Council on June 22, 1987.

PROPOSED ORDINANCES

Chairman Roberts said proposed ordinances establishing building inspection requirements and establishing a site plan review process in the Zoning Ordinance would be held for consideration at the meeting in July because only three members of the Planning Commission are present at the current meeting.

ZONING CASE NO. 335, C.U.P. FOR TENNIS COURT, M. LAM, 68 SADDLEBACK

Chairman Roberts ordered a letter dated May 6, 1987 from Mr. and Mrs. Maurice Lam, 68 Saddleback Road, held for consideration at the next regular meeting. In their letter Mr. and Mrs. Lam requested a time extension for an already approved Conditional Use Permit for construction of a tennis court, since the permit was suspended when the moratorium was adopted, and the applicants wish to have sufficient time to comply with requirements for construction of a tennis court before the approved C.U.P. expires.

VIEW IMPAIRMENT

A letter dated June 3, 1987 from the City Attorney was presented to the Planning Commission. Mr. Jenkins addressed the topic of View Impairment at the request of the City Council. The City Manager said a proposed ordinance concerning view impairment will be presented to the Planning Commission at the next meeting, and the appropriate action at that time would be to set a public hearing on the matter for the August meeting.

CITY COUNCIL JURISDICTION OF ZONING CASES NO. 340 & 341

The City Manager reported that at a meeting on May 26, 1987 the City Council ratified the approval by the Planning Commission on April 21, 1987 of the following:

Zoning Case No. 340, Variance of front yard requirements requested by James Hansen for construction of a swimming pool and spa in the established front yard of Lot 37-B, located at 41 Eastfield Drive, and

Zoning Case No. 341, Conditional Use Permit requested by Alan Johnson for construction of a guest house on Lot 3-FT, located at 7 Crest Road East.

The Manager said the City Council voted to take jurisdiction of both cases because of concerns expressed by neighbors about potential view obstructions.

AYES: Commissioners Bundy, Frost, Hankins
Chairman Roberts

NOES: None

ABSENT: Commissioner Lay

Zoning Case No. 331, Dr. M. Hemmat, C.U.P. for Tennis Court

Chairman Roberts opened discussion of a request by Dr. and Mrs. Mehdi Hemmat for a Conditional Use Permit for construction of a tennis court on Lot 106-EF, located at 64 Eastfield Drive. The City Manager said the public hearing has been continued pending resolution of the moratorium.

Mr. Douglas McHattie, South Bay Engineers, addressed the Planning Commission and said the applicants wish to withdraw the application, since they cannot meet the requirements of Ordinance No. 215. Chairman Roberts so ordered and the file in the case was closed.

ABC282

Proposed Ordinances

The City Manager requested that proposed ordinances entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTABLISHING BUILDING INSPECTION REQUIREMENTS AND AMENDING THE MUNICIPAL CODE and AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTABLISHING A SITE PLAN REVIEW PROCESS IN THE ZONING ORDINANCE AND AMENDING THE MUNICIPAL CODE be continued to the next regular meeting on August 18, 1987. Chairman Roberts so ordered.

OLD BUSINESS

Zoning Case No. 335, Maurice Lam, 68 Saddleback Road

The City Manager reported that the approved Conditional Use Permit for construction of a tennis court on the Maurice Lam property located at 68 Saddleback Road has been suspended because of the moratorium on tennis courts. In a letter dated May 6, 1987 Mr. and Mrs. Lam requested a time extension for the Permit after expiration of the moratorium, in order to have sufficient time to proceed with the necessary work required for completion of the preliminary soils work required for the tennis court. Mr. Belanger recommended that if the request is approved, the Conditional Use Permit be extended to July 1, 1988.

A motion to accept the City Manager's recommendation and extend the approval to July 1, 1988, provided that the tennis court comply with the requirements of Ordinance No. 215 and the Conditions of Approval for Tennis Courts, adopted in March 1980 was made by Commissioner Hankins, seconded by Commissioner Bundy and carried by the following roll call vote:

AYES: Commissioners Bundy, Frost, Hankins
Chairman Roberts

NOES: None

ABSENT: Commissioner Lay

DISCUSSION OF VIEW IMPAIRMENT AND VIEW PRESERVATION

Chairman Roberts opened discussion of view impairment, view obstruction and view retention. The Chairman noted that a number of residents are present in connection with the topic, and he said all who wish to address the Planning Commission in the matter will be heard, and asked that comments be limited to five minutes per person. The Chairman asked the City Manager to address the matter.

The City Manager distributed copies of ordinances from other cities, the policy of the Rolling Hills Community Association, a letter dated June 15, 1987 from Dr. Paul Rubenstein, 25 Eastfield Drive, requesting that an ordinance be adopted for the preservation and restoration of views from trees and other landscaping, and a letter dated June 3, 1987 from the City Attorney addressing View Impairment. Copies of a draft ordinance from the City of Rolling Hills Estates and copies of ordinances from the cities of Belvedere, Tiburon and Sausalito were distributed. The Manager said he had contacted cities which are similar to Rolling Hills in topography and development. Mr. Belanger said the pertinent features of the sample ordinances would be incorporated into a draft ordinance by the City Attorney, and he recommended that the Planning Commission hear comments from residents present, then forward a recommendation to the City Council with regard to a view impairment ordinance. The Manager distributed copies of a letter dated July 18, 1987 from Mrs. Joan Saffo supporting regulations addressing view obstruction.

Chairman Roberts invited comment from residents present. The following residents spoke in favor of an ordinance regulating matters of view obstruction, view impairment and view retention, citing the difficulty of attempting to negotiate with property owners who may not wish to incur the expense of trimming their trees for the benefit of a neighbor's view: Dr. Paul Rubenstein, 25 Eastfield Drive; Ron Warmbier, 86 Crest Road East; George Cashman Jr., 2 Crest Road East; Mrs. Betty Zappas, 15 Wide Loop; Mrs. Marilyn Malmuth, 4 Outrider Road; Mrs. April Salisbury, 6 Maverick Lane; Mr. and Mrs. Robert Virtue, 4 Maverick Lane; Mrs. Emily Schleissner, 77 Crest Road East; Mrs. Helene Cataldi, 4 Hackamore Road; John Bennett, 3 Eastfield Drive; Pat Reddy, 68 Portuguese Bend Road; Ping Shu, 6 Packsaddle Road West; Mrs. Gerry Becker, 5 Middleridge Lane South; Arville Witte, 5 Quail Ridge Road South; Carl Price, 1 Quail Ridge Road South; Dr. W. D. Basque, 49 Eastfield Drive; Dr. Mark Minkes, 44 Chuckwagon Road; Dr. Richard Krauthammer, 31 Chuckwagon Road; Dr. Ralph Black, 36 Saddleback Road; Mrs. Shirley Tyndall, 65 Eastfield Drive and Miss Cynthia Cashman, 2 Crest Road East.

The City Manager explained that the City Attorney is working on an ordinance to address the concerns of residents in the community, and input by residents would be forwarded to the Attorney to provide direction. Mr. Jim Murray, 8 Possum Ridge Road, asked how soon the ordinance would be enacted. Chairman Roberts explained that following preparation of a recommendation from the Planning Commission to the City Council that such an ordinance be adopted, public hearings will be held on the proposed ordinance, and residents will have an opportunity to comment on the contents of the ordinance as proposed. The City Manager said residents will be advised in the Newsletter when copies of the new ordinance are available.

Chairman Roberts continued the public hearing to the next regular Planning Commission meeting on Tuesday, August 18, at 7:30 p.m.

FIELD TRIP TO WACHS PROPERTY

A field trip to the Barton Wachs property at 6 Outrider Road was scheduled for Saturday, August 1, 1987 at 8:00 a.m.

ADJOURNMENT

The meeting was adjourned at 10:05 p.m. to Tuesday, August 18, 1987 at 7:30 p.m.

Terrence L. Belanger
City Clerk

APPROVED:

21

Chairman

Certificate of Compliance - Shaikh Lots 78 & 95B, Outrider Road

The City Manager said a title search is being made on Lots 78-EF and 95B-EF in connection with the request for a Certificate of Compliance for the properties, and the required documents have not yet been presented to the City. The Manager recommended that the matter be continued, and the Chairman so ordered.

View Impairment and View Preservation

The City Manager advised the Commission that consideration of a proposed ordinance as shown on the agenda is incorrect. Mr. Belanger said the public hearing on view impairment and view obstruction was continued from the last meeting so that additional input could be received from the community before adoption of an ordinance is considered. The Manager asked that discussion of the topic be addressed again after completion of New Business.

NEW BUSINESS

Zoning Case No. 321, John Rowlands, 13 Cinchring Road

The City Manager reported that he has been advised by Mr. John Rowlands, 13 Cinchring Road, that the geology reports pertinent to construction of a garage in the front yard of his property, Lot 19-5-CH have been further delayed. The Manager explained that a Variance of front setback requirements was approved on September 17, 1985, and was extended for one year on September 16, 1986. Staff recommended that Zoning Case No. 321 be extended for an additional six month period for submittal of the required reports. The request was approved unanimously by members of the Planning Commission present at the meeting, and the Chairman so ordered.

VIEW IMPAIRMENT AND VIEW PRESERVATION

Chairman Roberts opened discussion of view impairment, view obstruction and view retention, and he said that the public hearing is still open. The Chairman said that residents who wish to express an opinion on the topic are encouraged to address the Planning Commission, and each presentation would be limited to five minutes.

The following residents spoke in favor of an ordinance pertaining to view impairment and view preservation: Mr. and Mrs. Russell Chase, 2 Ringbit Road East; Dr. David Basque, 49 Eastfield Drive; Mrs. Doreen Heater, 59 Eastfield Drive; Mrs. April Salisbury, 6 Maverick Lane; John Bennett, 3 Eastfield Drive; Mrs. Betsy Raine, 71 Portuguese Bend Road; Dr. Mark Minkes, 44 Chuckwagon Road; Dr. Paul Rubinstein, 25 Eastfield Drive; Mrs. Joyce Roberts, 3 Reata Lane; Dr. Richard Hoffman, 3 Hillside Lane; Dr. and Mrs. Irwin Glassner, 13 Buggywhip Drive; Mr. and Mrs. Robert Virtue, 4 Maverick Lane; Mr. and Mrs. Karl Trovinger, 2 El Concho Lane. The following residents spoke in opposition to the proposed ordinance: Mr. and Mrs. F. C. Ripley, 91 Crest Road East and Paul Grubs, 1 Hackamore Lane. Letters in favor of the proposed ordinance were received from Mr. and Mrs. Owen Glenn, 26 Portuguese Bend Road; Mrs. Verna Balch, 6 Hackamore Lane; Mrs. Doreen Heater, 59 Eastfield Drive; Mrs. Reinette Esser, 71 Crest Road East; John Bennett, 3 Eastfield Drive; Dr. Richard Fixler, 33 Portuguese Bend Road; Mr. and Mrs. Paul Lupo, 4 Georgeff Road. Letters expressing opposition to a proposed ordinance were received from Mr. and Mrs. R. P. Schaefer, 69 Eastfield Drive and Mr. and Mrs. A. Hale, 32 Portuguese Bend Road. The correspondence was received for the file.

In response to questions from residents regarding continuing public hearings rather than acting on the proposed ordinance, Chairman Roberts explained that input from the residents is considered important to developing the ordinance. The public hearing was continued to the next regular meeting of the Planning Commission on Tuesday, September 15, 1987 at 7:30 p.m.

eliminating the need for a Variance. Dr. Minkes said the two separate lots increase the value of his property and he stated that he has no intention of combining the lots, since it would be difficult to separate them if he wished to sell part of the property at some future time. Chairman Roberts thereafter closed the public hearing.

Commissioner Lay moved that a Conditional Use Permit for construction of a guest house on Lot 21-CF, located at 44 Chuckwagon Road, be approved, subject to standard conditions of approval for guest houses adopted as policy by the Planning Commission in March 1980, and subject further to approval by the Architectural Committee of the Community Association. The motion was seconded by Commissioner Bundy and carried by the following roll call vote:

AYES: Commissioners Bundy, Frost, Hankins, Lay
Chairman Roberts

NOES: None

ABSENT: None

ABC282

Commissioner Lay moved that a Variance for construction of a barn on Lot 22-CF, a vacant parcel located at 46 Chuckwagon Road, be approved with findings that a unique circumstance exists whereby two adjoining lots are used by the single owner of both parcels as one parcel of land, and that the approval be subject to an agreement by the owners with the City of Rolling Hills contained in a staff report from the Manager, which sets forth the conditions which would establish the obligations of Dr. and Mrs. Minkes or their successors in interest if a main residential structure is constructed on Lot 22-CF, or if either Lot 21-CF or Lot 22-CF is sold or title is transferred. The City Manager suggested that the motion incorporate two additional conditions: that a barn, stable or corral on Lot 22-CF is to be for the exclusive, non-commercial use by the Minkes family or their successors; and that in the event that Dr. and Mrs. Minkes sell, transfer or otherwise dispose of their interest in Lot 21-CF while retaining Lot 22-CF, the privileges granted under approval of the Variance shall be rescinded. Commissioner Lay incorporated the conditions set forth by the City Manager in the motion which was seconded by Commissioner Hankins and carried by the following roll call vote:

AYES: Commissioners Bundy, Frost, Hankins, Lay
Chairman Roberts

NOES: None

ABSENT: None

The City Manager said the Planning Commission's action would be reported to the City Council at their next meeting on Monday, September 28, 1987.

CERTIFICATE OF COMPLIANCE, MANZOOR HUSSAIN SHAIKH, OUTRIDER ROAD

The Manager reported that he has been advised that Manzoor Hussain Shaikh, owner of Lot 78-EF, located at 20 Outrider Road, and Lot 95B-EF, located at 22 Outrider Road, does not plan to proceed with his request for a Certificate of Compliance for the properties and has asked that the matter be removed from the Planning Commission's agenda. Chairman Roberts so ordered.

