



# *City of Rolling Hills*

INCORPORATED JANUARY 24, 1957

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

**Agenda Item No: 10A**  
**Mtg. Date: 01-15-13**

**TO: HONORABLE CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION**

**FROM: ANTON DAHLERBRUCH, CITY MANGER  
YOLANTA SCHWARTZ, PLANNING DIRECTOR**

**SUBJECT: PUBLIC FORUM REGARDING POTENTIAL CHANGES TO THE VIEW PRESERVATION ORDINANCE, SECTIONS 17.12.220 AND 17.26 OF THE ROLLING HILLS MUNICIPAL CODE**

**DATE: JANUARY 15, 2013**

**ATTACHMENTS: Correspondence received since the last meeting**

---

## PREVIOUS MEETINGS AND RECOMMENDATION

At its meeting of June 25, 2012, the City Council directed that the Planning Commission (Commission) review the City's View Ordinance (Municipal Code Sections 17.12.220 and 17.26) and consider whether to recommend changes to the provisions. The Commission subsequently held public forums on August 9, 2012 and October 4, 2012 at which time public comments were received and the Planning Commission identified the main topics it would like to address as part of its review. At the November 15 meeting, the Planning Commission began its first discussion of the view ordinance based on input from the prior meetings and started to formulate ideas for potential changes. Additional public input was also received.

Included is correspondence received since the previous meeting, including a copy of a view ordinance from Rolling Hills Estates.

At this meeting, it is recommended that the Commission continue its discussion. After completing discussion and formulating proposed changes to the View Ordinance, staff will schedule a joint meeting with the City Council to discuss Commission's findings and recommendations and proceed thereafter with a public hearing as directed.

## OF RELEVANCE TO POTENTIAL CHANGES IN THE VIEW ORDINANCE;

The City is currently involved in three litigation matters related to its View Ordinance. The first relates to the City Council's October 8, 2012 decision to abate a view impairment at property owned by the Curtis and Pamela Reis at 1 Wagon Lane. The City's decision requires the removal of 13 trees and "crown reduction" (or topping) of an additional 21 trees on the property of Christine Greenberg at 32 Portuguese Bend Road. In the matter, Ms. Greenberg filed a writ of mandate for violation of the California Environmental Quality Act (CEQA) and writ of administrative and ordinary mandamus in conjunction with a complaint for declaratory relief, injunctive relief, and damages related to the City's decision. This case is in very early stages and no ruling has been made on any of these allegations.

Another resident, Mr. Hall, owner of 48 Saddleback Road, filed two cases against the City related to the City Council's March 12, 2012 decision to abate a view impairment at property owned by Ms. Oksana Bihun at 49 Saddleback Road. The Council resolution requires 5 trees to be reduced to stumps flush with grade, 3 other trees to be maintained at the height they were on the date of the resolution, and prohibits the planting of trees that mature higher than 20'. Ms. Bihun is required to pay the cost to remove the 5 trees and reimburse up to \$2000 of Mr. Hall's re-landscaping or root removal costs.

Mr. Hall's first lawsuit is an administrative mandamus case seeking to invalidate the City's decision on various grounds. A second lawsuit claims that the City effected an unconstitutional and uncompensated taking of his property (the 5 trees) and otherwise violated Hall's civil rights. That lawsuit also has other claims against Ms. Bihun. That lawsuit is stayed pending the outcome of Mr. Hall's first case.

The administrative mandamus case went to trial on December 4. The court issued a tentative ruling setting forth its opinion on a variety of topics:<sup>1</sup>

1. The Court held that the City's ordinance itself does not violate state law (by impermissibly creating private view easements)
2. The Court held that the ordinance is a constitutional exercise of the City's land use regulatory authority (police powers)
3. The Court found that it did not have the evidence before it to determine whether this particular application of the ordinance effected a "taking" and left that issue for the other case
4. The Court held that the administrative record properly supported the City's finding that there was a view that was substantially impaired. The Court also sustained all the City's evidentiary objections
5. The Court remanded the case back to the City Council for a specific and narrow purpose: to hold a new hearing on the proper remedy and consider evidence about whether the remedy is necessary, adverse to the environment, or unreasonably interferes with privacy of enjoyment of the property. The portion of the resolution imposing the remedy of tree removal shall be set aside. The purpose of the new hearing, in essence, is

---

<sup>1</sup> To date, the court has not prepared and signed the final order, but there is little reason to believe it will differ in substantial part from its tentative decision.

to receive evidence on this key question of remedy. As the Court has recognized that the view impairment for the Bihun property must be remedied, but also felt that no evidence has been received on some of these issues, the City must conduct a new hearing solely on the remedy where the parties may present such evidence.

At the hearing and in its tentative ruling, the court made several observations related to this final point of remedy. In general, the court objected to the analysis and evidence to support the City's conclusion that the removal of the tree was necessary, would not adversely affect the environment, and did not detract from privacy (Rolling Hills Municipal Code § 17.26.050E).

## **BACKGROUND**

At its meeting of October 4, 2012, the Planning Commission (Commission) identified the following topics for discussion relative to potentially modifying the City's existing View Ordinance:

1. Liability costs and indemnifying the City; reducing the City's risk and litigation costs.
2. The location of the view site(s) and whether it is a "corridor" or "panoramic" view.
3. Having clear and understandable terminology of the ordinance.
4. Defining "or" and "and" relative to the definition of a view.
5. "Creating" versus "restoring" a view and, if there should be a date for designating the existence of a view, what is the date?
6. RHCA regulations pertaining to view restoration.
7. If the City should have a view ordinance. What would it look like not to have a view ordinance? Or, is the existing view ordinance adequate?
8. What is legal and defensible in a view ordinance?
9. Responsibilities of the complainant and the tree owner for long-term maintenance of trees in the view.
10. If a private resolution among the complainant and tree owner should be formalized/memorialized by the City.
11. The appropriate number of trees in the City.
12. Having a "sunset clause" with the ordinance for re-evaluation of it after 5, 10 or 15 years.
13. Resident survey.
14. The involvement of a 3rd party consultant available to the City during the complaint and restoration process.

At the November 15, 2012 meeting the Commission began to discuss each one of these topics and formulate recommended changes to the View Ordinance.

## **DISCUSSION**

Regarding item #1, after considering the RHCA Manager's and the Assistant City Attorney's presentations, the Commission proposed that language be included in

the amended view ordinance to indemnify the City. The City Attorney's office will provide such language.

Regarding item #2, the Commission would like to delete the word "panoramic" from Section 17.26.010 and not add the word "corridor", to provide the Committee on Trees and Views with flexibility when deciding if and how much view should be restored. As to how many view sites and from which areas a complainant may claim a view, the Commission did not conclude its deliberation on this item.

Regarding item #4, the Commission concluded that the word "and" should be added to "or" in Section 17.12.230 definition of a View and View Impairment to read:

"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 and/or Los Angeles Harbor".

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

Regarding item #5, the Commission agreed that there should not be a date specific in the View Ordinance from which to gauge if a view existed. The Commission felt that such a measure would be too difficult to prove and be in conflict with the City's General Plan goal to protect views.

Regarding item #7, the Commission agreed that the City should have a View Ordinance, but that clarification and changes should be made to the existing ordinance.

Regarding Item #12, the Commission agreed not to write in a "sunset clause" for review of the ordinance. The Commission felt that the City updates its ordinances in a timely fashion, on an as needed basis.

Regarding item #13, the Commission agreed not to conduct a resident survey. It felt that with the view initiative before the residents in March and with the current review of the ordinance before the Planning Commission and eventually City Council, residents would have many opportunities to voice their opinions on the ordinance.

Regarding item #14, the Commission would like to have 3<sup>rd</sup> party consultants available during proceedings of view obstruction cases; however, due to the potential cost it deferred this topic for further discussion with members of the City Council. The Commission also discussed the need to better define who should pay for the restorative actions and under what circumstances and recommended that exceptions to Section 17.26.060D be added to better define potential cost to the complainants and to the owners of the trees. The Commission would also like to discuss this item with the City Council.

Although not on the list, the Commission stated that it would like direction from the City Council regarding whether an applicant (complainant) could file more than one complaint against the same or a different neighbor.

Following the Commission's discussion, public comments were received from residents who stated the following:

1. The reason that not many view obstruction cases were filed with the City in the past is that the complainants threaten the owners of the trees with City's regulations, which would require them to cut all of the trees, rather than trim them. The speaker stated that the owners of the trees are intimidated by the complainants and are forced to appease the complainants.
2. The City should not try to define "minutia" in the ordinance. Too many definitions and restrictions get complicated. City should have more discretion to interpret a complaint and decide on restorative actions, if any are necessary. City should act in an advisory capacity to residents, not dictate what it must do.
3. City should receive more guidance from the City Attorney Office.
4. The ordinance, if changes are made, should be evaluated by a professional organization (i.e. International Society of Arboriculture).
5. Establish a time when one is eligible for a view (i.e. at the time of purchase of the property); do not give a view to someone who did not have one when the property was purchased.
6. Current ordinance is fair, it works and it should be retained.
7. City should not deal with trees in the RHCA's easements.

### NOTIFICATION

Notice of this meeting to inform the community was included in City newsletter and the agenda was mailed to those residents who previously expressed interest in this topic and who spoke at November 15, 2012 meetings. The staff report and the agenda is available on the City's website and was provided to the RHCA.

### CONCLUSION

It is recommended that at tonight's meeting the Commission continue discussion on the previously defined topics, specifically:

1. The location of the view site(s) and whether one or more view sites should be considered for view obstruction remedy in the same application, (item 2 from the original list).
2. Responsibilities of the complainant and the tree owner for long-term maintenance of trees in the view, (item #9 from the original list).
3. If a private resolution among the complainant and tree owner should be formalized/memorialized by the City, (item #10 from the original list).
4. The appropriate number of trees in the City, (item #11 from the original list).

The Commission may also want to consider and discuss the following topics:

1. Should the definition of the viewing area be better defined? For example, should the view be from the living and/or entertainment area of the principal residence? Should it be along only one wall of the exterior of the residence? Should

bathroom, closets, bedrooms, hallways be specifically excluded from the available viewing areas? In addition should a deck or patio "at the same elevation" be better described? There are instances where the deck immediately adjoining the residence is two or three feet below the residence, but has the same view as the adjoining residence.

2. Should the term "maturing" (as in maturing vegetation) be deleted from the ordinance? (Section 17.26.010).
3. Should language be included in the ordinance requiring the complaining party or the appealing party (upon appeal) to be responsible for all costs incurred by the City in connection with the case, including all environmental and attorney fees?

It is recommended that the Planning Commission schedule another public forum or direct staff to coordinate a joint meeting with the City Council.

**Subject:** FW: Payment for costs of view abatement procedure

**Date:** Monday, November 19, 2012 10:20 AM

**From:** Heidi Luce <hluce@cityofrh.net>

**To:** Heidi Luce <hluce@cityofrh.net>

----- Forwarded Message

**From:** Anton Dahlerbruch <adahlerbruch@cityofrh.net>

**Date:** Fri, 16 Nov 2012 15:41:30 -0800

**To:** Lynn Gill <lynn.gill@cox.net>

**Cc:** "Rolling Hills, City of , Yolanta Swartz" <ys@cityofrh.net>, Jeff Pieper <jeff@pieper.com>

**Conversation:** Payment for costs of view abatement procedure

**Subject:** Re: Payment for costs of view abatement procedure

Lynn, thank you for your email. We will provide it to the Planning Commission for their next meeting.

The view ordinance requires the Committee and Trees & Views (CTV) and the City Council (CC) to look at each view case independently to evaluate if there is a view (or not) and, if so, how to restore the view. With the uniqueness of each case, some complaints are denied, some result in a private negotiated settlement and some result in the CTV or CC resolving the complaint with a view that is equal to or less than the complainant's request. As such, the ordinance can serve to protect those with the trees from being pressured because it involves the CTV or CC deciding what is fair and reasonable – balancing the right to a view with the privacy and enjoyment of the tree owner's property. Of course, an alternate ordinance may establish different rules establishing when and how a view must be provided. Such an ordinance may not stop a complainant from pressuring a tree owner to remediate an impairment by threatening to have the City apply an alternative methodology and enforce the ordinance.

I'm sorry to hear that someone was bullied into removing trees. For the City's process, it is not required to retain an attorney; we might have encouraged the person to engage in the process to protect their rights.