VIEW IMPAIRMENT AND VIEW PRESERVATION

Chairman Roberts opened discussion of a proposed ordinance entitled AN ORDINANCE OF THE CITY OF ROLLING HILLS REGULATING THE VIEWS AND PROVIDING FOR ABATEMENT OF VIEW IMPAIRMENT AND AMENDING THE ROLLING HILLS MUNICIPAL CODE. The Chairman asked the City Manager to speak to the topic.

Mr. Belanger said there have been three public meetings before the Planning Commission on the proposed ordinance, and he said the large attendance at all of the hearings indicates the strong support of the community with regard to the need to take definite action with respect to view abatement. The Manager said he has conveyed the information to the City Attorney, and Mr. Jenkins has recommended that the public be given further opportunity to comment on the proposed ordinance, and that the Planning Commission schedule a work session for the purpose of reviewing data and comments pertinent to the proposed ordinance, and forward the information to the City Attorney for incorporation into an ordinance.

Chairman Roberts said part of the discussion has centered on who should pay for trimming trees to improve views, and it has been suggested that an assessment could provide a fund for use by the City to engage a tree service for maintenance of trees. There has also been discussion about whether the person who owns the offending trees and bushes should pay to have them trimmed, or whether the person who wants a view restored should be responsible for paying the costs of trimming. One solution proposed is that the person who wants the trees trimmed should assume the original cost, and that the owner of the property on which the trees are located should then be responsible for maintaining the trees in a manner that would not obstruct views. Should the parties not agree, a mediation board procedure was then suggested. The Chairman asked members of the Planning Commission to comment.

Commissioner Bundy said there are many things to consider in assigning costs, and he would be in favor of attempting to mediate view impairment complaints. He said, further, there are safety factors to consider when requiring that trees be trimmed or pruned heavily, and he cited the dangers of extended dry weather conditions, followed by periods of wind and rain. Commissioner Frost said the Community Association has done some planting along community roads, and it was his opinion that some of the responsibility for trimming or removing overgrown trees lies with that body, rather than with the residents. Commissioner Lay said protection of the environment in the community is essential, and he said no trees should be cut without the approval of the City, and all work should be done by a licensed contractor. He said that in some hillside areas trees and other growth control erosion, and before a tree is removed to restore someone's view, due consideration should be given to the effect on other properties, especially to properties at a lower level which could suffer property damage if essential growth is removed. Commissioner Hankins said she feels property owners have a right to recover a lost view, but she would be in favor of mediation and arbitration. She said tree work is expensive, and long time residents may not be equipped financially to assume a major expense in order to restore a view for another property owner.

Chairman Roberts invited comment from the floor, and said residents would be limited to five minutes for each presentation. The following residents addressed the issue: Charles Aylesbury, 2 Middleridge Lane South; Mrs. April Salisbury, 6 Maverick Lane; Mrs. Doreen Heater, 59 Eastfield Drive; John Evenson, 44 Eastfield Drive; Mr. and Mrs. Lee Hutchinson, 29 Eastfield Drive; James Brogdon, 5 Maverick Lane; William Adkins, 13 Caballeros Road; John Husnak, 34 Portuguese Bend Road; Mrs. Emily Schleissner, 77 Crest Road East; Terry Carroll, 36 Eastfield Drive; Rod Rodriguez, 28 Caballeros Road. Chairman Roberts thanked the residents for their input, and said their comments and concerns would be forwarded to the City Attorney. The Chairman said the Commission would meet in a study and work session on Tuesday, September 29, to evaluate comments made by residents with respect to the proposed ordinance. The public hearing was continued to the next regular meeting.

MINUTES OF AN
ADJOURNED MEETING OF THE PLANNING COMMISSION
CITY OF ROLLING HILLS

September 29, 1987

An adjourned meeting of the Planning Commission of the City of Rolling Hills was called to order at the Administration Building, 2 Portuguese Bend Road, Rolling Hills, California by Chairman Roberts at 7:30 p.m. Tuesday, September 29, 1987.

ROLL CALL

PRESENT: Commissioners Bundy, Frost, Lay, Chairman Roberts

ABSENT: Commissioner Hankins

ALSO PRESENT:

Terrence L. Belanger	City Manager
June Cunningham	Deputy City Clerk
Dr. A. Fixler	Residents
Mrs. D. Heater	
Mr. & Mrs. L. Hutchinson	
Dr. P. Rubinstein	
Mr. & Mrs. Roy Stinnett	
Mrs. S. Tyndall	
R. Virtue	

DISCUSSION OF PROPOSED ORDINANCE

Chairman Roberts said the purpose of the adjourned meeting was to conduct a study session of a proposed ordinance entitled: AN ORDINANCE OF THE CITY OF ROLLING HILLS REGULATING THE VIEWS AND PROVIDING FOR ABATEMENT OF VIEW IMPAIRMENT AND AMENDING THE ROLLING HILLS MUNICIPAL CODE.

The City Manager said the Planning Commission has held several public hearings on the proposed ordinance, and many residents have attended all of the hearings and have commented on the proposed ordinance. The City Attorney has suggested that the Planning Commission meet in a study session to discuss residents comments and concerns, and to discuss the proposed ordinance, as well as sample ordinances received from other cities in California with similar problems of view impairment. The Manager said the items to be reviewed by the Planning Commission include: purpose and intent of the proposed ordinance; definitions; complaints; correction without mediation or arbitration; cost of correction; mediation/arbitration; findings and decision; restorative action; appeal process; enforcement and severability.

The following residents addressed the Planning Commission on the proposed ordinance: Mr. and Mrs. Roy Stinnett, 9 Caballeros Road; Mr. and Mrs. Lee Hutchinson, 27 Eastfield Drive; Mrs. Shirley Tyndall, 65 Eastfield Drive; Robert Virtue, 4 Maverick Lane.

Definitions in the proposed ordinance were reviewed and discussed. There was a discussion of correction based on criteria including a) removal to increase enjoyment of property; b) hazard to safety of the complainant or property; c) blatant disregard for property owner's view. The problems associated with attempting arbitration and mediation were discussed, and there was concurrence that an estimate for the cost of implementation of the ordinance should be developed with the ordinance. The City Manager said the issue of environmental impact has been raised, and the City Attorney is researching the matter. Mr. Belanger said most of the testimony presented by residents at the public hearings has been in favor of adoption of an ordinance. He said it is possible that residents who are opposed to such an ordinance have not yet made their position known.

September 29, 1987

RECESS

The meeting was recessed at 9:00 p.m. and was reconvened at 9:20 p.m. by Chairman Roberts.

DISCUSSION

Commissioner Lay said he has read the ordinances of the Bay cities provided by the City Manager and it is his opinion that the ordinance adopted by the City of Sausalito comes closest in purpose and findings to what Rolling Hills needs.

Chairman Roberts said that with reference to recommendations by some residents that the problem be solved by mediation or arbitration, a committee consisting of three professionals including landscapers, nursery people or tree trimmers could be retained to make a non-binding recommendation to the parties in conflict, to be enacted within a one year period. Chairman Roberts said it was his impression that the Sausalito ordinance protects trees more than views.

ABC282

The City Manager advised the Commission that the draft ordinance should provide a basis for public hearings on complaints. In response to questions about the process for adopting the ordinance, the City Manager explained that when the draft ordinance has been reviewed and developed to address the issues to the satisfaction of the Planning Commission, it will be referred to the City Council with a recommendation that additional public hearings be held prior to adoption. Commissioner Frost said it would be possible to act on view impairment without an ordinance if trees planted in the easements by the Community Association were removed.

Chairman Roberts asked that the City Manager convey the recommendationtocomments made by residents and members of the Planning Commission to the City Attorney for incorporation in the proposed ordinance.

ADJOURNMENT

The meeting was adjourned at 10:40 p.m. to the next regular meeting on Tuesday, October 20, 1987 at 7:30 p.m.

Jeanne L. Bilanger
City Clerk

APPROVED:

_____
Chairman

October 20, 1987

PROPOSED ORDINANCE: VIEW IMPAIRMENT AND VIEW PRESERVATION

Copies of a proposed ordinance entitled: AN ORDINANCE OF THE CITY OF ROLLING HILLS FOR THE PRESERVATION OF TREES ON AND VIEWS FROM PRIVATE PROPERTY were distributed, and Chairman Roberts invited comment on the proposed ordinance. The following residents spoke to the item: Paul Grubs, 1 Hackamore Road; Wolfgang Daniel, 2 Eastfield Drive; Dr. Frank Stanton, 16 Cinchring Road; Dr. David Basque, 49 Eastfield Drive; Ping Shu, 6 Packsaddle Road West; Mrs. Doreen Heater, 59 Eastfield Drive; Mrs. Lee Taylor, 46 Eastfield Drive; Mrs. Elizabeth Frudenfeld, 1 Buckboard Lane; John Evenson, 44 Eastfield Drive.

Following comments by residents, the Planning Commission reviewed the proposed ordinance by sections, and made recommendations for deletions, additions and other changes in the document. The Manager said the comments made by residents and the changes recommended by the Planning Commission would be reviewed for possible incorporation in the proposed ordinance.

A public hearing on the proposed ordinance was scheduled for the next regular meeting of the Planning Commission on Tuesday, November 17, 1987 at 7:30 p.m.

ABC282

FIELD TRIP

A field trip to the Thornton property at 7 Williamsburg Lane was scheduled for Saturday, October 31, 1987 at 8:00 a.m.

ADJOURNMENT

The meeting was adjourned at 10:20 p.m. to the next regular meeting on Tuesday, November 17, 1987 at 7:30 p.m.

Terrence L. Belanger
City Manager

APPROVED:

Chairman

for construction of a guest house on Lot 31-GF, located at 11 Georgeff Road. The Clerk reported that the hearing was duly noticed as required by law, and that no comment was received in favor of or opposition to the request. The plot plan was displayed, and members of the Commission agreed that a field trip should be made to the site. The Chairman continued the public hearing, and requested that the property be staked to define the location of the proposed guest house. Chairman Roberts said a field trip would be scheduled later in the meeting.

PUBLIC HEARING, ZONING CASE #350, R. MODZELESKI, 20 BUGGY WHIP

Chairman Roberts opened a public hearing on Zoning Case No. 350, a request by Robert Modzeleski for a variance for construction of a residence addition encroaching into the established front yard of Lot 247-6-MS, and an extension of the existing non-conforming building. The plot plan was displayed, and the City Manager explained that the front setback requirements have been increased since the residence was built. The existing residence is 35 feet from the road easement, in compliance with building regulations which were in effect when the original plan was approved. The applicant has submitted a plan which indicates that the corner of the proposed addition would be 31 feet from the front setback.

ABC282

Members of the Commission agreed that a field trip should me made to the site. The Chairman asked that the property be staked to define the proposed addition, and he said a field trip would be scheduled later in the meeting. The public hearing was continued.

FIELD TRIP

A field trip to the Murray, Cramer and Modzeleski properties was scheduled for Saturday, December 11, 1987 at 7:00 a.m.

PUBLIC HEARING, VIEW IMPAIRMENT AND VIEW PRESERVATION

Chairman Roberts said the proposed ordinance addressing View Impairment and View Preservation was continued from the previous meeting for additional testimony by residents and consideration by the Planning Commission.

The City Manager reviewed recommended modifications to the proposed ordinance which were discussed at the October 20 meeting, including elimination of Paragraph 2, Alteration from SECTION 2, DEFINITIONS, and addition of the definitions of VIEW and VIEW IMPAIRMENT. Chairman Roberts invited comment from persons present at the hearing. The following residents addressed the topic: Ping Shu, 6 Packsaddle Road West; Mrs. Doreen Heater, 59 Eastfield Drive; Mrs. Betsy Raine, 71 Portuguese Bend Road; Dr. Paul Rubinstein, 25 Eastfield Drive; Roy Stinnett, 9 Caballeros Road; William Adkins, 13 Caballeros Road; Mrs. Carol Witte, 5 Quail Ridge Road South; Mrs. Avis State, 1 Reata Lane; Larry Jett, 10 Georgeff Road; Robert Virtue, 4 Maverick Lane, and Carl Price, 1 Quail Ridge Road South. The discussion primarily addressed areas of responsibility with regard to paying for restoration of views, and responsibility for maintaining obstruction-free views. The City Manager said ordinances adopted by other cities which were studied during research of the matter indicated that in most cases the person who initiates the complaint pays to have the initial trimming done; it then becomes the responsibility of the person on whose land the trees are located to maintain the view. Commissioner Lay moved that an appropriate statement be added to SECTION 10, PAYMENT OF COST OF CORRECTION to clarify the intent of the ordinance by stating that after agreement has been reached and the complainant has agreed to pay the cost of having a view restored, the maintenance of the view and all future pertinent costs shall be the responsibility of the owner of the property which causes the view obstruction. The motion was seconded by Commissioner Hankins and carried unanimously.

SECITON 15, PENALTIES AND ENFORCEMENT was deleted from the proposed ordinance, and the Planning Commissioners agreed that SECTION 13 should be clarified regarding the latitude of responsibility and the arbitrator's authority. Following the discussion Chairman Roberts said the matter would be continued for a final review of the proposed ordinance as amended, and he asked that the ordinance be presented to the Planning Commission in revised form at the December meeting so that an action can be taken by the Commission at the meeting. The Chairman asked, further, that residents be advised in the Newsletter of the status of the proposed view preservation ordinance. The Manager said that if the proposed ordinance is adopted by the Planning Commission at the December meeting, it will be forwarded to the City Council for consideration at a January meeting.

SOUTHWEST AREA PLANNING COUNCIL

Notice of a meeting of the Southwest Area Planning Council on November 20, 1987 was presented to the Commission and the City Manager said a reservation would be made for anyone who wishes to attend.