Thanks again, Tony

On 11/16/12 1:32 PM, "Lynn Gill" <lynn.gill@cox.net> wrote:

Hello all,

I had to run next door to RHCA, as there was a public hearing on the easement policy. In the RHCA agenda, they announce the time that the discussion will be open to the public. Might it be possible to do that in the agenda of the Planning Commission? As fun as it is to observe a discussion of "or" and "and", that would help the public to better plan if they intend to

contribute during the public discussion.

An important issue (I think) that the Commission may want to discuss is who pays for costs of a view abatement procedure (number 8 on page circle 11)?

In RHCA's *Resolution 193*, page 5 #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); and agree to reimburse the Association for its fees and expenses if Alternative Dispute Resolution or litigation, or both, is necessary to enforce a decision."

Alterative Dispute Resolution is not defined in 193, but goggling it indicates that it includes mediation, arbitration, and the like.

In contrast, it appears that the City aligns itself with the view-seeker in opposition to the tree-owner. The view-seeker applicant has the free to them benefit of the City's legal staff, the City pays for mediation costs and absorbs costs of surveys, experts, arborists, etc. These costs can run into the tens of thousands of dollars, paid for by the taxpayers. In contrast, the tree-owner must retain and pay for his/her own attorney, experts, arborists, and the like. This seems like a presumption that the view-seekers' rights are superior to those of the tree-owner. It also raises the question of what public benefit is derived from the city expending precious tax dollars on view conflicts? And, it provides another reason for folks to file with the City.

I have heard a chilling story of an elderly women over 90 who was bullied into cutting down 16 trees that shaded her house and patio. She was told that if she didn't go along with the tree removal, she would have to retain an attorney and endure an exhausting series of view hearings. Having neither the financial resources or strength, she capitulated. This resulted in a medical emergency during the heat spell we recently experienced, as her house heated up due to lack of shade.

Regards,  
Lynn

----- End of Forwarded Message

8

**Subject:** FW: Draft view ordinance revision  
**Date:** Monday, November 19, 2012 10:15 AM  
**From:** Heidi Luce <hluce@cityofrh.net>  
**To:** Heidi <hluce@cityofrh.net>

----- Forwarded Message

**From:** Lynn Gill <lynn.gill@cox.net>  
**Date:** Fri, 16 Nov 2012 12:47:01 -0800  
**To:** Anton Dahlerbruch <adahlerbruch@cityofrh.net>  
**Cc:** "Rolling Hills, City of , Yolanta Swartz" <ys@cityofrh.net>, Jeff Pieper <jeff@pieper.com>  
**Subject:** Draft view ordinance revision

Dear Tony,

Please make this available to the Planning commission, and have it available in the record of the current view ordinance review proceedings and available at public hearings.

The RHE ordinance was well-crafted, and the melded draft could be useful to the Planning Commission. It's difficult to start with a blank piece of paper, so having something as a starting point could be helpful.

Best regards,  
Lynn

**From:** Lynn Gill <mailto:lynn.gill@cox.net>  
**Sent:** Sunday, April 22, 2012 4:49 PM  
**To:** Rolling Hills, City of, Anton Dahlerbruch <mailto:adahlerbruch@cityofrh.net>  
**Subject:** Draft view ordinance revision

Hello Tony,

Thanks for the telephone call. It's always nice to chat with you. I fully understand the timing necessity of getting current view committee matters completed before turning to possible revision of Chapter 17.26.

As I told you, I obtained a copy of the RHE trees and view ordinance. It is recent and well-lawyered. I took the liberty of melding the best parts of that ordinance along with the best parts of the RHCA view resolution into Chapter 17.26. I know from working on the RHCA view ordinance and the RHCA easement policy that drafting or revising an ordinance can appear to be a daunting task. Generally it's better to have a draft starting point, and I offer the attached in that spirit. I claim no pride of authorship, as I was simply melding a current well-written view ordinance into our RH ordinance, modifying it to fit our special RH circumstances and preferred ways of doing things. No doubt, the Committee and Council will go through many drafts, iterations and will obtain public input before arriving at an ordinance that is right for

Rolling Hills.

Please share it with the City Council and Planning Commission. I provided both a PDF file and a non-protected Word file for use of Planning and the Council only.

Best regards,  
Lynn

----- End of Forwarded Message

---

Chapter 17.12

The following replaces Section 17.12.220 in its entirety.

DEFINITIONS

**17.12.220 Words, terms and phrases.**

For the purpose of this chapter, the meaning and construction of words and phrases hereinafter set forth shall apply:

"Alter" means to take action that changes the tree or vegetation, including but not limited to, extensive pruning of the canopy area (topping), cutting, girdling, interfering with the water supply, applying chemicals or re-grading around the feeder root zone of the tree or vegetation.

"Arbitration" means a voluntary legal procedure for settling disputes and leading to a final and binding determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted as set forth in California Code of Civil Procedure Section 1280 et seq.

"Arbitrator" means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes binding decisions for the disputing parties. The arbitrator of a view dispute shall be chosen from a list available from the city of qualified and professionally trained arbitrators/mediators, including but not limited to, members of the American Arbitration Association.

"Arborist, certified" means a person who has passed a series of tests by the International Society of Arboriculture (ISA), is governed by ISA's professional code of ethics and possesses the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants. The arborist utilized in mediation of a view dispute shall be certified by the city.

"Authorized agent" means a person, as defined herein, who has been designated and approved in writing by the property owner of record to act on his/her behalf in matters pertaining to the processing of a view claim as outlined in this chapter.

"Canopy" means the umbrella-like structure created by the over-head leaves and branches of a tree which create a sheltered area below.

"City" means the City of Rolling Hills.

"City maintained trees" means trees which are specifically designated for maintenance by the city council, typically on city property.

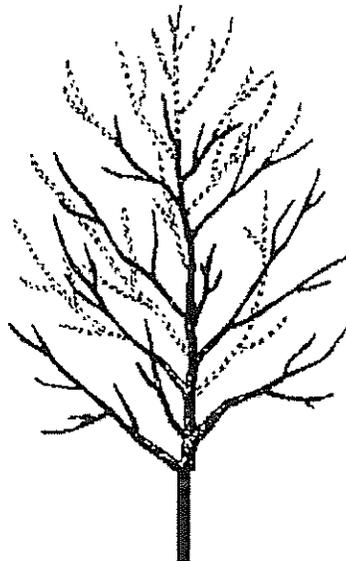


"City property" means any real property of which the city is the fee simple owner of record.

"Claim, view " means documentation that outlines the basis of view impairment and the specific preservation/restoration action that is being sought.

"Crown" means the rounded top of the tree.

"Crown reduction/shaping" means a method of pruning that reduces a tree's height and/or spread. Crown reduction entails the reduction of the top, sides or individual limbs by means of removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal. The diagram that follows is illustrative of "crown reduction/shaping" within the meaning of this chapter.

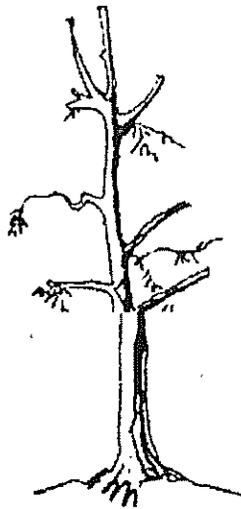


"Destroy" means to kill or take action that endangers the health or vigor of a tree or vegetation, including, but not limited to, cutting, girdling, topping, interfering with the water supply, applying chemicals or re-grading around the base of the trunk.

"Established view" means a view that was in existence on the date the view-seeker purchased their real property, or the date the tree/vegetation owner purchased their property, whichever date is more recent.

"Established View and tree/vegetation equity" means achievement of a fair, reasonable, and balanced accommodation of an established view and competing impairments (such as structures, trees and/or vegetation), c o n s i d e r i n g privacy and the use and enjoyment of property.

"Heading back" means the overall reduction of the mass of a tree by modification to major limbs. The diagram that follows is illustrative of "heading back" within the meaning of this chapter. "Heading back" as defined herein is considered to be severe pruning.



"Impairment" means the blocking or diminishment of a view attributable to growth, improper maintenance or location of trees and/or vegetation.

"Lacing" means a method of pruning that selectively removes excess (primarily interior) foliage to improve the structure of the tree and to provide a view through the tree. It is a method of pruning to achieve "Vista pruning." The diagram for "crown reduction" herein is indicative also of lacing (without necessarily reducing height of the tree).

"Maintenance" means pruning with the primary objective of maintaining or improving tree health and structure; includes "crown reduction/shaping" or "lacing," but not ordinarily "heading back."

"Mediator" means a neutral, objective third party professional negotiator/facilitator to help disputing parties reach a mutually satisfactory solution regarding a view claim. The mediator shall be chosen from a list available from the city of qualified and professionally trained arbitrators/mediators, including but not limited to, members of the American Arbitration Association.

"Person" means any individual, individuals, corporation, partnership, firm or other legal entities

"Preservation/restoration action" means any specific steps taken affecting trees or vegetation that would result in the preservation or restoration of an established view across property lines.

"Pruning" means the removal of plant material from a tree/vegetation.

"Real property" means rights or interests of ownership of land and all appurtenances to the land including buildings, fixtures, vegetation and improvements erected upon, planted or affixed to the land.

"Severe pruning" means the cutting of branches and/or trunk of a tree in a manner which substantially reduces the overall size of the tree and/or destroys the symmetrical appearance or natural shape of the tree and which results in the removal of main lateral branches leaving the trunk and branches of the tree in a stubby appearance. "Heading back" and "topping" as defined herein are considered to be severe pruning.

"Stand thinning" means the selective removal of selected trees from a grove of trees.

"Topping" is the removal of the entire canopy of a tree by cutting back large-diameter branches to stubs or truncating the main stem/trunk. Topping damages and weakens trees, often results in explosive new growth, and topped trees appear disfigured or mutilated. Topping shall be prohibited.

"Tree" means any woody perennial vegetation that generally has a single trunk and reaches a height of at least eight feet at maturity.

"Tree/vegetation owner" means any person who owns real property in the city on which tree(s) and/or vegetation is located.

"Vegetation" means all types of plants, bushes, hedges and shrubs, including trees.

"View" means a single vision of a scene or vista from a viewing point in a principal residence, or 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, lights of the Los Angeles basin, the Palos Verdes hills or Los Angeles Harbor. The term "view" does not mean an unobstructed panorama of these features. "View", "the view" and "views" are synonymous and singular.

"View corridor" is a narrow visual pathway through trees or vegetation from a single viewing point to a single scene or vista.

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

"View Seeker" means any real property owner in the city or authorized agent of such property owner who alleges that tree(s)/vegetation located within the immediate vicinity of the property are causing unreasonable impairment of an established view benefiting such real property.

"Viewing point" is a location within a principal residence designed to take advantage of an established view, such as the living, family, and dining rooms, rooms that have features such as picture windows, sliding glass doors, or French doors; and common exterior areas such as patios, balconies, decks, pool areas, and gazebos.

"Vista pruning" means the selective thinning of framework limbs or specific areas of the crown of a tree to allow an established view through the tree from a specific viewing point.

The following replaces Chapter 17.26 in its entirety.

Section Chapter 17.26

TREES AND VIEW PRESERVATION

Sections:

17.26.010	Intent and purpose.
17.26.020	Criteria for determining unreasonable impairment.
17.26.030	Criteria for determining appropriate preservation/restoration action.
17.26.040	Hierarchy of view preservation/restoration actions.
17.26.050	Committee on Trees and Views.
17.26.060	Desirable and undesirable trees.
17.26.070	View and tree/vegetation equity process
17.26.080	Initial discussion.
17.26.090	View claim procedure.
17.26.100	Mediation.
17.26.110	Assistance of Committee on Trees and Views.
17.26.120	Arbitration.
17.26.130	Litigation.
17.26.140	Preservation/restoration action limitations.
17.26.150	Implementation of restorative action.
17.26.160	Enforcement
17.26.170	Responsibility for view preservation/restoration action and subsequent maintenance.
17.26.180	Liability.
17.26.190	Severability.
17.26.200	Notification of subsequent owners.

**SEC. 17.26.010 Intent and purpose.**

The City of Rolling Hills enjoys both beautiful views and an abundance of mature trees and other vegetation, and values both as contributing to the unique character of the city and enhancing the quality of life. 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. Views contribute to property values. These views have the potential to be diminished or eliminated by maturing landscaping located on private property.

Trees and vegetation produce significant psychological and tangible benefits for both residents and the broader community. Trees and vegetation provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, remove pollutants from the air, maintain soil moisture, mitigate soil erosion and provide wildlife habitat. Trees and vegetation also create shade which reduces energy costs from air conditioning.

Trees and vegetation contribute to the visual aesthetics by providing visual screens and buffers between different properties or land uses. Trees and vegetation in landscaping buffer the scale and mass of architecture and provide an attractive environment. Trees and vegetation within the city provide botanical variety and a sense of history. Trees and vegetation contribute to property values. Absent an unreasonable impairment of the established view of a

neighboring property, the city encourages and supports the growth and maintenance of trees and vegetation.

The benefits derived from an established view and trees/vegetation may come into conflict. The planting or natural germination of trees and other vegetation and their subsequent growth, particularly when such trees are not properly maintained, can produce intended or unintended harmful effects both on the property on which they are planted and/or on neighboring properties. No person shall plant, maintain, or permit to grow any trees or vegetation which unreasonably obstructs an established view from a neighboring property or properties.

The purpose of this chapter is to:

- a. Mitigate the inherent conflict between an established view and trees/vegetation by establishing procedures for the protection of an established view and abatement of view impairments created by trees and vegetation, while at the same time protecting trees and vegetation from indiscriminate removal,
- b. Establish a right of real property owners in the city to preserve and or/restore an established view that existed on the date that the property was purchased by the view-seeker, or on the date that tree/vegetation owner's property was purchased, whichever is more recent,
- c. Establish a right of tree/vegetation owners to preserve and protect trees and vegetation that existed on the date that the property was purchased by the tree/vegetation owner.

It is not the intent of the city to encourage clear-cutting or substantial denuding of any property of its trees by overzealous application of provisions of this chapter. The goal is to provide established view and tree/vegetation equity.

**SEC. 17.26.020 Criteria for determining unreasonable impairment.**

The following criteria are to be considered (but are not exclusive) in determining whether unreasonable impairment of an established view has occurred:

- (1) The viewing point from which the established view is observed;
- (2) The extent of the established view impairment, both currently and at tree/vegetation maturity;
- (3) The quality of the established view, including the existence of landmarks, vistas, or other unique features of the established view;
- (4) The extent to which the tree(s) and/or vegetation have grown to obscure the enjoyment of the established view from the primary view seeker's property since the view seeker's acquisition of his or her property or from the date the tree/vegetation owner purchased his or her property, whichever is more recent;

(5) The extent to which the established view has been or is diminished by factors other than tree(s) and/or vegetation.

(6) Legal building structures consistent with city regulations, and vegetation within the silhouette of such structures are not within the definition of view impairment. Vegetation may grow up to roof height for a privacy shield and/or to shield the view into a pool and certain defined private areas within a property. An established view to be preserved or restored is generally of a distant vista above or around the structure silhouette.

neighboring property, the city encourages and supports the growth and maintenance of trees and vegetation.

The benefits derived from an established view and trees/vegetation may come into conflict. The planting or natural germination of trees and other vegetation and their subsequent growth, particularly when such trees are not properly maintained, can produce intended or unintended harmful effects both on the property on which they are planted and/or on neighboring properties. No person shall plant, maintain, or permit to grow any trees or vegetation which unreasonably obstructs an established view from a neighboring property or properties.

The purpose of this chapter is to:

- a. Mitigate the inherent conflict between an established view and trees/vegetation by establishing procedures for the protection of an established view and abatement of view impairments created by trees and vegetation, while at the same time protecting trees and vegetation from indiscriminate removal,
- b. Establish a right of real property owners in the city to preserve and or/restore an established view that existed on the date that the property was purchased by the view-seeker, or on the date that tree/vegetation owner's property was purchased, whichever is more recent,
- c. Establish a right of tree/vegetation owners to preserve and protect trees and vegetation that existed on the date that the property was purchased by the tree/vegetation owner.

It is not the intent of the city to encourage clear-cutting or substantial denuding of any property of its trees by overzealous application of provisions of this chapter. The goal is to provide established view and tree/vegetation equity.

**SEC. 17.26.020 Criteria for determining unreasonable impairment.**

The following criteria are to be considered (but are not exclusive) in determining whether unreasonable impairment of an established view has occurred:

- (1) The viewing point from which the established view is observed;
- (2) The extent of the established view impairment, both currently and at tree/vegetation maturity;
- (3) The quality of the established view, including the existence of landmarks, vistas, or other unique features of the established view;
- (4) The extent to which the tree(s) and/or vegetation have grown to obscure the enjoyment of the established view from the primary view seeker's property since the view seeker's acquisition of his or her property or from the date the tree/vegetation owner purchased his or her property, whichever is more recent;
- (5) The extent to which the established view has been or is diminished by factors other than tree(s) and/or vegetation.
- (6) Legal building structures consistent with city regulations, and vegetation within the silhouette of such structures are not within the definition of view impairment. Vegetation may grow up to roof height for a privacy shield and/or to shield the view into a pool and certain defined private areas within a property. An established view to be preserved or restored is generally of a distant vista above or around the structure silhouette.

**SEC. 17.26.030 Criteria for determining appropriate preservation/restoration action.**

If it has been determined that unreasonable impairment of an established view has occurred, then the following un-weighted factors shall be considered in determining appropriate preservation action:

- (1) The number of existing trees or amount of vegetation in the area and the current effects of the tree(s) and their removal on the neighboring vegetation;
- (2) The extent to which the tree(s) and/or vegetation provide:
  - (a) Screening or privacy,
  - (b) Energy conservation and/or climate control,
  - (c) Soil stability, as measured by soil composition, degree of slope and extent of the tree's root system when a tree is proposed to be removed,
  - (d) Aesthetics,
  - (e) Community/neighborhood quality, value or significance,
  - (f) Shade,
  - (g) Historical context due to the age of the tree/vegetation,
  - (h) Rare and interesting botanical species,
  - (i) Habitat value for wildlife,
  - (j) Blending, buffering or reduction in the scale and mass of architecture and buffering between properties provided by trees/vegetation
- (3) Any hazards posed by the tree(s) or vegetation including, but not limited to, fire danger or the danger of falling limbs or trees;
- (4) The species, age, projected rate of growth, and maintenance requirements of the tree(s) or vegetation;
- (5) The date the view seeker purchased their property; and
- (6) The date the tree/vegetation owner purchased their property.
- (7) "Established view" is the view that existed on the date the view-seeker purchased their real property, or the date the tree/vegetation owner purchased their property, whichever date is more recent.

**SEC. 17.26.040 Hierarchy of view preservation/restoration actions.**

View claim actions must be consistent with all other provisions of this Title. Severe pruning should be avoided due to the damage such practice causes to the tree's form and health. Preservation actions may include, but are not limited to the following, in order of preference, assuming no countervailing health or safety interest(s) exist:

- (1) Lacing. Lacing is the most preferable pruning technique that removes excess foliage and can improve the structure of the tree. View corridors are provided through laced trees.
- (2) Vista Pruning. Vista pruning of branches may be utilized where possible, if it does not in the opinion of a certified arborist adversely affect the tree's growth pattern or health.
- (3) Crown Reduction. Crown reduction is preferable to tree removal, if it is determined by a certified arborist that the impact of crown reduction would not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.

(4) Stand Thinning. The removal of a portion of the total number of trees from a grove of trees, without any replacement plantings.

(5) Heading Back. Heading back is only to be permitted for trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if restoration actions (1) through (4) of this section will not accomplish the determined preservation action and in the opinion of a certified arborist the subsequent growth characteristics will not create a future impairment.

(6) Severe pruning. Severe pruning such as heading back and topping shall not be permitted, except as stated in (5) above.

(7) Tree/Vegetation Removal. Tree and/or vegetation removal, which may be considered when the above-mentioned preservation actions are judged to be ineffective and may be accompanied by required replacement plantings of appropriate vegetation to mitigate the level of benefits lost due to tree removal. View seeker shall bear the cost of replacement planting.

**17.26.050 Committee on Trees and Views.**

A Committee on Trees and Views ("Committee") is established for the purpose of administering the provisions of this chapter. The Committee shall be composed of no less than three members, selected from among property owners in the city. One member may be a professional member, such as a certified arborist or landscape architect/designer. The Committee shall be 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 certified arborists as required, but shall not incur any expense on behalf of the city. (Ord. 292 §4, 2003; Ord. 239 §11(part), 1993). All such costs related to established a view claim (view and tree/vegetation equity) will be borne by the view seeker, unless otherwise agreed between the view seeker and the tree vegetation owner or as specified herein.

**17.26.060 Desirable and undesirable trees.**

The Committee is authorized and directed to prepare a list of desirable and undesirable trees for planting within the city. The list shall be based upon ability of the tree to flourish in Rolling Hills, tree size and shape, rate of growth, depth of roots, fire resistance/hazard, 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 view claims, and other proceedings authorized by this chapter. (Ord. 239 §11(part), 1993).

**SEC. 17.26.070 View and tree/vegetation equity process.**

The view seeker shall follow the process established by this chapter in seeking preservation or restoration of an established view:

First, the view seeker must complete the "initial discussion" process described in Section 17.26.080.

Second, if that process does not yield a result mutually satisfactory to the view seeker and the tree/vegetation owner, then the view seeker may file a view claim with the

city and request mediation, as described in Sections 17.26.090 and 17.26.100.

Third, if the tree/vegetation owner does not participate in mediation or if mediation is unsuccessful in resolving the claim, the view seeker may next pursue resolution by requesting assistance from the Committee on Trees and Views as described in Section 17.26.110

Fourth, if the recommendation of the Committee on Trees and Views is not accepted by the view seeker and the tree/vegetation owner, the view-seeker may next pursue resolution by arbitration, as set forth in Section 17.26.120.

Fifth, if arbitration is not accepted by the tree/vegetation owner, the view seeker may then initiate litigation as described in Section 17.26.130.

**SEC. 17.26.080 Initial discussion.**

A view seeker, who believes that one or more trees or vegetation on another person's property in the city has caused unreasonable impairment of an established view from the view seeker's property, shall first notify the tree/vegetation owner of such concerns. The notification shall request personal discussions to enable the view seeker and tree/vegetation owner to attempt to reach a mutually agreeable solution, and shall be followed-up in writing. The notification shall include a copy of the view preservation ordinance (chapter 17.26 of this code), available from the city.

The view seeker shall invite the tree/vegetation owner to examine the alleged view impairment from the viewing point on the view seeker's property. Criteria to be considered are contained in Section 17.27.020. The view seeker shall provide proof of the alleged established view and a description of the nature and extent of the alleged impairment, including pertinent and corroborating evidence. Evidence may include, but is not limited to, documented and dated photographic prints, negatives, or slides; and written testimony from residents living in the area. Such evidence must show the extent to which the established view has been diminished by trees and/or vegetation.

The tree/vegetation owner is urged to invite the view seeker to examine the situation from his/her property. Criteria to be considered are contained in Section 17.26.030. Heirarty of view preservation/restoration actions are contained in Section 17.26.040.

Failure of the tree/vegetation owner to respond to the written request for initial discussion within forty-five days from the date of delivery shall be deemed formal refusal by the tree/vegetation owner to participate in the initial discussion.

If the initial discussion is refused, or if the parties do not agree as to the existence and nature of the view seeker's view impairment and the appropriate view preservation/resolution actions, the view seeker may proceed with the subsequent claim procedure outlined in Section 17.26.090.

**SEC. 17.26.090 View claim procedure.**

If the initial discussion outlined in Section 17.26.080 does not result in an agreement between the tree/vegetation owner and the view seeker, the view seeker may file a written view claim with the city requesting mediation. Any person in the city who owns or has lawful possession of a residence from which a view is allegedly 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 view seeker shall submit a complete application for abatement of impairment of an established view (view claim) 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.

**B. Financial Responsibility and Indemnification Agreement.** The applicant shall execute a financial responsibility and indemnification agreement with the city and post a payment bond at the time a view claim is submitted. The applicant must agree to pay the entire cost of the view claim process and view preservation/remediation, except as otherwise may be agreed between view seeker and the tree/vegetation owner or as specified herein. View seeker shall agree to indemnify city of any liability (Section 17.26.180).