ADJOURNMENT

The meeting was adjourned at 10:20 p.m. to the next regular meeting on Tuesday, December 15, 1987 at 7:30 p.m.

Terence L. Belanger
City Clerk

APPROVED:

Chairman

Commissioner Frost expressed concern that the guest house might possibly be two-story to maintain the roof ridge with the stable. The City Manager reiterated that this would not be allowed, and that the guest house must be done in conformance with the architectural requirements of the Association. There being no further discussion, Chairman Roberts closed the public hearing.

Commissioner Hankins moved that Zoning Case No. 349, request for a Conditional Use Permit for a guest house on Lot 31-GF, 11 Georgeff Road, be approved subject to the standard conditions of approval, in addition to the following conditions:

1. That the south roadway be abandoned.

2. That the remaining stable be retained as a stable.

Commissioner Frost seconded the motion, and it carried unanimously by the following roll call vote:

AYES: Commissioners Bundy, Frost, Hankins, Lay, Chairman Roberts

NOES: None

ABSENT: None

Zoning Case No. 350, Robert Modzeleski, 20 Buggy Whip Drive

Chairman Roberts opened a public hearing to consider a request by Robert Modzeleski for a Variance for the purpose of constructing a residence addition on Lot 247-6-MS, 20 Buggy Whip Drive, which will encroach into a non-conforming minimum front yard setback.

The plan was displayed and the City Manager explained that the current front yard setback of thirty-five (35) feet is non-conforming. The applicants are requesting a Variance to encroach four (4) feet into the non-conforming front yard setback, which would result in a front yard setback of thirty-one (31) feet. Staff recommends that the Variance request be approved, with the condition that the Association approve the architecture of the addition. The existing residence is approximately 3900 square feet. The proposed addition will be 538 square feet, resulting in a residence of approximately 4438 square feet, well within the City's lot coverage requirements.

Commissioner Hankins asked about the steepness of the adjacent slope, and what steps would be taken to mitigate the instability of the slope. Russ Barto, architect for the project, explained that a new foundation system was being engineered for the entire residence, that of caissons to bedrock. The City Manager also explained that it is the policy of the County, given the attenuace nature of some of the soil in the area, to require that the foundation be anchored to natural material, which in this case would be bedrock. There being no further public testimony, the public hearing was closed by Chairman Roberts.

Commissioner Hankins made a motion to approve the Variance request by Robert Modzeleski for construction of a residence addition on Lot 247-6-MS, 20 Buggy Whip Drive, to encroach into the established non-conforming front yard setback, and for extension of a non-conforming building. Commissioner Lay seconded the motion, and it carried by the following roll call vote:

AYES: Commissioners Bundy, Frost, Hankins, Lay, Chairman Roberts

NOES: None

ABSENT: None

PROPOSED ORDINANCE: VIEW IMPAIRMENT AND VIEW PRESERVATION

The City Manager reported that the City Attorney, Mike Jenkins, is currently reviewing the proposed ordinance and is researching the issues of delegable duties and environmental requirements (CEQA).

Delegable duties refers to the delegation of police powers, as conferred upon General Law cities by the State Legislature, by the City Council to a third party, the arbitrator. The second issue, that of environmental requirements, is being researched to determine the impact that the View Preservation Ordinance might have on the environment. At this point, it is unknown what the impact might be simply because the number of people who might submit a complaint or request for vegetation removal is not known. Before proceeding with approval of the ordinance, the City must make sure that the correct CEQA requirements, that of an Environmental Impact Report and a Negative Declaration, are prepared as required. If it is determined that an EIR is necessary, it would most likely be a focused EIR which would focus on landscaping only. Staff's recommendation is to continue the public hearing to the Planning Commision meeting in January, at which time the findings and recommendations of the City Attorney will be available. A collateral issue is a short letter addressing view preservation and the balance of views with trees, which would be sent to all residents, encouraging them to reach an amicable solution when a conflict arises, without involving the City, committees, and arbitrators. The City Manager recommended postponing the mailing of these letters until after the holidays, to avoid any confusion or misplacement during this hectic time.

ABC282

Mr. Bill Stringfellow spoke on behalf of the Board of the Community Association in support of the efforts of the Planning Commission in this matter, and expressed the appreciation of the Association.

Chairman Roberts ordered this item held to the next regular meeting of the Planning Commission.

MATTERS FROM MEMBERS OF THE PLANNING COMMISSION

FIELD TRIP SCHEDULE

A field trip was scheduled for Saturday, January 9, 1988, at 8:00 a.m. The Members of the Planning Commission will meet at the Frame residence, 62 Crest Road East, then proceed to the Probst residence at 33 Crest Road East, and then to the Chung residence at 28 Portuguese Bend Road. Chairman Roberts requested that the applicants be advised of the necessary staking requirements.

MATTERS FROM STAFF

PLANNING COMMISSIONERS INSTITUTE

The City Manager advised the Commission of the 1988 Planning Commissioners Institute to be held in Anaheim, California, Wednesday through Friday, March 9 - 11, 1988. If any of the Commissioners are interested in attending they should contact the City Manager so that the necessary reservations can be made.

S.W.A.P.C. MEETING

The City Manager informed the Commission that the next meeting will be Friday, December 18, 1987, at the Airport Park Hotel in the city of Inglewood. A representative from the U. S. Census Bureau will be speaking.

CITY'S THIRD ANNUAL OPEN HOUSE

The Commission was reminded of the City's Third Annual Open House to be held on Monday, December 21, 1987, at the Administration Building in the Council Chamber from 5:00 to 8:00 p.m.

OPEN AGENDA

No one spoke on any item which was not on the agenda.

RECESS

The meeting was recessed to Executive Session at 9:25 p.m. and was reconvened at 10:02 p.m. by Chairman Roberts.

A corner of the proposed garage would encroach to within approximately 55 feet of the edge of the roadway (Crest Road East). The porte-cochere would be approximately 80 feet from the edge of the roadway.

The Traffic Commission reviewed the proposed driveway cut relocation at their meeting on January 15, 1988, and recommended that it not be approved because it does not comply with traffic safety and design standards. Without the approval of the driveway relocation, the site development plan is not workable. In spite of this fact, the encroachment into the front yard setback along Crest Road would not be recommended by staff, at this point in time. All the properties along Crest Road have setbacks, in most cases in excess of 150 feet, and in some cases in excess of 200 feet. If this project were approved, the proposed garage would be within 55 feet of Crest Road, which is a condition that does not exist anywhere else on that road.

The City Manager recommended that the site plan be revised and resubmitted, with a less intensive request for encroachment into the front yard setback, and a change in the proposed relocation of the driveway cut to a site that would meet the traffic engineer's standards and guidelines. If this recommendation isn't acceptable to the Commission, then the staff would recommend denial of the variance request.

ABC282

Commissioner Bundy asked if staff's recommendation to revise the plan included the consideration of relocating the buildings. The City Manager stated that if, in fact, the applicant wishes to continue pursuing some kind of variance into the front yard, he would suggest that they redesign the plan. The problem with the current proposed plan is that the encroachment is excessive. Another problem is that if the garage is kept in the proposed location, thereby necessitating relocating the driveway, the proposed relocation becomes difficult from a traffic safety and traffic design point of view.

The City Manager cautioned the Commission that should they choose to give the applicant an opportunity to reconfigure the plan, implied in that is some hope of future acceptance. If the Commission doesn't wish to see any kind of encroachment of this magnitude at this location (along Crest Road), then denial of the request would be appropriate.

Commissioner Bundy stated that the proposed improvements that are being requested would not enhance the view of this property from Crest Road. In addition, he concurred with the Traffic Commission in their decision that the proposed driveway cut would be unsafe. There being no further comments, Chairman Roberts closed the public hearing and entertained a motion.

Commissioner Frost moved denial of Zoning Case No. 353, Commissioner Bundy seconded the motion and it carried by the following roll call vote:

AYES:	Commissioners Bundy, Frost, Lay, Chairman Roberts
NOES:	None
ABSENT:	Commissioner Hankins

PROPOSED ORDINANCE: VIEW IMPAIRMENT AND VIEW PRESERVATION

Chairman Roberts reported on the status of the proposed ordinance, stating that the City Attorney is currently reviewing some of the aspects of the ordinance. In the meantime, it was requested that a letter be prepared, which would be mailed to all the residents in the community, to make them aware of the problem. The Commissioners reviewed the sample letter, prepared and presented by the City Manager, found it quite acceptable, and asked that it be mailed.

1/19/88

The City Manager reported on the progress of the deliberations by the City Attorney. On the issue of arbitration without appeal to the City Council, if there were an appeal to arbitration it would become a judicial appeal. The City Attorney's concern, and the one that he is currently in the process of preparing an opinion on, is the issue of the delegation of the City's police powers to a third party, the arbitrator. The second issue, which the City Attorney is researching, deals with the California Environmental Quality Act (CEQA) requirements. On the face of the ordinance, it would appear not to be a problem because each complaint would be on an individual basis, which typically wouldn't require any kind of significant environmental assessment. However, the impact of the sum total of complaints, especially if there were a large number of them, could require the City to prepare an Environmental Impact Report (EIR) concurrently with adopting a view protection ordinance. These are the two primary issues that the City Attorney has been asked to research and provide an opinion on.

Mr. John Bennett, 3 Eastfield Drive, addressed the Commission on the proposed view preservation ordinance, and expressed his support of the ordinance. He asked if it would be possible to have the Mayor or City representative speak, at the Community Association's Annual Meeting on January 20, on the pros and cons of this proposed ordinance.

Chairman Roberts explained that the Association and the City are two separate agencies, and that it is his feeling that it would not be appropriate to discuss this issue at the Association's meeting. There have been several public hearings regarding this proposed view preservation ordinance with many people in attendance.

Mr. Bennett said that he had been told by the Association Manager that this could be on the agenda.

The City Manager explained that if a resident were to raise the issue, it would be the discretion of the Chairwoman whether or not to ask a Planning Commissioner or Member of the City Council to report on the proposed ordinance. The Mayor asked to be placed on the agenda, and was not, in the interest of time. Also, there is, on the part of the Association's legal counsel, a desire to maintain a very separate posture between the Association and the City, which is done strictly for legal reasons.

Commissioner Lay suggested that the Mayor be informed that there could be questions raised regarding the proposed view preservation ordinance, and that she be prepared to answer questions should she be asked to do so.

Chairman Roberts ordered that the public hearing be continued to the next regular meeting of the Planning Commission, on February 16, 1988.

OPEN AGENDA

No one spoke on any item which was not on the agenda.

MATTERS FROM STAFF

LAND USE INFORMATION

At the request of Mayor Swanson, a copy of a commentary on the Regulation of Land Use after the Recent Supreme Court Cases was included in the Commissioners' packets for informational purposes, to keep the Commission informed of recent Supreme Court decisions.

2/16/88

2. That there be a landscape plan submitted and approved, per the City policy, which should indicate the manner in which the visual impact of the new residence will be mitigated.

Commissioner Frost seconded the motion. Chairman Roberts verified with Commissioner Lay that this would eliminate the proposed patio wall. Commissioner Lay commented that the reason for this is that the entire proposal is non-conforming, in terms of setback, but to increase the level of non-conformity would not be appropriate, especially while, at the same time, increasing the size of the structure.

The motion passed unanimously by the following roll call vote:

AYES: Commissioners Bundy, Frost, Hankins, Lay, Chairman Roberts

NOES: None

ABSENT: None

PROPOSED ORDINANCE: VIEW IMPAIRMENT AND VIEW PRESERVATION

City Manager Belanger requested that this item be continued to the next regular meeting of the Planning Commission in March, due to the fact that the letters of opinion were not received as of yet. The letter of opinion regarding CEQA is being reviewed by a specialist in that area. The status of the delegation letter was unknown.

Chairman Roberts ordered that this matter be held on the agenda to the next regular meeting of the Planning Commission.

FIELD TRIP SCHEDULE

A field trip was scheduled for Saturday, March 5, 1988, at 8:00 a.m., to conduct an on-site investigation of the proposed residence addition at 19 Middleridge Lane North. The applicant was advised to stake the proposed addition where it will encroach into the side yard setback.

OPEN AGENDA

There were no comments from the audience.

MATTERS FROM STAFF

1988 Planning Commissioners Institute

The City Manager reminded the Commissioners of the upcoming Planning Commissioners Institute to be held March 9 - 11, 1988, at the Anaheim Hilton Hotel & Towers. If anyone is interested in attending, please contact the staff so that the necessary arrangements can be made.

Cassette Tapes from 1987 LOCC Annual Conference

The City Manager explained that cassette tapes regarding planning issues as discussed at the 1987 League of California Cities' Annual Conference, were distributed to the Commissioners for their information.

requirement to allow for the construction of an addition to the existing residence on Lot 4-MR, located at 19 Middleridge Lane North. Chairman Roberts opened the public hearing, and reported that a field trip was conducted on Saturday, March 5, 1988, at 8:00 a.m.

The City Manager explained that this is a request to encroach 6 feet into the side yard setback requirement, on a property which has an existing encroachment. The purpose of the encroachment is to allow for a residential addition of approximately 700 square feet.

Mr. Don Gales addressed the Commission, and explained that the proposed addition is a master bedroom. Their house was built in 1955, at which time the side yard setback requirement was only 10 feet. The proposed addition would still leave a 10 foot setback, in conformance with the requirements in effect at the time the house was constructed. Also, the proposed addition will not obstruct the neighbor's view.

Chairman Roberts asked if any letters of opposition or oral objections had been received regarding the proposed addition. Staff reported that no objections had been received, however, there had been one favorable response.

There being no further comments, Chairman Roberts closed the public hearing.