A view claim to preserve or restore view shall consist of all of the following:

(1) A description of the nature and extent of the alleged impairment of an established view, including pertinent and corroborating evidence. Evidence may include, but is not limited to, documented and dated photographic prints, negatives, or slides; or written testimony from residents living in the area. Such evidence must show the extent to which the alleged established view has been diminished by trees and/or vegetation;

(2) The location of all trees and/or vegetation alleged to cause the view impairment, the address of the property upon which the trees and/or vegetation are located, and the present tree/vegetation owner's name and address;

(3) Specific actions to preserve/restore the alleged established view proposed by the view seeker to resolve the allegedly unreasonable impairment;

(4) Evidence that initial discussion as described in Section 17.26.080 has been made and has failed. A view claim shall not be accepted for filing unless the view seeker can demonstrate that the owner of the view-impairing vegetation (tree/vegetation owner) has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so. Evidence may include, but is not limited to, copies of receipts for certified or registered mail correspondence;

(5) Evidence confirming the ownership and the date of acquisition of the view seeker's property.

(6) Evidence confirming the ownership and the date of acquisition of the tree/vegetation owner's property.

(7) "Established view" is the view that was in existence on the date the view-seeker purchased their real property, or the date the tree/vegetation owner purchased their property, whichever date is more recent.

**SEC. 17.26.100 Mediation.**

Upon receiving the written view claim, financial responsibility and indemnification agreement, payment bond, and processing fee in the amount established by resolution of the city council, city staff shall prepare and send by certified mail to the tree/vegetation owner, a copy of the written view claim and a notice requesting that the tree/vegetation owner agree to participate in a mediation process to attempt to resolve the view claim.

The notice of the view claim and request for mediation provided by the city in accordance with Section 17.26.090 shall inform the tree/vegetation owner of the provision in Section 17.26.130 that a tree/vegetation owner who prevails in litigation shall not be entitled to recover attorneys' fees and costs if the tree/vegetation owner has declined to participate in the view and tree/vegetation equity processes set forth in Sections 17.26.080, 17.26.090, 17.26.100, 17.26.110, or 17.26.120.

In addition, city staff shall notify all property owners within 500 feet of the tree/vegetation owner's property of the pending view claim, their right to file a view claim on their own behalves within 45 days of city staffs mailing of notice of the original view claim, and the fact that their view claim will be subject to a two-year time limit if it is not filed within 45 days of staffs' mailing of notice of the original claim. Any view claim(s) submitted by surrounding property owners after being advised by staff of the pending view claim shall, to the extent possible, be combined with the view claim for purposes of mediation and arbitration.

The tree/vegetation owner shall have 45 days from delivery of the request for mediation to either accept or decline mediation. The notice sent to the tree/vegetation owner shall inform the tree/vegetation owner that a failure to respond to the request for mediation within forty-five days from the date of delivery of the notice shall be deemed formal refusal of the mediation process by the tree/vegetation owner.

If the tree/vegetation owner agrees to participate in a mediation process, the view seeker shall then pay the fee established by resolution of the city council for the mediation process, including review by the city's certified arborist. The mediator shall be chosen by the parties from the list of professional mediators maintained by the city. In the event the parties are unable to choose a mediator from the approved list, city staff shall randomly select a mediator from the list. City staff, in consultation with the mediator, shall establish a date for mediation, and a written notice of the mediation hearing date shall be sent to each party by certified mail.

The mediator shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.26.020 and 17.26.030, and the hierarchy of preservation actions set forth in Section 17.26.040, respectively, in attempting to resolve the view claim. The mediator shall also solicit recommendations of a certified arborist regarding landscape techniques and/or maintenance procedures.

The role of the mediator shall be advisory in nature and shall not be binding in establishing the preservation or restoration of view. Any agreement reached between the two parties as a result of the mediation process described herein shall be reduced to writing and signed by the mediator and all of the parties, and two copies shall be submitted to the city clerk. The cost of mediation, including review by a certified arborist, shall be paid initially by the view seeker, provided, however, that the ultimate responsibility for such cost may subsequently be modified by mutual agreement of the parties. The mediator is encouraged

to suggest a just and reasonable allocation of responsibility for the cost of mediation as part of the mediation process.

If agreement is reached through mediation, it shall be implemented in accordance with Section 17.26.150.

**SEC. 17.26.110 Assistance of Committee on Trees and Views.**

If the initial discussion outlined in Section 17.26.080 or mediation outlined in Sections 17.26.090 and 17.26.100 does not result in an agreement between the tree/vegetation owner and the view seeker, the view seeker may request assistance from the Committee on Trees and Views. The Committee serves only in an advisory capacity.

A. **Public Hearing.** 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. 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 (view seeker), the name of the property owner against whom the complaint is filed (tree/vegetation owner), 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.

Where there is more than one property with trees/vegetation that impair a view of view seeker, the Committee will deal with all of those properties in a consolidated manner to arrive at a comprehensive recommendation.

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.

The Committee shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.26.020 and 17.26.030, and the hierarchy of preservation actions set forth in Section 17.26.040, respectively, in attempting to resolve the view claim.

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

1. That there is no established view within the meaning of this chapter;
2. That there is an established view within the meaning of this chapter, but that the established view is not significantly impaired; or
3. That there is an established view within the meaning of this chapter and that the established view is significantly impaired.
4. The Committee will not create an unobstructed view for applicants. The

objective is to restore an established view by creating a view corridor in order to provide a view through trees/vegetation.

5. In order to minimize the number of trees/vegetation recommended to be trimmed or removed, the Committee may recommend abatement of view impairments in increments.

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 provide recommendations as is necessary to abate the view impairment and to restore the complainant's established view, including, but not limited to, lacing, vista pruning, crown reduction, stand thinning, heading back, removal 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 unreasonably detract from the privacy or enjoyment of the property on which the objectionable vegetation is located.

F. **Finality of Decision.** In the event that the recommendation of the Committee is accepted by the tree/vegetation owner and the view seeker, 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 (Ex. B (part)), 2004; Ord. 239 §11(part), 1993)

G. If agreement between the view seeker and the tree/vegetation owner is reached through acceptance of the recommendations of the Committee, it shall be implemented in accordance with Section 17.26.150.

H. It is the intention of this section that the advisory opinion of the Committee be admissible as evidence in any civil action brought pursuant to Section 17.26.130 of this chapter.

**SEC. 17.26.120 Arbitration.**

If the initial discussions under Sections 17.26.080, 17.26.90, 17.26.100, and 17.26.110 fail to achieve agreement between the tree/vegetation owner and the view seeker, the view seeker may send to the tree/vegetation owner a request to participate in a binding arbitration process.

The tree/vegetation owner shall have forty-five days from delivery of the request for arbitration to either accept or decline arbitration. Failure to respond within forty-five days shall be deemed formal refusal of arbitration.

If arbitration is accepted, the parties shall agree in writing to the selection of an arbitrator, who shall be chosen from a list of professional arbitrators available from the city within thirty days of such acceptance. If the parties are unable to agree on a specific arbitrator within thirty days, they may jointly request that city staff randomly select an arbitrator from the list maintained by the city. In addition,

either party may petition a court of competent jurisdiction to appoint an arbitrator.

The arbitrator shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.26.020 and 17.26.030, and the hierarchy of preservation/restoration actions set forth in Section 17.26.040, respectively, in attempting to resolve the view claim, and shall submit a complete written decision to the view seeker and the tree/vegetation owner. Any decision of the arbitrator shall be enforceable pursuant to the provisions of California Code of Civil Procedure Section 1285 et seq., and two copies of the decision shall be submitted to the city clerk.

The costs of arbitration shall be paid initially by the view seeker, provided, however, that the ultimate responsibility for such costs may subsequently be modified either by mutual agreement of the parties or by a determination of the arbitrator as to a just and reasonable allocation of responsibility. The decision of the arbitrator shall be implemented in accordance with Section 17.26.150.

**SEC. 17.26.130 Litigation.**

If a view seeker has attempted to obtain but has been unsuccessful in attaining agreement or resolution under Sections 17.26.080, 17.26.90, 17.26.100, 17.26.110, and 17.26.120 of this chapter, the view seeker may initiate civil action in a court of competent jurisdiction for resolution of his/her view claim under the provisions of this chapter. It is the intent of this chapter that the evaluation criteria set forth herein be utilized in adjudicating view claims in civil litigation. In the event of civil litigation, the view seeker shall provide two copies of the filed complaint to the city clerk.

The prevailing party in any civil action brought pursuant to this chapter shall be entitled to recover its reasonable costs and attorneys' fees incurred in the litigation, subject to the following exception: a tree/vegetation owner who prevails in litigation shall not be entitled to recover attorneys' fees and costs if the tree/vegetation owner has declined to participate view and tree/vegetation equity processes set forth in Sections 17.26.080, 17.26.090, 17.26.100, 17.26.110, and 17.26.120. The notice of the view claim and request for mediation provided by the city in accordance with Section 17.26.090 shall inform the tree/vegetation owner of this provision and the consequences of non-participation in the initial discussion, mediation, assistance from the Committee on Trees and Views, and/or arbitration process.

The decision established by litigation shall be implemented in accordance with Section 17.26.150.

**SEC. 17.26.140 Preservation/restoration action limitations.**

Except as otherwise authorized by law, no tree and/or vegetation on real property owned or controlled by another person may be removed, destroyed or altered unless the view seeker either enters into a written agreement with the tree/vegetation owner or obtains an arbitration award or judicial decision specifying, in detail, the nature and timing of the preservation action and the parties responsible for performing such action.

**SEC. 17.26.150 Implementation of restorative action.**

Restorative action may be determined by agreement among the view seeker and the tree/vegetation owner, through mediation, by agreement to accept recommendations of the Committee on Trees and Views, through arbitration, or through litigation.

A. Within thirty days of a final decision ordering restorative action, the view seeker 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 view seeker 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 deciding bodies' 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.

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 deciding body may allocate the cost of restorative action as follows:

1. If the deciding body finds that the tree or other vegetation constitutes a safety hazard to the view seeker 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 tree/vegetation owner is maintaining a hedge fifteen feet or more in height, the deciding body may allocate the cost of remediation of the hedge to the tree/vegetation owner. The tree/vegetation owner shall be required to maintain at his/her expense the hedge at the height determined by the deciding body. If the tree/vegetation owner agrees to remove the hedge, the view seeker shall pay for replacement plantings. (Ord. 239 §11(part), 1993).

**SEC. 17.26.160 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).

**SEC. 17.26.170 Responsibility for view preservation/restoration action and subsequent maintenance.**

The view seeker shall be responsible for paying the cost of any and all view claim processes and determined preservation/ restoration actions unless the parties agree to share the costs in some other manner. Subsequent maintenance of trees and vegetation shall be the responsibility of the tree/vegetation owner, unless otherwise agreed to by the parties or required pursuant to any final arbitration decision or court order. If tree/vegetation owner agrees to remove a tree/vegetation in lieu of required pruning, the cost of any replacement plantings and their maintenance shall be borne by the view seeker.

**SEC. 17.26.180 Liability.**

(1) The city shall not be liable for any damages, injuries, costs or expenses which are the result of an advisory opinion issued by the Committee on Trees and Views, a city employee or official or any agreements or determinations resulting from mediation, arbitration or litigation concerning view claims or a view seeker's assertions pertaining to views granted or conferred herein.

(2) The applicant shall execute a financial responsibility agreement with the city and post a payment bond at the time a view claim is submitted as described in Section 17.26.090. The applicant must agree to pay the entire cost of the view claim process and view preservation/remediation, except as otherwise may be agreed between view seeker and the tree/vegetation owner or described herein. View seeker shall agree to indemnify city of any liability.

(3) Under no circumstances shall the city have any responsibility or liability to enforce or seek any legal redress, civil or criminal, for any decision that any other person or entity makes concerning a view claim.

(4) A failure to comply with the provisions of this chapter is not a misdemeanor, and the enforcement of this chapter shall be only by the affected and interested private parties.

**SEC. 17.26.190 Severability.**

SECTION 1. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

The city council hereby declares that it would have adopted this and each section, subsection, phrase or clause of this chapter irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared invalid or unconstitutional on their face or as applied.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any persons or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each any every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in accordance with law.

**SEC. 17.26.200 Notification of subsequent owners.**

It is not the intent or purpose of this chapter for the city to create either a covenant running with the land or an equitable servitude (for example, easement or license). However, the city will keep a record of agreements and decisions reached pursuant to Sections 17.26.080, 17.26.100, 17.26.110, 17.26.120 and 17.26.130 of which it is notified, and provide those agreements and/or decisions as part of the pre-purchase inspection report to prospective purchasers of property in the city who request such a report.