Commissioner Lay moved approval of Zoning Case No. 358, a request by Donald Gales for a Variance of the side yard setback requirement to allow the construction of an addition to the existing residence on Lot 4-MR, 19 Middleridge Lane North, subject to staff's recommendations. Commissioner Bundy seconded the motion, and it carried by the following roll call vote:

AYES: Commissioners Bundy, Frost, Lay, Chairman Roberts

NOES: None

ABSENT: Commissioner Hankins

PROPOSED ORDINANCE: VIEW RESTORATION AND VIEW PRESERVATION

The City Manager explained that the Commission has before them a draft of the proposed ordinance of the City of Rolling Hills for the preservation of trees on and views from private property.

This matter has been held on the agenda for the last couple of months to allow the City Attorney to review it and provide legal opinions on two issues. The first issue had to do with the need for an Environmental Impact Report as it relates to this ordinance, and the City Attorney determined, after reviewing the law, that the negative declaration as to environmental impact is an appropriate mechanism under CEQA for this particular ordinance. Therefore, an EIR would not be necessary to proceed with this ordinance. The second issue had to do with the delegation of police powers to a third party. The City Attorney made a determination, according to the Government Code, that the duties of the City Council are not delegable to a third party and, therefore, there has been a modification made to Section 13 of the proposed ordinance. The following paragraph has been added to Section 13, Appeal:

> "The action of the arbitrator, in matters described in this chapter, shall be final, conclusive and effective twenty calendar days after the filing of notice, as provided herein this section, unless within said twenty day period an appeal to the City Council, in writing, is filed with the City Clerk by any of the following:
>
> A. The complainant;
>
> B. The complainee;

C. Any person who received or was entitled to receive written notice as prescribed in Section 17.40.060;

D. The City Council, upon the affirmative vote of three members of the Council."

Hence, the process would be as follows: first, a complaint would be heard by the Committee; then, if they could not resolve the problem, it would go to arbitration; and, finally, if it still could not be resolved, it would then go to the City Council. Essentially, it was the City Attorney's opinion that there should be an appeal process.

Chairman Roberts suggested that a comma be inserted after the word "architect", in Section 3, the first sentence, of the proposed ordinance, for clarification purposes.

Commissioner Lay asked where in the ordinance the cost of arbitration is covered. The City Manager explained that all arbitration proceedings would be established by resolution, thereby eliminating the need to amend the ordinance every time that the arbitration process or fee changes.

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Chairman Roberts opened the public hearing and invited public testimony.

Mr. Don Gales
19 Middleridge Lane North

Mr. Gales asked if the ordinance would apply only to existing trees and not to newly planted trees. The City Manager explained that the ordinance would apply to all trees. It is believed that one of the issues that the Committee on Trees, or, ultimately the arbitrator, would look at is the quality of the view.

Mrs. Fran Murray
8 Possum Ridge Road

Mrs. Murray said that it was her understanding that the City Attorney for Rancho Palos Verdes felt that such an ordinance would not be constitutional because property would be taken without compensation. The City Manager explained that the concern in Rancho Palos Verdes is not trees but structures blocking views.

Commissioner Lay expressed his hope that it would be stressed, pursuant to Section 5 of the proposed ordinance, that neighbors should try to solve the problem amicably themselves before filing a complaint with the Committee.

Commissioner Bundy stated that he had trouble accepting the idea that the complainant would be responsible for all costs. The City Manager explained that a tree is considered to be part of the real estate where a view is not, therefore, trees can be allowed to grow. In a since, by making the complainant responsible for removing the trees, they are compensating the owner for the taking of the trees.

Chairman Roberts commented that the proposed ordinance is simply a mechanism to encourage people to resolve the conflict between views and trees.

The City Manager stated that problems with enforcement of this ordinance can be cured by simply rescinding the ordinance, if it proves not to be a workable ordinance.

There being no further discussion, Chairman Roberts closed the public hearing.

The discussion continued among the Commissioners regarding the proposed view ordinance and forwarding it to the City Council for their consideration.

Commissioner Lay did not wish to make the motion to approve the ordinance for consideration by the City Council, due to the fact that he is more of a proponent of trees and didn't feel it was in his best interest. Therefore, Commissioner Frost moved that the proposed ordinance for the preservation of trees on and views from private property be presented to the City Council for their consideration, although he felt that the proposed ordinance did not go far enough and was a sop. Commissioner Lay seconded the motion and it passed by the following roll call vote:

AYES: Commissioners Frost, Lay, Chairman Roberts

NOES: Commissioner Bundy

ABSENT: Commissioner Hankins

OPEN AGENDA

Chairman Roberts invited public comment on any issue not on the agenda. Mr. Gales asked if anyone has looked at the problem of people planting excessive landscaping when their house is new and then not being responsible for trimming and maintaining it. The City Manager stated that, basically, that is partly what the ordinance is addressing.

Commissioner Lay suggested that Mr. Gales be considered as a member of the Committee on Trees when it is formed, being that he is an authority in this field.

MATTERS FROM MEMBERS OF THE PLANNING COMMISSION

Resignation of Commissioner Cliff Bundy

Commissioner Lay remarked that Commissioner Bundy's resignation would become effective soon. The City Manager stated that Commissioner Bundy had indicated that he would continue to serve on the Commission until the Council had appointed a replacement.

Chairman Roberts thanked Commissioner Bundy for his dedicated service and wished him all the best in his retirement. Commissioner Lay thanked Commissioner Bundy for his devotion and counsel, and for his calming influence at times.

Commissioner Bundy commented that he feels it has been a rewarding experience.

MATTERS FROM STAFF

Probst Appeal

The City Manager reported to the Commission that at the public hearing which was held by the City Council at their meeting on March 14, 1988, to hear the appeal by Mr. Probst, the applicant presented a completely revised site development plan which the City Council has remanded back to the Planning Commission for their review. This will be set for a public hearing on April 19, 1988.

Proposed Formation of a Plan Review Sub-Committee of the Planning Commission

The City Manager reported that he has been considering for some time, the possibility and feasibility of forming a sub-committee to review plans prior to the Planning Commission, thereby, providing a process by which plans could be revised prior to the public hearing held by the Planning Commission or in between the time that one public hearing takes place and another one takes place, without withdrawing an application or having it denied.

4/19/88

The City Manager said that the C C & Rs set a minimum but don't have a maximum.

Commissioner Frost asked if it would be easier to accomplish by amending the Conditions, Covenants and Restrictions, or by the City adopting an ordinance.

The City Manager said that it would be much simpler to implement by ordinance. Amending the C C & Rs is a very difficult process.

The City Manager explained that by imposing a maximum, it doesn't necessarily mean that a very large house cannot be constructed. It would mean, however, that if someone wished to construct a very large house they might have to apply for a Variance, which allows for control and for conditions to be placed on the construction of the house.

MATTERS FROM STAFF

PROPOSED VIEW ORDINANCE

The City Manager reported that the City Council would be considering the proposed view preservation ordinance at their next meeting, on April 25, 1988.

HANSEN PROPERTY, 41 EASTFIELD DRIVE

The City Manager indicated that he is looking into this matter. He commented that just because someone has been granted a permit and has begun construction, they are not relieved of the responsibility of complying with all of the conditions. This particular matter was approved by the City Council and the only body that can, in fact, change the conditions would be the City Council.

The City Manager stated that he will communicate to the applicants at 41 Eastfield Drive, that they have a responsibility to comply with the conditions that were imposed by the City Council.

Thus, a landscape plan will ultimately be presented to the Planning Commission for approval, which will incorporate some view preservation and view restoration features. Hopefully, it will be on the agenda for the next meeting.

ADJOURNMENT

There being no further business before the Commission, Chairman Roberts adjourned the meeting at 9:02 p.m., to Tuesday, May 17, 1988, at 7:30 p.m.

Jeanne L. Belanger
City Clerk

APPROVED:

Chairman

PROPOSED ORDINANCE: AN ORDINANCE OF THE CITY OF ROLLING HILLS FOR THE PRESERVATION OF TREES ON AND VIEWS FROM PRIVATE PROPERTY

The City Manager explained that the Council has before them a recommendation from the Planning Commission of an ordinance for the purpose of preserving and restoring views from private property within the City of Rolling Hills. The process of drafting the proposed view ordinance, at the Planning Commission level, took several months to complete. The process began last summer and over the past several months the Planning Commission has held a series of public hearings for the purpose of receiving public testimony from members of the community as it relates to the development of an ordinance for the purpose of allowing residents to have their views either preserved or restored. Over this same period of time, the Planning Commission worked through several drafts of an ordinance which would accomplish this purpose.

ABJ518

The City Manager explained that the Council actually has two proposed ordinances before them. One is entitled "AN ORDINANCE OF THE CITY OF ROLLING HILLS FOR THE PRESERVATION OF TREES ON AND VIEWS FROM PRIVATE PROPERTY", which is the ordinance that was approved by the Planning Commission and was forwarded to the City Council. The other proposed ordinance also reflects the action of the Planning Commission in a somewhat different way. It is entitled "AN ORDINANCE OF THE CITY OF ROLLING HILLS REGULATING VIEWS AND PROVIDING FOR ABATEMENT OF VIEW IMPAIRMENTS AND AMENDING THE ROLLING HILLS MUNICIPAL CODE". This ordinance was prepared by the City Attorney and incorporates the spirit and the intent of the ordinance of the Planning Commission. The City Council has the authority and the perogative to adopt the latter ordinance without having to refer it back to the Planning Commission. Also, if the City Council wishes to modify the proposed ordinance they have the perogative of directing staff to implement the modifications and return to the Council with the amended ordinance.

Mayor Swanson asked if the Council had copies of all the letters that were written to the Planning Commission and City Council by residents regarding this matter. The City Manager stated that the Council did have a copy of all the letters that had been received and that the majority of letters express support of an ordinance that allows for neighbors to attempt to resolve their differences. However, there are at least two letters that express a different point of view as it relates to view impairment.

Mayor Swanson asked that the City Attorney brief the Council and audience on the issues that he outlined in his version.

The City Attorney explained that he originally prepared an ordinance for consideration by the Planning Commission. And, after the Commission took testimony and considered the matter, it recommended its own version of the ordinance, which contained some differences from that which the City Attorney had prepared. Since then, the City Attorney reviewed the ordinance that the Planning Commission approved, and had some concerns about some of its provisions. Therefore, the City Attorney explained that he essentially took from it those things which were new which had not been in his original ordinance, incorporated them into his original version, and prepared a new version. The main differences between his version and the one recommended by the Planning Commission, with the exception of some language differences, are as follows:

1) The City Attorney removed some definitions which were unnecessary.

2) The Planning Commission ordinance makes it a misdemeanor to maintain vegetation that unreasonably obstructs views. The ordinance prepared by the City Attorney does not; it simply makes it a misdemeanor to not comply with the ultimate determination of the final decision making body respecting the view impairment, which would be the City Council.

   The City Attorney stated that it is his opinion that if it's a misdemeanor to obstruct views unreasonably then

one could resort to the criminal remedy first without going through the administrative process and that that would be a mistake in view of the fact that it would be very difficult to place these matters into a court to determine what is and is not an unreasonable view obstruction, particularly in a criminal context. Therefore, the City Attorney deleted this from his ordinance and simply made it a violation of the ordinance to fail to comply with the final decision of the City Council with respect to a view impairment complaint.

3) Another important distinction is that the Planning Commission ordinance contains essentially a four tier process. The first tier calls for informal conciliation by the View Impairment Committee, to be followed by a formal hearing by the Committee, to be followed by arbitration by an arbitrator, and then to be followed by a potential appeal to the City Council.

The City Attorney explained that he had several reservations about this procedure. First, it seemed to be unwise to have the Committee serving both as a mediator and then, secondarily, as a body conducting a public hearing.

Also, since the arbitration is not a final and binding arbitration it is nothing more than a mediation or conciliation, which seems to be a repeat of the first tier of the process only that it is done by a single individual rather than the Committee. This redundancy seemed unnecessary and time consuming.

The City Attorney, accordingly, adopted a three tier process. The first tier is a conciliation or mediation process, which would be conducted by a single mediator who could be selected in any way that the Council desired. This person would take the initial crack at attempting to solve the problem. If the mediation failed, the matter could go to a public hearing before the Committee, in much the same way that the Planning Commission hears matters. And, finally, if that fails to resolve the problem to the satisfaction of the parties, it could be appealed to the City Council for final decision.

This process is simpler, less time consuming and it also utilizes all of the concepts of the Planning Commission ordinance. That is to say, it includes a mediation or conciliation aspect, it includes a hearing before an appointed committee, and it ultimately results in an appeal to the City Council.

4) The City Attorney made some minor changes with respect to findings that would be made in a determination of whether or not an obstruction should be removed or modified.

The City Attorney stated that that pretty well summarizes the major differences between the two ordinances.

Mayor Swanson asked the City Attorney to clarify paragraph "B" under Section 8.32.060, on page 4 of his ordinance.

The City Attorney explained that the ordinance makes it the responsibility of the complainant to pay the cost of the removal, abatement, or modification, as the case may be, of the obstructing vegetation, which is the same as the Planning Commission's version, except for certain extenuating circumstances which are indicated in paragraph "D". The way it is set up is that the complainant gets three bids from licensed and qualified contractors and then provides a cash deposit in the amount of the lowest bid. The owner of the vegetation may select that low bid, in which case payment has already

been made in that amount. However, if the owner of the vegetation decides to select some other contractor and it costs more than that low bid, then the owner of the vegetation would be responsible for the difference.

There being no further questions from the Council, Mayor Swanson opened the public hearing to receive testimony regarding this matter. The Mayor requested that each speaker limit their remarks to about 3 minutes.

Councilman Pernell asked that the more pertinent elements of the ordinance be pointed out. He stated further that it is his understanding that the Council is really only considering one ordinance, that which was approved by the Planning Commission, and that the City Attorney had simply made an alternate recommendation.

The City Manager explained that the City Attorney, Mr. Michael Jenkins, had incorporated the ordinance that the Planning Commission submitted to the Council into a format that allows it to be adopted more readily by reciting code sections and things of that nature. The other substantive changes that have been made may change the way the Planning Commission ordinance was originally written but it does not really change the intent of their ordinance, which was to create a process for prosecuting these complaints.