**Subject:** FW: Draft view ordinance revision  
**Date:** Tuesday, November 20, 2012 4:32 PM  
**From:** Heidi Luce <hluce@cityofrh.net>  
**To:** Heidi <hluce@cityofrh.net>

----- Forwarded Message

**From:** Lynn Gill <lynn.gill@cox.net>  
**Date:** Tue, 20 Nov 2012 15:02:55 -0800  
**To:** Anton Dahlerbruch <adahlerbruch@cityofrh.net>  
**Cc:** "Rolling Hills, City of Yolanta" <ys@cityofrh.net>, Jeff Pieper <jeff@pieper.com>  
**Subject:** Fw: Draft view ordinance revision

Hello All,

As luck would have it, I bumped into Frank Zerunyan, J.D. at the USC Faculty Center. Frank is Senior Fellow at the USC Sol Price School of Public Policy and is also on the Rolling Hills Estates City Council. Frank is one of the people that I previously referenced as having advised me on view policy issues.

He told me that the RHE view policy has been very successful. He attributes this to the policy they crafted being balanced regarding the property rights of both the view-seeker and the tree-owner. The policy lists criteria to be applied by the view committee is delineated in the policy, such as definitions of views and privacy rights.

Also, both parties to a view action have skin in the game, as the city does not take sides in the dispute and both parties bear the costs. If mediation or litigation is required, the parties not the city bear the costs. This, in his opinion, tends to motivate the parties to arrive at a solution.

Because the criteria for assessing views and privacy rights, etc. are defined, the parties have a good checklist of things to consider in crafting an agreement. Parties are also invited to come to the city for advice BEFORE filing for a formal view resolution. As a result, the majority of view disputes are settled without filing a view complaint. Of the four cases that have been filed, all resulted in the parties coming to an agreement before the the view committee had to render a decision.

RHE protects views that existed on the date the property was acquired or fifteen years prior to the effective date of the ordinance, whichever is later.

Frank is willing to share RHE's experience in drafting a view ordinance with the Planning Committee 213-740-0036. He also suggested that Douglas Prichard, RHE City Manager, could provide useful insights.

Please make this e-mail and attachments available—no need to include the prior e-mail.

Regards,Lynn

**From:** Lynn Gill <mailto:lynn.gill@cox.net>  
**Sent:** Friday, November 16, 2012 12:47 PM

30

**To:** Rolling Hills, City of, Anton Dahlerbruch <mailto:adahlerbruch@cityofrh.net>  
**Cc:** Rolling Hills, City of , Yolanta Swartz <mailto:ys@cityofrh.net> ; Pieper Jeff <mailto:jeff@pieper.com>  
**Subject:** Draft view ordinance revision

Dear Tony,

Please make this available to the Planning commission, and have it available in the record of the current view ordinance review proceedings and available at public hearings.

The RHE ordinance was well-crafted, and the melded draft could be useful to the Planning Commission. It's difficult to start with a blank piece of paper, so having something as a starting point could be helpful.

Best regards,  
Lynn

**From:** Lynn Gill <mailto:lynn.gill@cox.net>  
**Sent:** Sunday, April 22, 2012 4:49 PM  
**To:** Rolling Hills, City of, Anton Dahlerbruch <mailto:adahlerbruch@cityofrh.net>  
**Subject:** Draft view ordinance revision

Hello Tony,

Thanks for the telephone call. It's always nice to chat with you. I fully understand the timing necessity of getting current view committee matters completed before turning to possible revision of Chapter 17.26.

As I told you, I obtained a copy of the RHE trees and view ordinance. It is recent and well-lawyered. I took the liberty of melding the best parts of that ordinance along with the best parts of the RHCA view resolution into Chapter 17.26. I know from working on the RHCA view ordinance and the RHCA easement policy that drafting or revising an ordinance can appear to be a daunting task. Generally it's better to have a draft starting point, and I offer the attached in that spirit. I claim no pride of authorship, as I was simply melding a current well-written view ordinance into our RH ordinance, modifying it to fit our special RH circumstances and preferred ways of doing things. No doubt, the Committee and Council will go through many drafts, iterations and will obtain public input before arriving at an ordinance that is right for Rolling Hills.

Please share it with the City Council and Planning Commission. I provided both a PDF file and a non-protected Word file for use of Planning and the Council only.

Best regards,  
Lynn

(31)

Chapter 17.12

The following replaces Section 17.12.220 in its entirety.

DEFINITIONS

**17.12.220 Words, terms and phrases.**

For the purpose of this chapter, the meaning and construction of words and phrases hereinafter set forth shall apply:

"Alter" means to take action that changes the tree or vegetation, including but not limited to, extensive pruning of the canopy area (topping), cutting, girdling, interfering with the water supply, applying chemicals or re-grading around the feeder root zone of the tree or vegetation.

"Arbitration" means a voluntary legal procedure for settling disputes and leading to a final and binding determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted as set forth in California Code of Civil Procedure Section 1280 et seq.

"Arbitrator" means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes binding decisions for the disputing parties. The arbitrator of a view dispute shall be chosen from a list available from the city of qualified and professionally trained arbitrators/mediators, including but not limited to, members of the American Arbitration Association.

"Arborist, certified" means a person who has passed a series of tests by the International Society of Arboriculture (ISA), is governed by ISA's professional code of ethics and possesses the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants. The arborist utilized in mediation of a view dispute shall be certified by the city.

"Authorized agent" means a person, as defined herein, who has been designated and approved in writing by the property owner of record to act on his/her behalf in matters pertaining to the processing of a view claim as outlined in this chapter.

"Canopy" means the umbrella-like structure created by the over-head leaves and branches of a tree which create a sheltered area below.

"City" means the City of Rolling Hills.

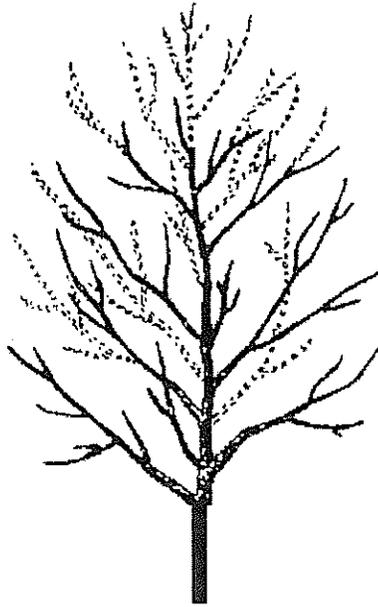
"City maintained trees" means trees which are specifically designated for maintenance by the city council, typically on city property.

"City property" means any real property of which the city is the fee simple owner of record.

"Claim, view " means documentation that outlines the basis of view impairment and the specific preservation/restoration action that is being sought.

"Crown" means the rounded top of the tree.

"Crown reduction/shaping" means a method of pruning that reduces a tree's height and/or spread. Crown reduction entails the reduction of the top, sides or individual limbs by means of removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal. The diagram that follows is illustrative of "crown reduction/shaping" within the meaning of this chapter.

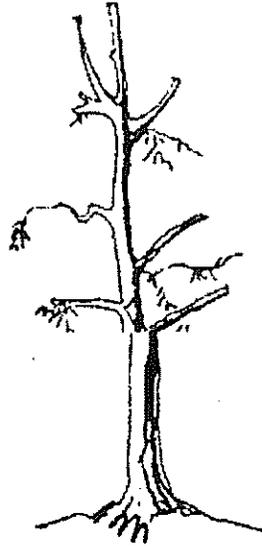


"Destroy" means to kill or take action that endangers the health or vigor of a tree or vegetation, including, but not limited to, cutting, girdling, topping, interfering with the water supply, applying chemicals or re-grading around the base of the trunk.

"Established view" means a view that was in existence on the date the view-seeker purchased their real property, or the date the tree/vegetation owner purchased their property, whichever date is more recent.

"Established View and tree/vegetation equity" means achievement of a fair, reasonable, and balanced accommodation of an established view and competing impairments (such as structures, trees and/or vegetation), c o n s i d e r i n g privacy and the use and enjoyment of property.

"Heading back" means the overall reduction of the mass of a tree by modification to major limbs. The diagram that follows is illustrative of "heading back" within the meaning of this chapter. "Heading back" as defined herein is considered to be severe pruning.



"Impairment" means the blocking or diminishment of a view attributable to growth, improper maintenance or location of trees and/or vegetation.

"Lacing" means a method of pruning that selectively removes excess (primarily interior) foliage to improve the structure of the tree and to provide a view through the tree. It is a method of pruning to achieve "Vista pruning." The diagram for "crown reduction" herein is indicative also of lacing (without necessarily reducing height of the tree.

"Maintenance" means pruning with the primary objective of maintaining or improving tree health and structure; includes "crown reduction/shaping" or "lacing," but not ordinarily "heading back."

"Mediator" means a neutral, objective third party professional negotiator/facilitator to help disputing parties reach a mutually satisfactory solution regarding a view claim. The mediator shall be chosen from a list available from the city of qualified and professionally trained arbitrators/mediators, including but not limited to, members of the American Arbitration Association.

"Person" means any individual, individuals, corporation, partnership, firm or other legal entities

"Preservation/restoration action" means any specific steps taken affecting trees or vegetation that would result in the preservation or restoration of an established view across property lines.

"Pruning" means the removal of plant material from a tree/vegetation.

"Real property" means rights or interests of ownership of land and all appurtenances to the land including buildings, fixtures, vegetation and improvements erected upon, planted or affixed to the land.

"Severe pruning" means the cutting of branches and/or trunk of a tree in a manner which substantially reduces the overall size of the tree and/or destroys the symmetrical appearance or natural shape of the tree and which results in the removal of main lateral branches leaving the trunk and branches of the tree in a stubby appearance. "Heading back" and "topping" as defined herein are considered to be severe pruning.

"Stand thinning" means the selective removal of selected trees from a grove of trees.

"Topping" is the removal of the entire canopy of a tree by cutting back large-diameter branches to stubs or truncating the main stem/trunk. Topping damages and weakens trees, often results in explosive new growth, and topped trees appear disfigured or mutilated. Topping shall be prohibited.

"Tree" means any woody perennial vegetation that generally has a single trunk and reaches a height of at least eight feet at maturity.

"Tree/vegetation owner" means any person who owns real property in the city on which tree(s) and/or vegetation is located.

"Vegetation" means all types of plants, bushes, hedges and shrubs, including trees.

"View" means a single vision of a scene or vista from a viewing point in a principal residence, or 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, lights of the Los Angeles basin, the Palos Verdes hills or Los Angeles Harbor. The term "view" does not mean an unobstructed panorama of these features. "View", "the view" and "views" are synonymous and singular.

"View corridor" is a narrow visual pathway through trees or vegetation from a single viewing point to a single scene or vista.

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

"View Seeker" means any real property owner in the city or authorized agent of such property owner who alleges that tree(s)/vegetation located within the immediate vicinity of the property are causing unreasonable impairment of an established view benefiting such real property.

"Viewing point" is a location within a principal residence designed to take advantage of an established view, such as the living, family, and dining rooms, rooms that have features such as picture windows, sliding glass doors, or French doors; and common exterior areas such as patios, balconies, decks, pool areas, and gazebos.

"Vista pruning" means the selective thinning of framework limbs or specific areas of the crown of a tree to allow an established view through the tree from a specific viewing point.

The following replaces Chapter 17.26 in its entirety.

Section Chapter 17.26

TREES AND VIEW PRESERVATION

Sections:

17.26.010	Intent and purpose.
17.26.020	Criteria for determining unreasonable impairment.
17.26.030	Criteria for determining appropriate preservation/restoration action.
17.26.040	Hierarchy of view preservation/restoration actions.
17.26.050	Committee on Trees and Views.
17.26.060	Desirable and undesirable trees.
17.26.070	View and tree/vegetation equity process
17.26.080	Initial discussion.
17.26.090	View claim procedure.
17.26.100	Mediation.
17.26.110	Assistance of Committee on Trees and Views.
17.26.120	Arbitration.
17.26.130	Litigation.
17.26.140	Preservation/restoration action limitations.
17.26.150	Implementation of restorative action.
17.26.160	Enforcement
17.26.170	Responsibility for view preservation/restoration action and subsequent maintenance.
17.26.180	Liability.
17.26.190	Severability.
17.26.200	Notification of subsequent owners.

**SEC. 17.26.010 Intent and purpose.**

The City of Rolling Hills enjoys both beautiful views and an abundance of mature trees and other vegetation, and values both as contributing to the unique character of the city and enhancing the quality of life. 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. Views contribute to property values. These views have the potential to be diminished or eliminated by maturing landscaping located on private property.

Trees and vegetation produce significant psychological and tangible benefits for both residents and the broader community. Trees and vegetation provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, remove pollutants from the air, maintain soil moisture, mitigate soil erosion and provide wildlife habitat. Trees and vegetation also create shade which reduces energy costs from air conditioning.