ABJ518

Mayor Swanson said it is her understanding that the City Attorney's ordinance cleans up the ordinance that was submitted by the Planning Commission. It takes out unnecessary definitions that are already in the code, and it simplifies the process by making it a three tier instead of a four tier procedure.

Councilman Pernell asked the City Attorney if the Planning Commission had had the advantage of his advice. Mr. Jenkins stated that when they initially started the process, the Planning Commission had a version of his ordinance before them. The differences between that original ordinance and the ordinance as it now appears before the City Council are: (1) that the City Attorney added definitions for a "tree" and a "hedge", which are also in the Planning Commission ordinance; (2) the City Attorney established a committee on trees and views, which is identical to what the Planning Commission has proposed in their ordinance; (3) the procedure for abatement is identical to the procedure that the City Attorney originally submitted to the Planning Commission; (4) the findings are identical; (5) the implementation of the restorative action, that is the allocation of costs and the method of performing the work, is identical; (6) there are some changes in paragraph "D" pertaining to those circumstances underwhich the City, be it either the Committee or the Council, on appeal, would reallocate that cost, possibly, back to the owner; and, finally, (7) the section on desirable and undesirable trees, with respect to the preparation of lists, was taken from the Planning Commission ordinance.

In all other respects, the ordinance is that which was given to the Planning Commission originally. The City Attorney commented that the differences between the two ordinances are largely stylistic, except for those substantive issues which he has already raised.

Councilman Pernell commented that he felt it was important to be aware that the Planning Commission did have the benefit of legal counsel and, for whatever reasons, decided to draft their own ordinance. This, Councilman Pernell remarked, carried a lot of weight, in his opinion.

The City Attorney addressed Mayor Swanson's question concerning the responsibility of the owner to implement an order of abatement. He explained that in both ordinances the complainant is obligated to pay for the cost of the abatement of the view obstruction. Subsequent maintenance of the vegetation is at the expense of the owner of the property. This means that once the abatement is accomplished it is the responsibility of the owner, thereafter, to continue to maintain and trim the vegetation in order to keep it in the same manner so as to eliminate the view obstruction. Mayor Swanson asked if this would apply to all

subsequent owners, and the City Attorney and Mayor Pro Tem Murdock stated that it would be recorded against the property, and would, therefore, apply to any owner of the property.

Mayor Pro Tem Murdock stated that she shares Councilman Pernell's concern with respect to the Planning Commission reviewing the ordinance being proposed by the City Attorney, and asked if the Council were to adopt first reading of this ordinance tonight, could the Planning Commission review the ordinance and submit their recommendations before the second reading. The City Attorney replied that that would certainly be acceptable.

Mayor Swanson asked the City Manager to comment on how the Planning Commission arrived at their proposed ordinance since he attends the Planning Commission meetings. The City Manager stated that it was not a matter of rejecting the recommendations of the City Attorney, it was more a matter of expanding upon the recommendations of the City Attorney. The ordinance proposed by the Planning Commission proposes a lengthier process. The Planning Commission had a desire to look at other cities to see what other cities were doing regarding this issue and, in the process of creating this ordinance, they took elements of several ordinances from throughout the State of California and incorporated them into this ordinance.

The City Attorney stated there was one change to the original Planning Commission ordinance, which was of a legal nature. The original Planning Commission ordinance called for binding arbitration; it did not call for an appeal to the City Council. The City Attorney said that, from a legal point of view, it was his opinion that that would not be appropriate. Therefore, the City Manager added the appeal process to the Planning Commission ordinance, thereby, creating that fourth tier. Prior to this addition, the process only went up to binding arbitration and there was no appeal to the City Council.

Mrs. Cathy Manning, 14 Crest Road West, suggested that a strong distinction be made between preservation of a view and restoration of a view. Mayor Swanson asked Mrs. Manning if she had a recommendation. Mrs. Manning said her recommendation would be that language be put into the ordinance stating that only under the most severe circumstances would restoration of a view be considered. However, preservation of a view is a definite right of any property owner. She would basically like to see the restoration of views eliminated from the ordinance. Mrs. Manning also said that when a complainant gets three bids from contractors, they should be only contractors that are approved by the City.

Mr. Don Gales, 19 Middleridge Lane, spoke with reference to the definition of "View" in the Planning Commission ordinance, and suggested that "the Palos Verdes hills" be added to the list of scenes, immediately following "city lights", the reason being that the Palos Verdes hills are an impressive view in themselves.

Councilman Pernell reminded Mr. Gales of the letter that he had written to the Planning Commission in support of the proposed view ordinance and asked Mr. Gales to expand upon this. Councilman Pernell informed the audience that Mr. Gales is an authority of the flora of the Palos Verdes Peninsula and has authored a book entitled "A Handbook of Wildflowers, Weeds, Wildlife and Weather of the Palos Verdes Peninsula".

Mr. Gales explained that most of the large trees and obstructions were planted a long time ago. Mr. Gales said that he believes a majority of the problems are caused by quick-fix landscaping of residences, in an effort to provide some screening and instant mature landscaping, without any thought given to maintenance of the vegetation, and which eventually becomes overgrown and needs to be thinned out.

Dr. Arthur Adesko, 3 Georgeff Road, asked the City Attorney if this ordinance would supersede any prior agreement between neighbors. The City Attorney said that it is entirely possible that two neighbors could have a binding agreement that would supersede the effect of this ordinance, or could have some court judgement between

them that might supersede the application of this ordinance. However, it wouldn't necessarily preclude the application of the ordinance by some other complainant. The City Attorney said that this is a difficult question and one that he would want to give more thought to. Generally speaking, people cannot agree between themselves to violate the law. But, the law here does not impose any obligation until after parties go through an entire process. If the parties choose not to go through that process, i.e., if they have some understanding that is binding on the both of them, the City Attorney is not persuaded that that would be a problem.

Dr. Adesko asked if this ordinance would supersede any agreement that they inherited, and the City Attorney said he couldn't answer that question without knowing more information.

Councilman Pernell asked what would happen if a third party filed a complaint on a property owner that had a binding agreement with another neighbor. The City Attorney said that no agreement would bind the third party.

ABJ518

Mrs. Shirley Tyndall, 65 Eastfield Drive, suggested that the wording in Section 10 of the Planning Commission ordinance be changed to read, "... shall be the responsibility of the owner of the property, <u>or subsequent owners of the property</u>, which causes...".

The City Attorney reiterated that this decision would be recorded, in perpetuity, against the property and not the individual. However, the City Attorney agreed that the language could be strengthened for clarification purposes.

Mrs. Tyndall also commented that, the word "significantly" in the definition of "View Impairment" is vague and very subjective.

The City Attorney commented that in his original version he attempted to quantify it somewhat, however, the Planning Commission, for whatever reason, did not use it. The City Manager stated that the Planning Commission used a broader definition because it could differ from one property to the next.

In conclusion, Mrs. Tyndall said that she is very much in favor of the proposed ordinance.

Mr. Paul Grubs, 1 Hackamore Road, agreed with the first speaker. He said that very serious thought should be given to the age of the trees with respect to view restoration. Mr. Grubs said that if a tree has existed for forty years, obviously people have moved in and have been faced with the view impairment from the very beginning. Trees, within about a ten year period, reach a height which is noticeable. If people are concerned about a view obstruction, they should speak up at that time, not forty years down the road. Mr. Grubs said that there are many trees that will die if cut off below 15 feet and on a forty year old tree there is usually very little vegetation below 20 feet. Therefore, Mr. Grubs felt very strongly that the age of the tree should be taken into consideration before any view restoration is performed.

Mr. Grubs also stated that he felt that this matter should be brought to a vote because it is so significant and will have such an impact as to what will happen to the City.

Mayor Swanson asked Mr. Grubs if he had difficulty with the proposed ordinance, and Mr. Grubs stated that he did have some problems with the ordinance.

Councilman Pernell pointed out to Mr. Grubs that the proposed ordinance does not mandate a height limit of 15 feet.

Mr. Grubs commented that his neighbor had their tree trimmed and laced, and it grew back fuller than before. He stated that, generally, when trees are trimmed or laced they grow much more prolific than before. He said in many instances, thinning has ultimately created a worse view impairment problem.

Councilman Pernell discussed with Mr. Grubs his feelings regarding the proposed ordinance, and Mr. Grubs indicated that he is opposed to the ordinance and has a definite sensitivity regarding this matter.

Mrs. Phyllis Walker Hutchinson, 29 Eastfield Drive, discussed tree trimming and its effects. She explained that certain trees when trimmed, in particular, Pines, grow even more abundantly than before or form another trunk and eventually create more of a view impairment. Mrs. Hutchinson said that we also need to be wary of people coming onto someone's property without permission to top or thin trees. In spite of this, Mrs. Hutchinson said that she is in favor of the ordinance. She said its her feeling that something has to be done to make it equal for everyone. She also commented that many people that talk about view restoration and preservation should look to their own property to make it more viewful for other people.

Mayor Swanson welcomed Mr. Stringfellow, President of the Board of Directors of the Rolling Hills Community Association.

Mr. Jim Brogdon, 5 Maverick Lane, said that many people plant trees and don't really notice them growing large until, after many years, they are literally living in a forest. Mr. Brogdon said that he has told his neighbors that if he has any trees that bother them, to come see him about it and he would either have the obstructing tree removed or thinned, which he has done in the past.

Mayor Swanson asked Mr. Brogdon if this is an indication that he is in favor of the ordinance. Mr. Brogdon said that to the contrary, he is not in favor of the ordinance because he feels it is an impossible situation. He said that he doesn't feel there is a solution to this problem.

Mr. Bill Stringfellow, 85 Crest Road East, said that the Members of the Board of the Rolling Hills Association have discussed this matter and agree that something has to be done. Also, Mr. Stringfellow commented that he understands Mrs. Manning's concerns, however, he believes that the Committee on Views would use good judgement and would not completely strip the Manning's trees and leave their home exposed. Mr. Stringfellow said that something needs to be done to restore, in a responsible manner, views that have been lost.

Mr. Stringfellow posed a potential problem, that being who is responsible for the death of a tree caused by trimming, as a result of a favorable decision of a view impairment complaint. He said that he can envision law suits over this type of issue.

Mr. Stringfellow stated that he is very much in favor of the ordinance, and wished the Council good luck in their deliberations. He said that this matter is very difficult because it is very subjective.

Councilman Pernell asked Mr. Stringfellow if the Association charges the Landscape Committee with any responsibilities with regard to view preservation. Mr. Stringfellow said that he did not know the answer to that question. Councilman Pernell said that maybe it would be possible to consider that as a possibility.

Mr. Margrave, 55 Saddleback Road, stated that he is in favor of the goals of the ordinance. He said that, in his opinion, a view is a concrete thing. Mr. Margrave also stated that years ago he worked with the Landscape Committee, and they did take into consideration views. Mr. Margrave feels that there are too many trees and that removal of the trees would be the best solution.

Mr. Ron Warmbier, 86 Crest Road East, expressed his appreciation to the Council for their efforts in this matter. Mr. Warmbier had some procedural questions for the City Attorney. With respect to Section 10, Payment of Cost of Correction, Mr. Warmbier asked who would make the determination, subsequent to a favorable decision, of view impairment, as to how often or when vegetation would have to be trimmed to preserve the view after abatement had been

achieved. Mr. Warmbier suggested that this be an annual evaluation. The City Manager explained that the purpose of the decision is to provide a plan for the future. Whatever is necessary to restore and preserve the view, once it is determined what that restored view is going to be, would carry through to any future restoration which would be similar to the original decision. The City Attorney also commented that the vigilance of neighbors and of the complainant is the only means of enforcement. Other than that, there is no enforcing capacity in the City at this point in time.

Mr. Warmbier then asked a question with regard to the initial enforcement process. He said that in many instances positions have solidified over the years and an amicable solution is not possible. He wanted to know what happens when an owner of the obstructing trees refuses to allow anyone onto his/her property to remove or trim the offensive tree(s). The City Attorney stated that that is a potentially troublesome situation. Mr. Jenkins said that it might become necessary to get a court order. The City Attorney said that one thing that is not included in the ordinance and which could be added, is the notion of not only declaring it a misdemeanor but also making it a nuisance. Thus, if the property owner did not comply with the order, it would give the City legal authority to enter upon the property.

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Mr. Warmbier also stated that it appears that this ordinance only gives legal standing to the property owner as the complainant. However, Mr. Warmbier said that there are many common vistas throughout the City that are shared by the residents of the community and which have obstructed views. The City Attorney stated that the ordinance specifically restricts "view impairment" to views from residences. Mr. Warmbier said that he assumes that was the legislative intent. Councilman Pernell stated that he does not share that viewpoint. Councilman Pernell said that he doesn't feel it was necessarily the legislative intent. He said that this may just be an oversight. Councilman Pernell continued to say that he feels that this is a very valid point. Councilman Pernell remarked that there are many pleasant vistas as one drives along Crest Road, that he can see from some of the plantings, are eventually going to be threatened and obscured. Councilman Pernell feels that a provision for this type of situation should be included in the ordinance. Mayor Swanson confirmed with Mr. Warmbier that this was also his concern, and Mr. Warmbier indicated that, indeed, this was a concern of his.

There were no further comments from the audience. Councilman Pernell suggested that the public hearing be continued because he feels there needs to be a lot more discussion on this matter. Therefore, the Mayor ordered that the public hearing be continued.

Mayor Pro Tem Murdock said that the public hearing has raised some questions that are important to consider. She suggested that if any of the Councilmembers have questions or concerns they express them now or express them in writing to the City Manager to pass along to the City Attorney.

Councilman Pernell also requested that, in the future, the Chairman or a Member of the Planning Commission attend the public hearings to, when necessary, explain their intent or the origin of some of their thoughts.