Trees and vegetation contribute to the visual aesthetics by providing visual screens and buffers between different properties or land uses. Trees and vegetation in landscaping buffer the scale and mass of architecture and provide an attractive environment. Trees and vegetation within the city provide botanical variety and a sense of history. Trees and vegetation contribute to property values. Absent an unreasonable impairment of the established view of a

neighboring property, the city encourages and supports the growth and maintenance of trees and vegetation.

The benefits derived from an established view and trees/vegetation may come into conflict. The planting or natural germination of trees and other vegetation and their subsequent growth, particularly when such trees are not properly maintained, can produce intended or unintended harmful effects both on the property on which they are planted and/or on neighboring properties. No person shall plant, maintain, or permit to grow any trees or vegetation which unreasonably obstructs an established view from a neighboring property or properties.

The purpose of this chapter is to:

- a. Mitigate the inherent conflict between an established view and trees/vegetation by establishing procedures for the protection of an established view and abatement of view impairments created by trees and vegetation, while at the same time protecting trees and vegetation from indiscriminate removal,
- b. Establish a right of real property owners in the city to preserve and or/restore an established view that existed on the date that the property was purchased by the view-seeker, or on the date that tree/vegetation owner's property was purchased, whichever is more recent,
- c. Establish a right of tree/vegetation owners to preserve and protect trees and vegetation that existed on the date that the property was purchased by the tree/vegetation owner.

It is not the intent of the city to encourage clear-cutting or substantial denuding of any property of its trees by overzealous application of provisions of this chapter. The goal is to provide established view and tree/vegetation equity.

**SEC. 17.26.020 Criteria for determining unreasonable impairment.**

The following criteria are to be considered (but are not exclusive) in determining whether unreasonable impairment of an established view has occurred:

- (1) The viewing point from which the established view is observed;
- (2) The extent of the established view impairment, both currently and at tree/vegetation maturity;
- (3) The quality of the established view, including the existence of landmarks, vistas, or other unique features of the established view;
- (4) The extent to which the tree(s) and/or vegetation have grown to obscure the enjoyment of the established view from the primary view seeker's property since the view seeker's acquisition of his or her property or from the date the tree/vegetation owner purchased his or her property, whichever is more recent;

(5) The extent to which the established view has been or is diminished by factors other than tree(s) and/or vegetation.

(6) Legal building structures consistent with city regulations, and vegetation within the silhouette of such structures are not within the definition of view impairment. Vegetation may grow up to roof height for a privacy shield and/or to shield the view into a pool and certain defined private areas within a property. An established view to be preserved or restored is generally of a distant vista above or around the structure silhouette.

**SEC. 17.26.030 Criteria for determining appropriate preservation/restoration action.**

If it has been determined that unreasonable impairment of an established view has occurred, then the following un-weighted factors shall be considered in determining appropriate preservation action:

- (1) The number of existing trees or amount of vegetation in the area and the current effects of the tree(s) and their removal on the neighboring vegetation;
- (2) The extent to which the tree(s) and/or vegetation provide:
  - (a) Screening or privacy,
  - (b) Energy conservation and/or climate control,
  - (c) Soil stability, as measured by soil composition, degree of slope and extent of the tree's root system when a tree is proposed to be removed,
  - (d) Aesthetics,
  - (e) Community/neighborhood quality, value or significance,
  - (f) Shade,
  - (g) Historical context due to the age of the tree/vegetation,
  - (h) Rare and interesting botanical species,
  - (i) Habitat value for wildlife,
  - (j) Blending, buffering or reduction in the scale and mass of architecture and buffering between properties provided by trees/vegetation
- (3) Any hazards posed by the tree(s) or vegetation including, but not limited to, fire danger or the danger of falling limbs or trees;
- (4) The species, age, projected rate of growth, and maintenance requirements of the tree(s) or vegetation;
- (5) The date the view seeker purchased their property; and
- (6) The date the tree/vegetation owner purchased their property.
- (7) "Established view" is the view that existed on the date the view-seeker purchased their real property, or the date the tree/vegetation owner purchased their property, whichever date is more recent.

**SEC. 17.26.040 Hierarchy of view preservation/restoration actions.**

View claim actions must be consistent with all other provisions of this Title. Severe pruning should be avoided due to the damage such practice causes to the tree's form and health. Preservation actions may include, but are not limited to the following, in order of preference, assuming no countervailing health or safety interest(s) exist:

- (1) Lacing. Lacing is the most preferable pruning technique that removes excess foliage and can improve the structure of the tree. View corridors are provided through laced trees.
- (2) Vista Pruning. Vista pruning of branches may be utilized where possible, if it does not in the opinion of a certified arborist adversely affect the tree's growth pattern or health.
- (3) Crown Reduction. Crown reduction is preferable to tree removal, if it is determined by a certified arborist that the impact of crown reduction would not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.

(4) Stand Thinning. The removal of a portion of the total number of trees from a grove of trees, without any replacement plantings.

(5) Heading Back. Heading back is only to be permitted for trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if restoration actions (1) through (4) of this section will not accomplish the determined preservation action and in the opinion of a certified arborist the subsequent growth characteristics will not create a future impairment.

(6) Severe pruning. Severe pruning such as heading back and topping shall not be permitted, except as stated in (5) above.

(7) Tree/Vegetation Removal. Tree and/or vegetation removal, which may be considered when the above-mentioned preservation actions are judged to be ineffective and may be accompanied by required replacement plantings of appropriate vegetation to mitigate the level of benefits lost due to tree removal. View seeker shall bear the cost of replacement planting.

**17.26.050 Committee on Trees and Views.**

A Committee on Trees and Views ("Committee") is established for the purpose of administering the provisions of this chapter. The Committee shall be composed of no less than three members, selected from among property owners in the city. One member may be a professional member, such as a certified arborist or landscape architect/designer. The Committee shall be 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 certified arborists as required, but shall not incur any expense on behalf of the city. (Ord. 292 §4, 2003; Ord. 239 §11(part), 1993). All such costs related to established a view claim (view and tree/vegetation equity) will be borne by the view seeker, unless otherwise agreed between the view seeker and the tree vegetation owner or as specified herein.

**17.26.060 Desirable and undesirable trees.**

The Committee is authorized and directed to prepare a list of desirable and undesirable trees for planting within the city. The list shall be based upon ability of the tree to flourish in Rolling Hills, tree size and shape, rate of growth, depth of roots, fire resistance/hazard, 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 view claims, and other proceedings authorized by this chapter. (Ord. 239 §11(part), 1993).

**SEC. 17.26.070 View and tree/vegetation equity process.**

The view seeker shall follow the process established by this chapter in seeking preservation or restoration of an established view:

First, the view seeker must complete the "initial discussion" process described in Section 17.26.080.

Second, if that process does not yield a result mutually satisfactory to the view seeker and the tree/vegetation owner, then the view seeker may file a view claim with the

city and request mediation, as described in Sections 17.26.090 and 17.26.100.

Third, if the tree/vegetation owner does not participate in mediation or if mediation is unsuccessful in resolving the claim, the view seeker may next pursue resolution by requesting assistance from the Committee on Trees and Views as described in Section 17.26.110

Fourth, if the recommendation of the Committee on Trees and Views is not accepted by the view seeker and the tree/vegetation owner, the view-seeker may next pursue resolution by arbitration, as set forth in Section 17.26.120.

Fifth, if arbitration is not accepted by the tree/vegetation owner, the view seeker may then initiate litigation as described in Section 17.26.130.

**SEC. 17.26.080 Initial discussion.**

A view seeker, who believes that one or more trees or vegetation on another person's property in the city has caused unreasonable impairment of an established view from the view seeker's property, shall first notify the tree/vegetation owner of such concerns. The notification shall request personal discussions to enable the view seeker and tree/vegetation owner to attempt to reach a mutually agreeable solution, and shall be followed-up in writing. The notification shall include a copy of the view preservation ordinance (chapter 17.26 of this code), available from the city.

The view seeker shall invite the tree/vegetation owner to examine the alleged view impairment from the viewing point on the view seeker's property. Criteria to be considered are contained in Section 17.27.020. The view seeker shall provide proof of the alleged established view and a description of the nature and extent of the alleged impairment, including pertinent and corroborating evidence. Evidence may include, but is not limited to, documented and dated photographic prints, negatives, or slides; and written testimony from residents living in the area. Such evidence must show the extent to which the established view has been diminished by trees and/or vegetation.

The tree/vegetation owner is urged to invite the view seeker to examine the situation from his/her property. Criteria to be considered are contained in Section 17.26.030. Heirartcy of view preservation/restoration actions are contained in Section 17.26.040.

Failure of the tree/vegetation owner to respond to the written request for initial discussion within forty-five days from the date of delivery shall be deemed formal refusal by the tree/vegetation owner to participate in the initial discussion.

If the initial discussion is refused, or if the parties do not agree as to the existence and nature of the view seeker's view impairment and the appropriate view preservation/resolution actions, the view seeker may proceed with the subsequent claim procedure outlined in Section 17.26.090.

**SEC. 17.26.090 View claim procedure.**

If the initial discussion outlined in Section 17.26.080 does not result in an agreement between the tree/vegetation owner and the view seeker, the view seeker may file a written view claim with the city requesting mediation. Any person in the city who owns or has lawful possession of a residence from which a view is allegedly 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 view seeker shall submit a complete application for abatement of impairment of an established view (view claim) 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.

**B. Financial Responsibility and Indemnification Agreement.** The applicant shall execute a financial responsibility and indemnification agreement with the city and post a payment bond at the time a view claim is submitted. The applicant must agree to pay the entire cost of the view claim process and view preservation/remediation, except as otherwise may be agreed between view seeker and the tree/vegetation owner or as specified herein. View seeker shall agree to indemnify city of any liability (Section 17.26.180).

A view claim to preserve or restore view shall consist of all of the following:

(1) A description of the nature and extent of the alleged impairment of an established view, including pertinent and corroborating evidence. Evidence may include, but is not limited to, documented and dated photographic prints, negatives, or slides; or written testimony from residents living in the area. Such evidence must show the extent to which the alleged established view has been diminished by trees and/or vegetation;

(2) The location of all trees and/or vegetation alleged to cause the view impairment, the address of the property upon which the trees and/or vegetation are located, and the present tree/vegetation owner's name and address;

(3) Specific actions to preserve/restore the alleged established view proposed by the view seeker to resolve the allegedly unreasonable impairment;

(4) Evidence that initial discussion as described in Section 17.26.080 has been made and has failed. A view claim shall not be accepted for filing unless the view seeker can demonstrate that the owner of the view-impairing vegetation (tree/vegetation owner) has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so. Evidence may include, but is not limited to, copies of receipts for certified or registered mail correspondence;

(5) Evidence confirming the ownership and the date of acquisition of the view seeker's property.

(6) Evidence confirming the ownership and the date of acquisition of the tree/vegetation owner's property.

(7) "Established view" is the view that was in existence on the date the view-seeker purchased their real property, or the date the tree/vegetation owner purchased their property, whichever date is more recent.

**SEC. 17.26.100 Mediation.**

Upon receiving the written view claim, financial responsibility and indemnification agreement, payment bond, and processing fee in the amount established by resolution of the city council, city staff shall prepare and send by certified mail to the tree/vegetation owner, a copy of the written view claim and a notice requesting that the tree/vegetation owner agree to participate in a mediation process to attempt to resolve the view claim.

The notice of the view claim and request for mediation provided by the city in accordance with Section 17.26.090 shall inform the tree/vegetation owner of the provision in Section 17.26.130 that a tree/vegetation owner who prevails in litigation shall not be entitled to recover attorneys' fees and costs if the tree/vegetation owner has declined to participate in the view and tree/vegetation equity processes set forth in Sections 17.26.080, 17.26.090, 17.26.100, 17.26.110, or 17.26.120.

In addition, city staff shall notify all property owners within 500 feet of the tree/vegetation owner's property of the pending view claim, their right to file a view claim on their own behalves within 45 days of city staffs mailing of notice of the original view claim, and the fact that their view claim will be subject to a two-year time limit if it is not filed within 45 days of staffs' mailing of notice of the original claim. Any view claim(s) submitted by surrounding property owners after being advised by staff of the pending view claim shall, to the extent possible, be combined with the view claim for purposes of mediation and arbitration.

The tree/vegetation owner shall have 45 days from delivery of the request for mediation to either accept or decline mediation. The notice sent to the tree/vegetation owner shall inform the tree/vegetation owner that a failure to respond to the request for mediation within forty-five days from the date of delivery of the notice shall be deemed formal refusal of the mediation process by the tree/vegetation owner.

If the tree/vegetation owner agrees to participate in a mediation process, the view seeker shall then pay the fee established by resolution of the city council for the mediation process, including review by the city's certified arborist. The mediator shall be chosen by the parties from the list of professional mediators maintained by the city. In the event the parties are unable to choose a mediator from the approved list, city staff shall randomly select a mediator from the list. City staff, in consultation with the mediator, shall establish a date for mediation, and a written notice of the mediation hearing date shall be sent to each party by certified mail.

The mediator shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.26.020 and 17.26.030, and the hierarchy of preservation actions set forth in Section 17.26.040, respectively, in attempting to resolve the view claim. The mediator shall also solicit recommendations of a certified arborist regarding landscape techniques and/or maintenance procedures.

The role of the mediator shall be advisory in nature and shall not be binding in establishing the preservation or restoration of view. Any agreement reached between the two parties as a result of the mediation process described herein shall be reduced to writing and signed by the mediator and all of the parties, and two copies shall be submitted to the city clerk. The cost of mediation, including review by a certified arborist, shall be paid initially by the view seeker, provided, however, that the ultimate responsibility for such cost may subsequently be modified by mutual agreement of the parties. The mediator is encouraged

to suggest a just and reasonable allocation of responsibility for the cost of mediation as part of the mediation process.

If agreement is reached through mediation, it shall be implemented in accordance with Section 17.26.150.

**SEC. 17.26.110 Assistance of Committee on Trees and Views.**

If the initial discussion outlined in Section 17.26.080 or mediation outlined in Sections 17.26.090 and 17.26.100 does not result in an agreement between the tree/vegetation owner and the view seeker, the view seeker may request assistance from the Committee on Trees and Views. The Committee serves only in an advisory capacity.

A. **Public Hearing.** 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. 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 (view seeker), the name of the property owner against whom the complaint is filed (tree/vegetation owner), 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.

Where there is more than one property with trees/vegetation that impair a view of view seeker, the Committee will deal with all of those properties in a consolidated manner to arrive at a comprehensive recommendation.

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.

The Committee shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.26.020 and 17.26.030, and the hierarchy of preservation actions set forth in Section 17.26.040, respectively, in attempting to resolve the view claim.

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

1. That there is no established view within the meaning of this chapter;
2. That there is an established view within the meaning of this chapter, but that the established view is not significantly impaired; or
3. That there is an established view within the meaning of this chapter and that the established view is significantly impaired.
4. The Committee will not create an unobstructed view for applicants. The

objective is to restore an established view by creating a view corridor in order to provide a view through trees/vegetation.

5. In order to minimize the number of trees/vegetation recommended to be trimmed or removed, the Committee may recommend abatement of view impairments in increments.

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 provide recommendations as is necessary to abate the view impairment and to restore the complainant's established view, including, but not limited to, lacing, vista pruning, crown reduction, stand thinning, heading back, removal 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 unreasonably detract from the privacy or enjoyment of the property on which the objectionable vegetation is located.

F. **Finality of Decision.** In the event that the recommendation of the Committee is accepted by the tree/vegetation owner and the view seeker, 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 (Ex. B (part)), 2004; Ord. 239 §11(part), 1993)

G. If agreement between the view seeker and the tree/vegetation owner is reached through acceptance of the recommendations of the Committee, it shall be implemented in accordance with Section 17.26.150.

H. It is the intention of this section that the advisory opinion of the Committee be admissible as evidence in any civil action brought pursuant to Section 17.26.130 of this chapter.

#### **SEC. 17.26.120 Arbitration.**

If the initial discussions under Sections 17.26.080, 17.26.90, 17.26.100, and 17.26.110 fail to achieve agreement between the tree/vegetation owner and the view seeker, the view seeker may send to the tree/vegetation owner a request to participate in a binding arbitration process.

The tree/vegetation owner shall have forty-five days from delivery of the request for arbitration to either accept or decline arbitration. Failure to respond within forty-five days shall be deemed formal refusal of arbitration.

If arbitration is accepted, the parties shall agree in writing to the selection of an arbitrator, who shall be chosen from a list of professional arbitrators available from the city within thirty days of such acceptance. If the parties are unable to agree on a specific arbitrator within thirty days, they may jointly request that city staff randomly select an arbitrator from the list maintained by the city. In addition,

either party may petition a court of competent jurisdiction to appoint an arbitrator.

The arbitrator shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.26.020 and 17.26.030, and the hierarchy of preservation/restoration actions set forth in Section 17.26.040, respectively, in attempting to resolve the view claim, and shall submit a complete written decision to the view seeker and the tree/vegetation owner. Any decision of the arbitrator shall be enforceable pursuant to the provisions of California Code of Civil Procedure Section 1285 et seq., and two copies of the decision shall be submitted to the city clerk.

The costs of arbitration shall be paid initially by the view seeker, provided, however, that the ultimate responsibility for such costs may subsequently be modified either by mutual agreement of the parties or by a determination of the arbitrator as to a just and reasonable allocation of responsibility. The decision of the arbitrator shall be implemented in accordance with Section 17.26.150.

**SEC. 17.26.130 Litigation.**

If a view seeker has attempted to obtain but has been unsuccessful in attaining agreement or resolution under Sections 17.26.080, 17.26.90, 17.26.100, 17.26.110, and 17.26.120 of this chapter, the view seeker may initiate civil action in a court of competent jurisdiction for resolution of his/her view claim under the provisions of this chapter. It is the intent of this chapter that the evaluation criteria set forth herein be utilized in adjudicating view claims in civil litigation. In the event of civil litigation, the view seeker shall provide two copies of the filed complaint to the city clerk.

The prevailing party in any civil action brought pursuant to this chapter shall be entitled to recover its reasonable costs and attorneys' fees incurred in the litigation, subject to the following exception: a tree/vegetation owner who prevails in litigation shall not be entitled to recover attorneys' fees and costs if the tree/vegetation owner has declined to participate view and tree/vegetation equity processes set forth in Sections 17.26.080, 17.26.090, 17.26.100, 17.26.110, and 17.26.120. The notice of the view claim and request for mediation provided by the city in accordance with Section 17.26.090 shall inform the tree/vegetation owner of this provision and the consequences of non-participation in the initial discussion, mediation, assistance from the Committee on Trees and Views, and/or arbitration process.

The decision established by litigation shall be implemented in accordance with Section 17.26.150.

**SEC. 17.26.140 Preservation/restoration action limitations.**

Except as otherwise authorized by law, no tree and/or vegetation on real property owned or controlled by another person may be removed, destroyed or altered unless the view seeker either enters into a written agreement with the tree/vegetation owner or obtains an arbitration award or judicial decision specifying, in detail, the nature and timing of the preservation action and the parties responsible for performing such action.

**SEC. 17.26.150 Implementation of restorative action.**

Restorative action may be determined by agreement among the view seeker and the tree/vegetation owner, through mediation, by agreement to accept recommendations of the Committee on Trees and Views, through arbitration, or through litigation.

A. Within thirty days of a final decision ordering restorative action, the view seeker 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 view seeker 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 deciding bodies' 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.

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 deciding body may allocate the cost of restorative action as follows:

1. If the deciding body finds that the tree or other vegetation constitutes a safety hazard to the view seeker 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 tree/vegetation owner is maintaining a hedge fifteen feet or more in height, the deciding body may allocate the cost of remediation of the hedge to the tree/vegetation owner. The tree/vegetation owner shall be required to maintain at his/her expense the hedge at the height determined by the deciding body. If the tree/vegetation owner agrees to remove the hedge, the view seeker shall pay for replacement plantings. (Ord. 239 §11(part), 1993).

**SEC. 17.26.160 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).

**SEC. 17.26.170 Responsibility for view preservation/restoration action and subsequent maintenance.**

The view seeker shall be responsible for paying the cost of any and all view claim processes and determined preservation/ restoration actions unless the parties agree to share the costs in some other manner. Subsequent maintenance of trees and vegetation shall be the responsibility of the tree/vegetation owner, unless otherwise agreed to by the parties or required pursuant to any final arbitration decision or court order. If tree/vegetation owner agrees to remove a tree/vegetation in lieu of required pruning, the cost of any replacement plantings and their maintenance shall be borne by the view seeker.

**SEC. 17.26.180 Liability.**

(1) The city shall not be liable for any damages, injuries, costs or expenses which are the result of an advisory opinion issued by the Committee on Trees and Views, a city employee or official or any agreements or determinations resulting from mediation, arbitration or litigation concerning view claims or a view seeker's assertions pertaining to views granted or conferred herein.

(2) The applicant shall execute a financial responsibility agreement with the city and post a payment bond at the time a view claim is submitted as described in Section 17.26.090. The applicant must agree to pay the entire cost of the view claim process and view preservation/remediation, except as otherwise may be agreed between view seeker and the tree/vegetation owner or described herein. View seeker shall agree to indemnify city of any liability.

(3) Under no circumstances shall the city have any responsibility or liability to enforce or seek any legal redress, civil or criminal, for any decision that any other person or entity makes concerning a view claim.

(4) A failure to comply with the provisions of this chapter is not a misdemeanor, and the enforcement of this chapter shall be only by the affected and interested private parties.

**SEC. 17.26.190 Severability.**

SECTION 1. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

The city council hereby declares that it would have adopted this and each section, subsection, phrase or clause of this chapter irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared invalid or unconstitutional on their face or as applied.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any persons or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each any every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in accordance with law.

**SEC. 17.26.200 Notification of subsequent owners.**

It is not the intent or purpose of this chapter for the city to create either a covenant running with the land or an equitable servitude (for example, easement or license). However, the city will keep a record of agreements and decisions reached pursuant to Sections 17.26.080, 17.26.100, 17.26.110, 17.26.120 and 17.26.130 of which it is notified, and provide those agreements and/or decisions as part of the pre-purchase inspection report to prospective purchasers of property in the city who request such a report.

**Subject:** FW: "The Curse of Lack of Trees" (The Gospel of A. E. Hansen")  
**Date:** Tuesday, November 20, 2012 3:27 PM  
**From:** Tony Dahlerbruch <adahlerbruch@cityofrh.net>  
**To:** Heidi Luce <hluce@cityofrh.net>

Anton Dahlerbruch  
City Manager  
City of Rolling Hills  
2 Portuguese Bend Road  
Rolling Hills, CA 90274  
310.377.1521  
www.rolling-hills.org

*This is a transmission from the City of Rolling Hills. The information contained in this email pertains to City business and is intended solely for the use of the individual or entity to whom it is addressed. If the reader of this message is not an intended recipient, or the employee or agent responsible for delivering the message to the intended recipient and you have received this message in error, please advise the sender by reply email and delete the message.*

*WARNING: Computer viruses can be transmitted by e-mail. The recipient should check this e-mail and any attachments for the presence of viruses. The CITY OF ROLLING HILLS accepts no liability for any damage caused by any virus transmitted by this e-mail.*

----- Forwarded Message

**From:** Lynn Gill <lynn.gill@cox.net>  
**Date:** Tue, 20 Nov 2012 15:21:05 -0800  
**To:** Anton Dahlerbruch <adahlerbruch@cityofrh.net>  
**Cc:** "Rolling Hills, City of , Yolanta Swartz" <ys@cityofrh.net>, Jeff Pieper <jeff@pieper.com>  
**Subject:** Fw: "The Curse of Lack of Trees" (The Gospel of A. E. Hansen")

This was provided earlier, but please make it available again in the context of the public hearings. I may have missed it on the table!

**From:** Lynn Gill <mailto:lynn.gill@cox.net>  
**Sent:** Friday, August 10, 2012 9:16 AM  
**To:** Rolling Hills, City of, Anton Dahlerbruch <mailto:adahlerbruch@cityofrh.net>  
**Subject:** "The Curse of Lack of Trees" (The Gospel of A. E. Hansen")

Dear Planning Commissioners:

Kudos to a good positive start on the important task of evaluating and revising the View Preservation Ordinance consistent with the will of the people.

A careful reading of *A. E. Hanson's Rolling hills-the Early Years* discloses that our founder valued both trees and views. As a consummate marketer as well as renowned landscape architect, he worked hard to solve "the curse of lack of trees," while also touting the wonderful views. It's important not to cherry-pick quotes supporting one view to the exclusion of the other.