Councilman Pernell said that it appears that this is something that almost everyone wants to do something about but whatever is done is not a permanent solution. It is a recurring problem, similar to weed abatement. Councilman Pernell stated that he would like to know the experience of other cities that have an ordinance of this type in place. Councilman Pernell also suggested to the City Attorney that consideration be given to moving the process up a little bit. Currently, this whole process is started with a written complaint. That very act in itself may tend to harden some relationships between neighbors. If there were some way of being advised that such a complaint were being contemplated, prior to the time it were to become part of the official record, it might be helpful to neighbors in resolving the problem.

Councilwoman Leeuwenburgh shared Councilman Pernell's concerns. She would like more verbal input from the Planning Commission Chairman.

Councilwoman Leeuwenburgh would also like another public hearing that is well noticed in hopes of receiving a wider range of opinions expressed at the next City Council meeting.

Mayor Swanson stated that she had reviewed both versions of the proposed ordinance, that of the Planning Commission and that of the City Attorney, and feels that they are basically the same with the exception of the mediation procedure, the 4-tier process versus the 3-tier process. Mayor Swanson prefers the 3-tier process because, in any case, it will be a difficult procedure and adding one more step makes it that much more tedious. She also favors the idea of having the City Council make the final decision in the event of an appeal.

In both versions, the composition of the Committee is discussed and both versions suggest that a landscape architect be a member of the Committee. Mayor Swanson questioned whether such a highly skilled individual is necessary. Maybe it would be sufficient to have someone with landscape training but not necessarily an architect. Usually, landscape architects are costly.

Both versions gave many reasons for trimming trees. Another important reason, and one that the Mayor would like the City Attorney to consider, is the erosion of soil around a tree that could potentially occur if a tree were to become so large that it pulls earth with it and topples after a heavy rain or watering. At times, a property owner may not be cognizant of such a problem but a neighbor might be if such a tree were to fall onto their property. Thus, such a concern should merit serious consideration for trimming or removal.

The Council discussed whether to continue the public hearing to the first or second meeting in May since Councilman Pernell indicated that he would not be able to attend the first meeting in May.

Mayor Pro Tem Murdock felt that this matter should be on the agenda as many times as is necessary, to encourage participation from the community.

It was decided to continue the public hearing to the next regular Council meeting.

NEW BUSINESS

REORGANIZATION OF THE CITY COUNCIL

Mayor Swanson invited members of the audience to remain for the reorganization of the City Council. The Mayor explained that it is customary every year to change Mayors, and that this position is basically rotated amongst the Council.

Mayor Swanson reviewed her year as Mayor and the accomplishments of the past year. During the past year, a firm was hired to do the preliminary sewer study and the study has been completed, although, the process is continuing. The Council has been successful in receiving funding from the Federal Government for the Corps of Engineers to conduct a reconnaissance study in the Flying Triangle for the purpose of studying the South Peninsula landslides. The Council has started the process of possibly adopting a view preservation ordinance. A Wildlife Preservation Committee was appointed and it is felt that this committee will play a very important role for the whole community. Procedure charts for building, zoning, planning, and subdivision applications have begun to be developed. The City is in good fiscal standing. An ordinance regulating the construction of tennis courts was revised and

MINUTES OF A
REGULAR MEETING OF THE CITY COUNCIL
CITY OF ROLLING HILLS

May 9, 1988

A regular meeting of the City Council of the City of Rolling Hills, was called to order at the City Hall/Administration Building, 2 Portuguese Bend Road, Rolling Hills, California, by Mayor Murdock at 7:30 p.m., on Monday, May 9, 1988.

ROLL CALL

PRESENT:	Councilwomen Leeuwenburgh, Swanson, Mayor Murdock	
ABSENT:	Councilmen Heinsheimer, Pernell (excused)	
ALSO PRESENT:	Terrence L. Belanger	City Manager
	Michael Jenkins	City Attorney
	Betty Volkert	Deputy City Clerk
	Capt. Dennis Gillard	Sheriff's Lomita Station
	Ann Johnson	Los Angeles Times
	Anne La Jeunesse	Peninsula News
	Mrs. Ann Carley	Resident
	Mr. Bill Cross	Resident
	Mr. Roger Frost	Resident
	Mr. John Husnak	Resident
	Mr. Major Langer	Resident
	Mr. & Mrs. Yu-Ping Liu	Residents
	Mr. Allan Roberts	Resident
	Mrs. Emily Schleissner	Resident
	Mr. P. Shu	Resident
	Mr. Roy Stinnett	Resident

CONSENT CALENDAR

Mayor Murdock removed the minutes of April 25, 1988, from the Consent Calendar because they were not ready.

Councilwoman Swanson moved that the Consent Calendar be approved, with the exception of the minutes. Councilwoman Leeuwenburgh seconded the motion, and it carried unanimously.

APPROVAL OF MINUTES

The minutes of April 25, 1988, were ordered held on the agenda because they were not ready at the time of this meeting.

PAYMENT OF BILLS

Demands Nos. 2846 through 2875, in the amount of $38,774.59, were approved for payment from the General Fund.

PUBLIC HEARING - CONTINUED

This public hearing is to consider a proposed ordinance entitled "AN ORDINANCE OF THE CITY OF ROLLING HILLS FOR THE PRESERVATION OF TREES ON AND VIEWS FROM PRIVATE PROPERTY".

The City Manager reported that this public hearing is continued from the City Council meeting on April 25, 1988. At that meeting the Council received public testimony from residents regarding a proposed policy that would be established by ordinance, whose purpose would be to preserve and restore views on private property within the City.

The City Manager explained that the draft View Preservation Ordinance has been amended to reflect the Council's comments and concerns that were expressed at the April 25, 1988, City Council

5/9/88

meeting. In the amended draft ordinance, there are several sections that are underlined, representing the changes and modifications that were requested by the City Council.

Additionally, there were three other issues that were raised at the previous public hearing. The first issue had to do with the distinction between view preservation and view restoration. The question that needs to be resolved is whether or not a property owner that purchases a piece of property today has the same rights under the ordinance as somebody who has owned a piece of property for the last 25 years. This question was considered at the Planning Commission level, and the Planning Commission determined that the underlying purpose of the ordinance was to maintain or enhance the intrinsic value of the private property, as manifested in views, and that view restoration should have the same weight as view preservation. The second issue had to do with whether there should be a broad (more qualitative) or a narrow definition (more quantitative) of the term "significant impairment". Again, this matter was considered at the Planning Commission level. The recommended ordinance reflected the Planning Commission's recommendation, which was to keep a broad, or more qualitative, definition of he term "significant impairment". The third issue had to do with the distinction between private views and public or quasi-public views. The recommended ordinance again reflects the Planning Commission's recommendation. The Commission discussed the issue of the propriety of views. The Commission concluded that the recommended ordinance should address the proprietary interests of private property owners. The Planning Commission determined that the views from public or quasi-public areas would not be addressed in the ordinance.

ABJ518

Mayor Murdock opened the public hearing, and invited public testimony.

Mr. Ping Shu, 6 Packsaddle Road West, addressed the Council. He feels that the ordinance has many obstacles. For one thing, trees are not a set form such as a square or rectangular; they are free form. He also feels that this will create constant tension between neighbors. Mr. Shu feels that the only reason this proposed ordinance is being considered in the first place, is because of a few complainants. He also does not agree with the idea of view restoration, and wondered what kind of ruling might be handed down if an obstructing tree is very valuable. Mr. Shu doesn't feel that the City could cope with the discontent that would be generated between neighbors. He feels that if there is a problem, the neighbors should resove it amongst themselves. Mr. Shu also fears that if this proposed ordinance were adopted, the City would need to hire a full-time person to continually monitor the trees. He does not favor the ordinance, and feels that it should go to a vote of the property owners.

Mr. Roger Frost, 87 Eastfield Drive, addressed the Council and spoke in favor of the ordinance. Mr. Frost stated that he feels that each homeowner should take responsibility for their own property and that the Community Association should be responsible for their part of Rolling Hills, which is the easements. Mr. Frost remarked that the east side used to be fairly bald except for a few trees in the easements, and he had a fantastic light view. He went on to say that some vegetation adds character and interest, however, the majority of obstructing trees are not beautiful, maintained trees; they are simply overgrown and compacted. Mr. Frost explained that many years ago the 4-H club planted seedlings in cans for the Association to subsequently plant in the easements; the remainder were healed into the ground. They have grown extremely well, however, no one is maintaining them. Many are half dead, overgrown, and a fire hazard. As a result, his view has, for all intents and purposes, been obliterated. He said that he does not expect to regain 100% of his original view, but he would like to regain a portion of what he once had.

Mr. Frost also said that to ask the offended party to, in effect, ransom their view by taking care of somebody elses mistakes, indiscretions, or irresponsible actions, is not right. Mr. Frost

feels that the individual that owns the trees has a responsibility to the community and to his neighbors to maintain his property such that he does not deny his neighbor the enjoyment of a view. Also, any agreement should be binding on the property owner of record, thereby solving the potential problems that might arise when a property changes ownership. Mr. Frost does, however, feel that this ordinance is a step in the right direction.

Councilwoman Swanson informed Mr. Frost that there are instances in which the owner of the offending tree(s) would be required to pay for the trimming or removal, i.e., if it were determined to be a hazard. Councilwoman Swanson also explained that the final decision of a complaint would be recorded against the property itself.

Mr. Roy Stinnett, 9 Caballeros Road, informed the Council that there are trees blocking his view which he calls "Spike" trees, and which grow very tall. Mr. Stinnett expressed concern that if this ordinance were adopted it might possibly interfere with any civil action that he might wish to pursue. He explained that he is considering filing a suit against his neighbor, and was concerned that this ordinance might inhibit such an action. Mayor Murdock informed Mr. Stinnett that this ordinance would not preclude any civil action between private parties. It is simply a proposed ordinance to enable the City to deal with problems and providing a means of addressing them through mediation and, ultimately, the resolution of whatever dispute there may be with respect to view impairment. The City Attorney verified that the ordinance was not written with the intent to preclude any civil actions on the part of residents of the City.

Mrs. Emily Schleissner, 77 Crest Road East, expressed her support of the ordinance.

Due to the fact that the proposed ordinance has been revised since the previous meeting, and the public has not had an opportunity to review these revisions, in addition to the fact that there are only three Councilmembers present at tonight's meeting, Mayor Murdock suggested that this proposed ordinance be held on the agenda and the public hearing be continued to the next meeting. Councilwoman Leeuwenburgh so moved. Councilwoman seconded the motion, and it carried unanimously.

Mayor Murdock also requested that a notice be published in the next newsletter informing residents that there is a revised ordinance available for their review, and that the public hearing has been continued to the next meeting.

OLD BUSINESS

RESOLUTION NO. 572

This resolution entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS DENYING A CONDITIONAL USE PERMIT IN ZONING CASE NO. 355", is a resolution for denial of Zoning Case No. 355, a request by Yu-Ping Liu for a Conditional Use Permit for a tennis court on Lot 240B-2-MS, 39 Crest Road West.

The City Manager explained that at the City Council meeting on April 25, 1988, the Council held a public hearing, following which the Council made a determination as regards Zoning Case No. 355. At that time, the City Council determined that they would deny this request for a Conditional Use Permit for construction of a tennis court, and at that time the Council directed staff to return to the next City Council meeting, which is this evening, with a resolution which memorializes and ratifies the decision of the Council at their meeting on April 25, 1988.

Councilwoman Swanson moved approval of Resolution No. 572. Councilwoman Leeuwenburgh seconded the motion, and it carried unanimously.

5/23/88

PUBLIC HEARINGS

CONTINUED - PROPOSED ORDINANCE FOR THE PRESERVATION OF TREES ON AND VIEWS FROM PRIVATE PROPERTY

The City Manager explained that this is the third public hearing regarding the proposed View Preservation & View Restoration ordinance. The City Manager also announced that a letter was received today from Mr. Ping Shu, 6 Packsaddle Road West, expressing his opinions and recommendations regarding the proposed ordinance. Also, as a result of the last public hearing, the City Attorney incorporated some additional language in paragraph 8.32.070 concerning enforcement of the ordinance. The additional language was added to clarify the civil prerogatives available to individuals under this ordinance, beyond the criminal prerogatives which exist pursuant to the Municipal Code. A violation of the Code is a misdemeanor, which is addressed in the first paragraph of Section 8.32.070. The second and third paragraphs address the civil aspects.

The City Manager reported that the City Attorney has requested that the proposed ordinance be continued and that public testimony be taken on the ordinance this evening. The City Attorney, who plans to arrive around 8:30 p.m., has also requested that issues related to the California Environmental Quality Act be discussed in Executive Session. Mayor Murdock noted that the public hearing would be continued and asked for input from the audience.

Mr. Edward Wiater, 3 Roundup Road, asked if there would be an opportunity to give public comment after the City Attorney presents his counsel in Executive Session. The City Manager explained that the ordinance would be continued until the June 13 meeting unless the Council took action tonight to introduce the ordinance.

Mr. Jack Meany, 21 Buggy Whip Road, said that he could speak to this issue without emotion because he lives on a lot with no potential for view impairment, either presently or in the future. He believes the desire for a good view was a primary reason why many chose to live and buy property in Rolling Hills. He believes it would be wrong not to preserve the views,and whole heartedly supports the ordinance or something similar to it.

Councilman Pernell said that he appreciated Mr. Meany's opinions. He noted that the proposed ordinance, as written, stipulates that the initial cost would be borne by the persons whose view is being enhanced, and the subsequent cost, or maintenance of that enhanced view, would be borne by the property owner whose trees and shrubs were impairing the view. Councilman Pernell asked Mr. Meany to address the question of the potential burden of maintaining the view of others.

Mr. Meany said that as soon as a neighbor made it known that one of his trees was impairing their view, he would remove it. He also said that if his view were impaired, and the offending party did not want to pay for the view restoration and preservation, he would certainly be willing to pay for it himself to preserve his view.

Mr. Cliff Bundy, 2 Chuckwagon, informed the Council that he voted against passing this ordinance onto the City Council because he feels it is very unfair to put the burden of cleaning up a view onto the victim and not the perpetrator. Mr. Bundy said that to completely restore his view would cost him thousands of dollars. He noted that in the past he has allowed his trees to be trimmed when requested, and has maintained them in a trimmed condition. Mr. Bundy suggested that sharing the cost 50-50 might be more equitable. He also believes that the ordinance should address the case of a new owner who inherits existing landscaping that obstructs neighboring views. He didn't feel that a new owner should be obligated to take care of something that the previous owner let happen.

Mr. Chester Jenkins, 10 Southfield, asked if the "Committee" that is to be appointed by the City Council would consist of residents of Rolling Hills. The City Manager clarified that the "Committee" and the "Commission" are one and the same; the word "Commission" in the last paragraph on page 3 is a mistake and should

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read "Committee". Mr. Jenkins suggested that the ordinance be clarified to specify that the members of the "Committee" would be residents of Rolling Hills. Mayor Murdock suggested that in Section 8.32.030, the word "persons" be changed to read "residents".

Mr. John Bennett, 3 Eastfield Drive, asked if there has been any thought given to future planting in the City. The Mayor stated that this issue is addressed in Section 8.32.090, Desirable and Undesirable Trees. Mr. Bennett also asked if a height standard had been determined, and the Mayor indicated that it was discussed in Section 8.32.060 (D).

Mr. Jim Brogdon, 5 Maverick Lane, expressed his opinion that more cooperation is required among neighbors to avoid the involvement of the courts. He feels that if the burden of trimming the trees were placed on the owner of the obstructing trees, there would be more incentive for cooperation.

Mr. Paul Grubs, 1 Hackamore Lane, addressed the Council, and feels very strongly that an issue as significant as this one should be brought to a vote of the residents. He expressed concern with the enforcement procedures of the ordinance. The City Manager explained that violation of any of the Codes is a misdemeanor. Councilman Pernell explained to Mr. Grubs that there has to be something that is compelling enough to encourage compliance. Councilman Pernell said that there are many steps prior to criminal prosecution.

ABJ518

Mayor Murdock also noted that there are standard procedures for considering and adopting an ordinance, and that Council is simply following those procedures.

CITY ATTORNEY ARRIVED AT 8:20 P.M.

Mr. Don Crocker, 14 Cinchring Road, said that he hopes that the City Council has the courage to follow through with the ordinance, but noted that if everyone were to cooperate the issue would be academic. Mr. Crocker pointed out that if the City Council finds that the ordinance is unworkable, it can always be modified. He suggested that the City Council enact the ordinance and then fine-tune it if necessary. With regard to the penalty in the case of noncompliance, Mr. Crocker said that there must be some enforcement mechanism.

Mayor Murdock invited further comments but there were none. The public hearing was continued to the City Council meeting on June 13.

Mayor Murdock informed the audience that Mr. Crocker is a former Councilmember and Mayor, and that he made the stained glass window that hangs in the lobby window of the Administration Building.

OPEN AGENDA

Mayor Murdock invited members of the audience to address the City Council on any matter which was not on the agenda. There were no comments from the audience.

ZONING CASE NO. 353, SCOTT PROBST, 33 CREST ROAD EAST

The City Manager gave a brief history of this application. Zoning Case No. 353 was considered by the Planning Commission earlier this winter and spring. The matter came before the City Council, at which time the City Council took jurisdiction and a public hearing was scheduled. At the time of that public hearing, the applicant submitted a significantly revised plan and, as a result, the City Council remanded the matter back to the Planning Commission for their further consideration and recommendation. The Planning Commission approved the revised plan for Zoning Case No. 353 on April 19, 1988, and referred the matter back to the City Council. At the previous City Council meeting, the Council took jurisdiction of this matter and scheduled a public hearing. The matter is, therefore, before the City Council this evening.

Councilwoman Swanson moved that the request for a variance in Zoning Case No. 353, be denied and that staff be directed to return with a resolution of denial at the next Council meeting. Councilman Heinsheimer seconded the motion, and it carried unanimously.

OPEN AGENDA

Mayor Murdock invited comments from the audience, however, no one addressed the Council.

PUBLIC HEARING - CONTINUED

PROPOSED ORDINANCE FOR THE PRESERVATION OF TREES ON AND VIEWS FROM PRIVATE PROPERTY

The City Manager explained that this is the fourth public hearing regarding the proposed View Preservation and View Restoration ordinance. During this time the ordinance has been reshaped to reflect the comments of the public and the City Attorney.

ABJ518

The City Attorney restated that where the word "commission" has been written, it should read "committee".

Mr. Ping Shu, 6 Packsaddle Road West, addressed the Council, stating that he felt that the ordinance should include "creation of views". Councilman Pernell felt that this suggestion created some interesting concepts and that it should be studied. Councilwoman Swanson felt that the ordinance should not be compromised for this concept.

Councilman Heinsheimer, in reference to page 2 paragraph "C" of the ordinance, questioned if the view had to be within the residence or from a place where the view would be enjoyed. He expressed concern for trying to keep view creation within control. The City Manager explained that view from the property means "from the residence and around the residence".

After considerable discussion, it was decided that the matter should be referred to the City Attorney so that room was not left for confusion. The City Attorney replied that he would consider a rewrite to clarify that the view would be "from a principal residence and/or area immediately adjoining the patio, or deck area, at the same elevation of the residence.

Mr. Shu stated that he felt there was a lot of sacrifice being made while this process is being carried out, and that the way the ordinance is currently written favors the "view people" and not the "tree people".

Councilman Heinsheimer expressed concerns that he had regarding the manner in which "public property" is handled as discussed on page 5, section (b), line 6 of the proposed ordinance. The City Attorney explained that he had taken this language directly from the Planning Commission version of the ordinance. After ensuing discussion, it was decided that this language would have a negative effect and that on page 5, section (b), lines 6 through 8 (the last two sentences) should be stricken from the ordinance.

The City Attorney stated that he will correct the contents of the first page, which is no longer accurate; it will be changed to reflect the correct titles and sections. Also, the word "persons" on the second line of paragraph 8.32.030 on page 2 will be changed to "residents".

Councilwoman Leeuwenburgh moved to introduce the ordinance entitled "AN ORDINANCE OF THE CITY OF ROLLING HILLS REGULATING VIEWS AND PROVIDING FOR ABATEMENT OF VIEW IMPAIRMENTS AND AMENDING THE ROLLING HILLS MUNICIPAL CODE", and to waive reading in full. Councilwoman Swanson seconded the motion, and it carried unanimously.

Some discussion ensued on how the selected Committee would function.

REQUEST TO DEVIATE FROM AGENDA OUTLINE

Councilman Pernell asked the Mayor that the Council move to item 9b on the agenda, the BFI agreement, in order to accommodate the schedule of the BFI representative, Mr. Stu Axelrod, present to discuss the issue.

MATTERS FROM STAFF

BFI AGREEMENT

The City Manager opened discussion by stating that the BFI representative, Mr. Stu Axelrod, had submitted a proposal somewhat different than what the Council was used to for the setting of rates. Essentially, the proposal says that a fee schedule be set, and explains how to proceed.

Lengthy discussion ensued regarding the terms of the contract. Items of major concern were the 18.5% increase, terms of the length of the contract, operation agreement of the contract, the propriety of sole sourcing the contract and the alternative of issuing an RFP to other contractors.

Mr. Axelrod's presentation for the increased costs reflected the rise in the consummer price index, the 63% increase at Puente Hills Landfill, and the fact that BFI has been operating at a loss servicing Rolling Hills since purchasing the operation from Removal, Inc., with Removal's five-year fixed price agreement.

The Mayor asked the Council if they desired staff to prepare an RFP or did they wish to direct staff to work with BFI. After further discussion, Mr. Axelrod was given direction on the two options: (1) a one-year's estimate; and, (2) a long-term five-year coontract based on the formula of the previous contract. Staff was directed to work with Mr. Axelrod on a new proposal.

It was decided that the matter would be discussed at the next Council meeting.

RETURN TO AGENDA OUTLINE

At the conclusion of the discussion of the BFI proposed contract, the City Council returned to the outlined agenda.

PUBLIC HEARING

FISCAL YEAR 1988-89 BUDGET

The Mayor complimented staff on a job well done, and stated that the Fiscal Year 1988-89 Budget would receive final consideration at the June 27, 1988, City Council meeting.

MATTERS FROM MEMBERS OF THE CITY COUNCIL

CITY COUNCIL APPOINTMENTS

Mayor Murdock stated that in the absenc of Council inputs, she has designated Councilmembers as delegates and alternates to official committees and boards for 1988-89. Councilwoman Swanson moved that appointments be accepted as assigned. The motion was seconded by Councilwoman Leeuwenburgh and it carried unanimously.

PROP. A ALLOCATION

The discussion of Prop. A allocation was continued from the previous Council meeting. Councilwoman Swanson proposed that the Council give the Prop. A monies to Lomita who can use the funds, and

OPEN AGENDA

Mayor Murdock invited comments from the audience. The Mayor requested that comments be limited to five (5) minutes, and explained that any comments would be taken for information purposes only and that the Council would not and could not take action on any item not on the agenda.

Mr. Jeffrey Klain, 1 Flying Mane Road, addressed the Council regarding a dog attack upon himself by a dog at 28 Eastfield Drive. This attack occurred on June 17, 1988. Mr. Klain flagged down a police officer, Officer Johnson, Employee Number 222024, of the Los Angeles County Sheriff's Department, and reported the incident. Mr. Klain filed a formal report with the Los Angeles County Sheriff's Department, Report Number 188-03380-1761-440, and subsequently sought medical treatment. Mr. Klain informed the Council that he has filed a case against the owners of the dog, Mr. and Mrs. Joel Hollingshead, with the Superior Court and Small Claims Court. During his investigations, Mr. Klain learned that there had been three previous attacks by and four complaints on the same dog. Consequently, Mr. Klain feels that the City should consider a leash law before, possibly, a child is seriously injured or killed.

ABJ518

Councilwoman Swanson requested that the City Manager contact the Animal Control Office and the Sheriff's Department, and report back at the next meeting why this dog had not been quarantined and if the dog has been removed from the City. Mayor Murdock reported that the dog is no longer in the City. Councilwoman Swanson commented that this type of serious situation should not be allowed to happen more than twice without appropriate action taken.

Councilman Heinsheimer noted that a petition had been received from Mr. Yu-Ping Liu, in support of a tennis court application at 39 Crest Road West. This petition was received by the City Council for the file.

There being no further comments under "Open Agenda", the Council returned to the normal sequence of the Agenda outline.

OLD BUSINESS

ORDINANCE NO. 219: AN ORDINANCE REGULATING VIEWS AND PROVIDING FOR ABATEMENT OF VIEW IMPAIRMENTS

Councilwoman Swanson moved that Ordinance No. 219 entitled "AN ORDINANCE OF THE CITY OF ROLLING HILLS REGULATING VIEWS AND PROVIDING FOR ABATEMENT OF VIEW IMPAIRMENTS AND AMENDING THE ROLLING HILLS MUNICIPAL CODE" be adopted and that reading in full be waived. Councilwoman Leeuwenburgh seconded the motion, and it carried unanimously.

NEW BUSINESS

COUNCILWOMAN SWANSON ELECTED PRESIDENT OF RTD BOARD

Mayor Murdock announced that Councilwoman Swanson has been elected President of the SCRTD Board of Directors. The Council extended their congratulations, and Mayor Murdock presented Councilwoman Swanson with a bouquet of flowers.

ALLOCATION OF PROP A FUNDS

The City Manager reviewed the various options, which were presented to the Council in a staff report.

Councilwoman Swanson commented that, due to time constraints, she feels the best way to allocate these funds would be as follows:

1. Replace the three sets of bike racks at the entry gates.

MATRIX OF VIEW CASES

	Started	Concluded	Parties	v	Parties	Outcome
1	1989-May	1998-Feb	2 Spur		18 Quail Ridge S	Unresolved by mediator CTV approved Resolution for restorative action/remediation Appealed to City Council City Council adopted Resolution for restorative action/remediation Second appeal to City Council Second Resolution addopted by City Council for restorative action/remediation Resolutions involves unspecified number of tree trimmed
2	1991-Dec	1993-June	1 Reata		4 Reata	Unresolved by mediator Case withdrawn; resolved privately
3	1994-Aug		3 Outrider		4 Outrider	No information
4	2003-Aug	2004-Sept	65 Eastfield		63 Eastfield	Resolved by mediator
5	2003-Aug	2005-May	65 Eastfield		61 Eastfield	Unresolved by mediator CTV approved Resolution for restorative action/remediation Appealed to City Council City Council adopted Resolution for restorative action/remediation Resolution involves 4 trees trimmed
6	2005-June	2005-July	70 Portuguese		74 Portuguese 1 Pinto	Resolved by mediator
7	2008-April	2009-Nov	3 Quail Ridge S 5 Quail Ridge S		7 Quail Ridge S	Unresolved by mediator CTV approved Resolution for restorative action/remediation Appealed to City Council City Council adopted Resolution for restorative action/remediation Parties sign "settlement agreement"; City Council adopts new Resolution based on settlement agrmt Resolution involves 16 trees and 1 hedge (3 trees removed+1 tree to be removed or topped)
8	2008-July	2009-April	36 Saddleback 38 Saddleback 42 Saddleback 48 Saddleback		34 Saddleback	Mediator started case Case withdrawn; resolved privately
9	2009-Sept	2010-May	1 Maverick 3 Maverick 5 Maverick 7 Maverick 9 Maverick 9 Caballeros		1 Hackamore 53 Eastfield	Unresolved by mediator CTV found 'no significant view impairment'; no action taken Not appealed to City Council
10	2009-Nov		2862 PVD N		4860 PVD N	Incomplete application
11	2011-Apr	2012-June	1 Wagon Lane		32 Portuguese	Unresolved by mediator

55

MATRIX OF VIEW CASES

	Started	Concluded	Parties	v	Parties	Outcome
						CTV approved Resolution for restorative action/remediation Resolution involves 108 trees (22 removed, 55 crown reduction) On appeal to City Council
12	2011-July	2012-March	49 Saddleback		48 Saddleback	Unresolved by mediator CTV approved Resolution for restorative action/remediation Appealed to City Council City Council adopted Resolution for restorative action/remediation Resolution involves 8 trees (5 trees removed) Lawsuit filed and in progress
13	2012-Feb	2012-May	7 Cinchring 8 Cinchring		12 Cinchring	Resolved by mediator

RESOLUTION NO. 220

(Replaces 166, 181, 193)

RESOLUTION OF THE BOARD OF DIRECTORS OF THE ROLLING HILLS COMMUNITY ASSOCIATION OF RANCHO PALOS VERDES ADOPTING GUIDELINES AND ESTABLISHING PROCEDURES FOR IMPLEMENTING THE ASSOCIATION'S AUTHORITY TO MAINTAIN AND IMPROVE VIEWS AND A POLICY THAT ENFORCEMENT OF THE ASSOCIATION'S AUTHORITY SHALL BE DONE BY THE VIEW APPLICANT

WHEREAS, ARTICLE I, SECTION 11 OF DECLARATION 150 , Establishment of Basic Protective Restrictions, Conditions, Covenants, Reservations, Liens, Charges and Certain Local Restrictions (hereinafter referred to as "Restrictions") of Rolling Hills which applies to some, if not all, properties in the City of Rolling Hills provides in part:

> "The Association shall have the right at any time to enter on or upon any part of said property for the purpose of cutting back trees or other plantings which in the opinion of the Association, is warranted to maintain and improve the view of, and protect, the adjoining property. The Association shall have sole authority and right to trim, remove, replace, plant or replant, or direct and determine the type of such planting, or otherwise care for the trees, shrubs and plantings in or along any easements or rights-of-way granted to or reserved by Palos Verdes Corporation and/or the Association on or adjacent to any said lot...";

WHEREAS, The Board of Directors (the "Board") of the Rolling Hills Community Association (the "Association" or "RHCA") adopted Resolution No. 166 in July 1997 Resolution No. 181 in November 2002, and Resolution 193 in January 2006 to establish procedures for its members to utilize the authority of the Association to correct view impairments created by trees or other plantings;

WHEREAS, the Association has had experience with Resolution Nos. 166, 181, and 193.

WHEREAS, it is the Association's policy to encourage resolution of view impairment issues between the parties who are directly involved whenever possible;

WHEREAS, the Association wishes to adopt policy guidelines regarding its view impairment authority and procedure so that members may better understand the policies, procedures and remedies available pursuant to Article 1, Section 11; and with the hope that this understanding will further promote settlement by the parties;

WHEREAS, the Association has held public meetings, circulated drafts of policy alternatives, and received numerous written and oral communications from its members;

WHEREAS, Rolling Hills enjoys both beautiful views and an abundance of mature trees, and values both as contributing to the unique character of the city, and enhancing the quality of life;

WHEREAS, the Association wishes to adopt both guidelines and establish procedures for its members to utilize the authority of the Association to correct view impairments, which cannot be resolved between the parties;

WHEREAS, the Deed Restrictions give the Association "...the authority to exercise such powers of control, interpretation, construction, consent, decision, determination...and/or enforcement of covenants... as far as may legally be done;"

WHEREAS, The California Supreme Court has established a principle that judicial deference will be given to Association decisions that are made in good faith within the scope of its authority and in accordance with reasonable covenants.

Nahrstedt v. Lakeside Village Condominium Ass'n (1994) 8 C4th 361, 33, CR2d 63. The California Supreme Court gave a comprehensive history and overview of common interest developments. The opinion sets out certain basic principles including:

> "...Use restrictions are an inherent part of any common interest development."
>
> "Thus, subordination of individual property rights to the collective judgment of the owners association together with restrictions on use of real property constitutes the chief attributes of owning property in a common interest development."
>
> Under the holding we adopt today, the reasonableness or unreasonableness of a ... use restriction that the Legislature has made subject to section 1354 is to be determined *not* by reference to facts that are specific to the objecting homeowner, but by reference to the common interest development as a whole."
>
> "An equitable servitude will be enforced unless it violates public policy; it bears no rational relationship to the protection, preservation, operation or purpose of the land against which the CC&R's are recorded; or it otherwise imposes burdens on the affected land that are so disproportionate to the restrictions beneficial effects that the restriction should not be enforced."

The court instructed that "...generally courts will uphold decisions made by the governing board of an owners association so long as they represent good faith efforts to further the purposes of the common development, are consistent with the development's governing documents and comply with public policy."

In 1999, in the case of *Lamden v. LaJolla Shores* (1999) 21 Cal 4th 294, the California Supreme Court established the principal that as a matter of law California Courts must defer to a community association's board decisions. The court held that where a duly constituted community association board upon reasonable investigation in good faith exercises discretion within the scope of its authority under its restrictions, courts should defer to the Board's authority and presumed expertise. The court states "thus we adopt today for California Courts a rule of judicial deference to community association Board decision making."

California law recognizes the right to obtain a mandatory injunction to trim trees that

obstruct views in violation of deed restrictions. *Ezer v. Fuchloch (1979) 99 CA3d 849, 160 CR 486.*

WHEREAS, The Deed Restrictions provide that their provisions "...shall bind and inure to the benefit of and *be enforceable by* Palos Verdes Corporation, the Association *by the owner or owners of any portion of said property...* ";

WHEREAS, *California Civil Code section 1354. Entitled Covenants and Restrictions in Declaration-Enforcement* states at Section (a) "The covenants and restriction in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be enforced *by any owner* of a separate interest or by the association, or by both."

WHEREAS, The enforcement of Article I, Section 11 to trim or remove a view obstruction generally benefits only one property owner; rather than the entire Association;

WHEREAS, RHCA has been advised by its attorneys that there is a legal question as to whether RHCA can obtain absolute indemnification from a member seeking to have RHCA enforce Article I, Section 11;

WHEREAS, The City of Rolling Hills Ordinance Chapter 17.26 provides a procedure for abatement of view impairment; so RHCA members have another alternative for view restoration;

WHEREAS, nothing in these guidelines or procedures is intended to limit the authority of the Association;

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of this corporation does establish and adopt the following guidelines for the processing of all view impairment applications submitted to the Association and a policy that enforcement of Article 1, section 11 decisions by RHCA shall be done by individual members.

The following words, phrases and terms shall have the following meaning ascribed to them:

1. "Cutting back trees" means trimming of the necessary portions of a tree to restore a view.

2. "Maintain and improve the view of" means one or more areas of view.

3. "View" means a view from a principal residence and any immediately adjoining patio or deck area at the same elevation as the residence which consists of a visually impressive scene or vista not located in the immediate vicinity of the residence, such as a scene of the Pacific Ocean, off-shore islands, city lights of Los Angeles basin, the mountains, the Palos Verdes Hills or Los Angeles Harbor.

4. "View Impairment" means a significant interference with and obstruction of a view by landscaping, trees or any other vegetation.

5. "Adjoining Property" means close, next to or in contact with one another. [*Welch v. Kai* (1970) 4 CA3d 374, 84 CR2d 619.]

The following are the general policies of the Association:

1. Rolling Hills enjoys both beautiful views and an abundance of mature trees, and values both as contributing to the unique character of the city, and enhancing our quality of life.

2. The date when a view was obstructed is not mentioned in the Restrictions and therefore shall not be considered material.

3. The Association will not create an unobstructed view for applicants.

4. RHCA's objective is to create view corridors and a view through trees.

5. We encourage neighbors to work together to improve their view so that situations are resolved by mutual agreement rather than Board mandate.

6. Approved building structures per the City of Rolling Hills and the Association regulations and the vegetation within the silhouette of such legal structures as it relates to the view of applicant are not within the definition of view impairment. Vegetation can grow up to roof height for a privacy shield from immediate neighbors and the same would apply to shielding a view into a pool and certain defined private areas within a yard. The view to be preserved is generally distant vistas above or around the structure silhouette.

7. The Association will focus on certain key areas to create view corridors. The objective is to preserve existing views and achieve restoration of selective view corridors. RHCA will identify what the major obstructions were to the highest view priorities and do its best to create one or more view corridors from the primary viewing sites as defined above on the applicant's (or multiple applicants') property to open up an improved view as to those special high priority areas and adjacent areas within the "view" definition from the applicant's property. As to the highest priority areas, the Association will do its best to create a view corridor. In establishing view corridors other neighbors' views may be considered to reduce the potential of future view complaint filings against the same owner and an owner may request a global solution, in which case any other neighbors' view obstruction would be considered and resolved as part of the Board's decision process.

8. In order to minimize the number of trees to be trimmed or removed, the Association may decide to correct view impairments in increments.

9. Trees, shrubs and plantings shall be removed only in RHCA easements. Removal from private property shall require written consent of the property owner.

~~10.~~ High priorities include: the ocean, in particular views of the islands, coast promontories, white water waves breaking, the harbor and its lights and the distant mountains, city lights and vistas, and the Santa Monica Bay and its surrounding lights. General city lights and background and mountains would also be a priority, but as to the array of city lights that

spread for almost 200 degrees around Rolling Hills, an applicant may be entitled to claim only a view corridor of a reasonable portion of the possible city light view from the applicant's site. The same may also be true of ocean views. The Association will do its best to create view corridors that were within that total priority view, but the Association would not consider that the applicant had a right to an unencumbered view, where reasonable view corridors could be created.

11. If an applicant has major trees and vegetation blocking his own view or the view of neighbors, they should be reasonably remedied before an applicant seeks to have the applicant's neighbor's trees cut. The applicant must also be in compliance with any previous Board view rulings affecting his property to be eligible to apply.

12. In situations involving trees on street right of ways owned by the Association and Association road easements, the policy is for the Association to consent to trimming and removal of the trees creating the view impairment. The Board may in its discretion replace such removed trees with approved trees/shrubs.

13. The Association will attempt to do tree trimming work at times which will not unnecessarily or unreasonably endanger the tree's health or disease resistance if it is being trimmed/cut back, etc. This does not apply to trees being removed. Also, bird-nesting seasons shall be reasonably considered where applicable to the specific tree determined to require trimming. The Board may consult its own experts to form a basis for its decision as to when work shall be done and may rely on such recommendations. Generally, the fall and winter months are best for cutting back to restore views. An incremental plan may be used so that vegetation removal is done in a different time period than trimming and cutting back.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of this corporation does establish and adopt the following procedure for the processing of all view impairment applications submitted to the Association.

1. The applicant shall submit information on an application form provided by the Association.

2. The applicant shall document efforts to resolve the obstruction issue with his neighbor including copies of all correspondence between the parties.

3. The applicant shall pay an administrative fee of $250.00 to the Association at the time an application is submitted.

4. The applicant shall execute a financial responsibility agreement with the Association at the time an application is submitted. The applicant must agree to pay the entire cost of trimming or removal of trees or shrubs; and the cost of replacing trees (in the aggregate of $500). The financial responsibility agreement will include an indemnification of RHCA by the applicant for all the fees and expenses of RHCA including but not limited to Alternate Dispute Resolution or litigation resulting from the decision.

5. The Association will send a Notice to the owner of the property where the vegetation is located, ("affected property") and all other property owners contiguous to the applicant and

affected property.

6. The Notice will inform the owner of the affected property of the action requested in the application; and that he has 20 business days to file a written response.

7. The Association will appoint a View Committee to make a field trip and investigate. The Committee will make reasonable efforts to reach an agreement between the applicant and the owner of the affected property.

8. If an agreement cannot be achieved, the Committee shall submit a written report and decision to the Board.

9. A copy of the report and decision shall be mailed to the applicant and owner of the affected property.

10. The decision shall constitute the decision of the Board unless either party pays a fee of $250.00 and appeals decision to the Board within 20 business days of the mailing of the report and recommendation.

11. After receiving the appeal the Board will make a field trip to the site.

12. The appeal shall be placed on the agenda of a Board meeting. Notice of the meeting and a copy of the decision and appeal shall be mailed to the applicant and the owner of the affected property.

13. The Board will hear the appeal and make its decision. A copy of the decision will be mailed to the applicant and the owner of the affected property.

14. Implementation of restorative action.

A. Within thirty days of a final decision, the applicant shall obtain and present to the owner of the obstructing vegetation three bids from licensed and qualified contractors for performance of the work, as well as a cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance which protects and indemnifies RHCA and the applicant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the RHCA.

B. The owner of the obstructing vegetation may select any licensed and qualified contractor to perform the restorative work (provided the insurance requirements of subsection A of this section are satisfied), but shall be responsible for any cost above the amount of the cash deposit. The work shall be completed no more than thirty days from receipt of the cash deposit.

C. Subsequent maintenance of the vegetation shall be performed as prescribed by the RHCA's final decision at the cost and expense of the owner of the property on which the vegetation is growing. The vegetation shall be maintained in accordance with the decision so as not to allow for future view impairments. A notice of the decision shall be recorded against the title of the property and shall run with the land, thereby giving notice of this obligation to all future owners.

D. The implementation method provided for in this section may be modified by agreement of the parties or in a RHCA decision if grounds exist to justify such a

modification.

15. If legal action is necessary to enforce the RHCA decision, the applicant shall have the right to pursue whatever means the applicant deems appropriate.

PASSED, APPROVED AND ADOPTED this 21 day of June, 2012

ROBIN HILL-BRECKENRIDGE
President of the
Rolling Hills Community Association

ATTEST:

LESLIE STETSON
Secretary of the
Rolling Hills Community Association