I put together the above treatise on how Rolling Hills came to have trees while I was working on the committee to draft the RHCA View ordinance. It's good background here (Sorry Brad, more to read!)

50

Regards,  
Lynn

----- End of Forwarded Message

(SI)

## HOW ROLLING HILLS CAME TO HAVE THOUSANDS OF BEAUTIFUL MATURE TREES

Rolling Hills was founded in 1936 by A. E. Hanson, a landscape architect for Frank Vanderlip, the New York banker and major stockholder in the Palos Verdes Corporation, which owned the entire Palos Verdes peninsula. Mr. Hanson worked, along with the legendary Olmsted Brothers Landscape Architects, to develop the Portuguese Bend area for Mr. Vanderlip in the early 1930's, planting several hundred trees along the main road and thousands of shrubs on the hillsides (Rolling Hills: The Early Years, A. E. Hanson, 1978, p. 12). In 1931, he became General Manager for the Palos Verdes Corporation, responsible for developing and managing the 12,000 acres owned by the Corporation (ibid, p. 14.)

In 1933, the Hanson family moved into a ranch house, which had been built about 1885, located near Crest Road and Crenshaw Boulevard, neither of which had yet been constructed. He describes the house, "There were a number of mature trees around the house. On the east side was a large pepper-- on the west and south sides were large pines, eucalyptus, and black acacias. The long side of the rectangle of the house faced directly north, with a magnificent view of the Santa Monica Bay, and in the background Mt. Lowe and Mt. Wilson-- with all of metropolitan Los Angeles in between" (ibid, p.26). Mr. Hanson valued Rolling Hills' trees and views.

As a landscape architect, A. E. Hanson recognized that what he termed "the curse of the lack of trees" (p. 52) was a serious impediment to the sale of lots. So he set out to remedy the situation by having tens of thousands of pepper, eucalyptus, pine, acacia, palm, and other trees planted. When Palos Verdes Drive North was completed in 1935, the PV Corporation planted pepper trees along its entire length, which we can still enjoy today (p.20). After Portuguese Bend Road, Crest Road, Saddleback Road, and other key roads were completed, in Mr. Hanson's words, "We, the land developers, planted roadside trees and shrubs. Because of the contour of the land, we could not put in uniform street tree planting, nor did we wish to. We did roadside planting of trees and shrubs, using those trees and shrubs that would give the greatest effect and still be economical to take care of" (p. 52). We enjoy the beautiful and stately trees lining our roadways today, the legacy of Mr. Hanson's vision for Rolling Hills.

To further encourage the forestation of Rolling Hills, five full-grown pepper trees were given to each purchaser of a lot of five acres or more in size (p. 52). Early sales advertisements for Rolling Hills lots show the effective landscaping use of these pepper trees, along with stately eucalyptus and palm trees (pp. 27, 66, 77-79, 107-111).

## HOW ROLLING HILLS CAME TO HAVE THOUSANDS OF BEAUTIFUL MATURE TREES

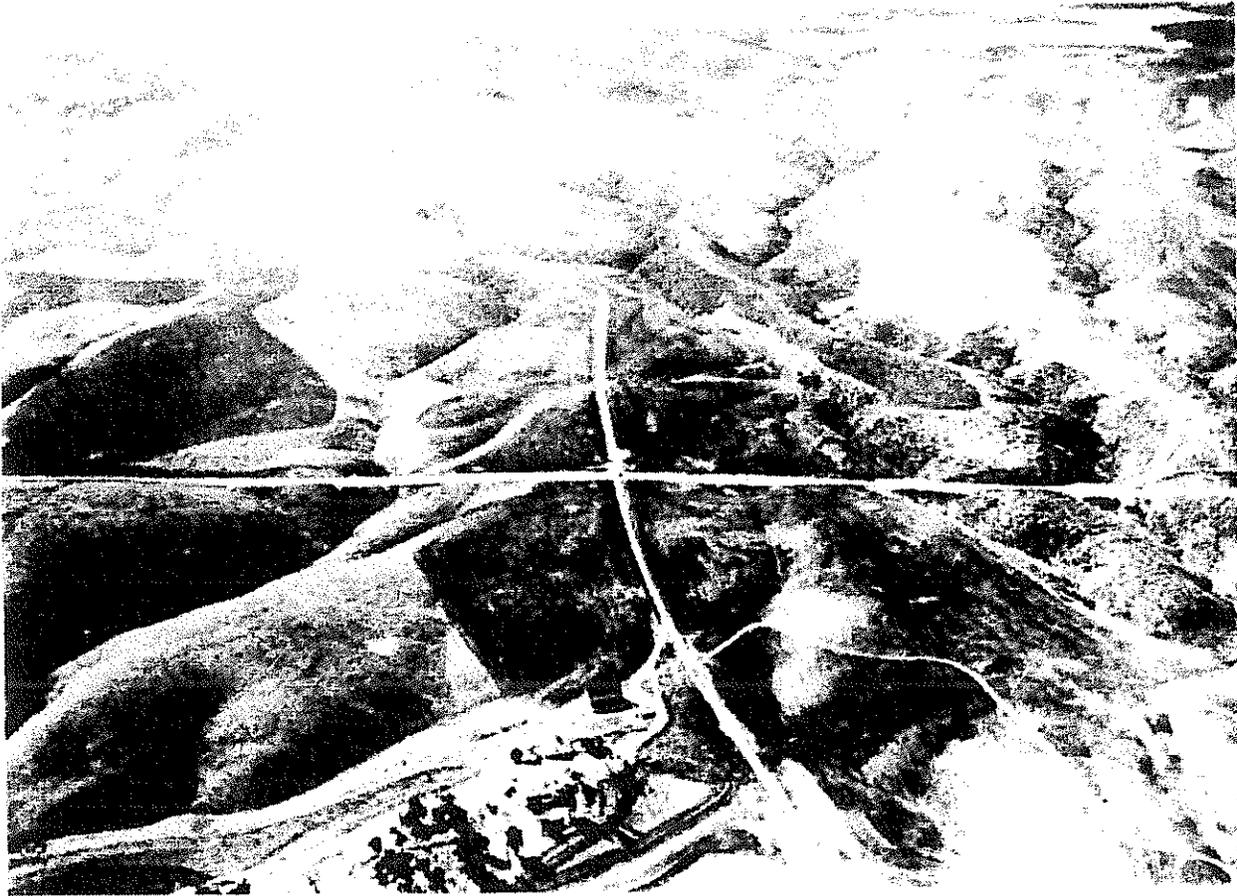
In 1935, during the depth of the depression, Mr. Hanson hit upon a way to transform Rolling Hills' bare ridges and canyons into the urban forest we enjoy today. "When [President] Roosevelt, under his New Deal Program, started the Civilian Conservation Corps, I went to the local office and suggested to them that I had an ideal spot for one of their camps. The Civilian Conservation Corps was a very, very worthwhile project. They took thousands of boys from 16 to 21 years old, from needy families, under-privileged boys -- and they put them in camps all across the Western United States. It was outdoor work, in the way of reforestation and soil preservation. It was really a very marvelous and constructive thing to do, and regardless of how much complaining people did against the New Deal, this was one thing that they all believed in.

**They planted on the Palos Verdes Corporation hills, from Crest Road down to Palos Verdes Drive North, thousands and thousands and tens of thousands of trees. The trees really started to turn our brown hills into green hills" (p. 95.)**

In 1936, after taking these steps to enhance Rolling Hills by planting trees and shrubs, Mr. Hanson retained George Martinson, an attorney who had helped Palos Verdes Estates set up their Homes Association, to help develop a set of Covenants, Conditions, and Restrictions (CC &R's) for Rolling Hills. On May 14, 1936, Declaration No. 150 was entered in book 14065, page 345 of the official records of Los Angeles County, and Rolling Hills was born (p. 5).

Understanding how diligently Mr. Hanson worked, and the expense the Palos Verdes Corporation incurred, to plant tens of thousands of trees and shrubs all over Rolling Hills provides insights into what he had in mind when he wrote Section 11, Trimming and Removal of Trees and Shrubs. Sentence 1 requires approval from the RHCA Board to trim, cut back, remove or kill any tree over twelve feet in height on any building site—no way was Mr. Hanson going to allow anyone to mess with the trees he had worked so hard to plant! Sentence 2 allows the Association to enter onto any building site to cut back trees which in the opinion of the Association, is warranted to maintain or improve the view of adjoining property. Sentence 3 gives the Association the sole authority to plant and maintain trees, shrubs, and plantings in or along easements or right-of ways. All of these are designed to protect and maintain the beautiful mature trees and plantings that make Rolling Hills such a special place.

**HOW ROLLING HILLS CAME TO HAVE  
THOUSANDS OF BEAUTIFUL MATURE TREES**



**ROLLING HILLS IN 1936**

(Location of Empty Saddle Club in the foreground, RH gatehouse at the intersection of Palos Verdes Drive North and Portuguese Bend Road). Page 40.

## HOW ROLLING HILLS CAME TO HAVE THOUSANDS OF BEAUTIFUL MATURE TREES



This photograph shows the box cars which were given to every purchaser of a tract of 1/2 acre or more in San Jose. They immediately took away the curse of the "Curse of Lack of Trees." This photo was taken in 1939. A 15-acre grove of these trees was purchased in the San Francisco

Valley in the late 1930s for landscaping purposes. We would box two sides, let the trees stand for six weeks, then box the other two sides, finally cutting the bottom roots and then placing the bottom boards. You can see how just this one shade dramatically changed the whole atmosphere.

The "Curse of Lack of Trees," p. 52

**Subject:** FW: View Survey  
**Date:** Tuesday, November 20, 2012 3:27 PM  
**From:** Tony Dahlerbruch <adahlerbruch@cityofrh.net>  
**To:** Heidi Luce <hluce@cityofrh.net>

Anton Dahlerbruch  
City Manager  
City of Rolling Hills  
2 Portuguese Bend Road  
Rolling Hills, CA 90274  
310.377.1521  
www.rolling-hills.org

*This is a transmission from the City of Rolling Hills. The information contained in this email pertains to City business and is intended solely for the use of the individual or entity to whom it is addressed. If the reader of this message is not an intended recipient, or the employee or agent responsible for delivering the message to the intended recipient and you have received this message in error, please advise the sender by reply email and delete the message.*

*WARNING: Computer viruses can be transmitted by e-mail. The recipient should check this e-mail and any attachments for the presence of viruses. The CITY OF ROLLING HILLS accepts no liability for any damage caused by any virus transmitted by this e-mail.*

----- Forwarded Message

**From:** Lynn Gill <lynn.gill@cox.net>  
**Date:** Tue, 20 Nov 2012 15:16:22 -0800  
**To:** Anton Dahlerbruch <adahlerbruch@cityofrh.net>  
**Cc:** "Rolling Hills, City of , Yolanta Swartz" <ys@cityofrh.net>, Jeff Pieper <jeff@pieper.com>  
**Subject:** View Survey

Hello all,

I believe that the attached view survey and results were provided to the City Counsel, not to the Planning Commission. Please make it available.

The survey was completed April 27, 2012 at the neighborhood meeting at Marion Ruth's home. The sample of 18 completed returns was small but directionally indicative (actually, a sample of only 30 has very high confidence levels. Since the results were so one-sided, a sample of 18 also has high confidence levels.)

Among the courses I taught at USC at the graduate level were Marketing Research and Doctoral Research Methodology. I conducted similar surveys as a consultant with A. T. Kearney, KPMG Peat Marwick and others. I took great care to draft the survey so as to be neutral, and to administer the instrument so as not to introduce bias. It was done professionally.

Regards,  
Lynn

----- End of Forwarded Message

56

# TREES AND VIEW SURVEY

SCENARIO	NARRATIVE	COMMITTEE ACTED FAIRLY	COMMITTEE ACTED UNFAIRLY
1	<p>Property Owner A purchases a property in Rolling Hills in 2002 for \$3,000,000. The property has a beautiful view of the Queen's Necklace. The owner of the property next door allows his trees to grow and obscure Owner A's view. Appraised value of Owner A's property drops to \$2,700,000. In 2012, Owner A files a view impairment complaint against the tree owner. The View Committee required the tree owner to reduce the height of his trees out of Owners A's view. Owner A's property is again valued at \$3,000,000.</p>		
COMMENTS			
2	<p>Property Owner B purchases a property in Rolling Hills in 2002 for \$3,000,000. The property has attractive landscaping which incorporates numerous trees. In 2012, Property Owner C purchases an adjoining property for \$2,700,000. Owner C files a view impairment complaint against Owner B, and the View Committee requires Owner B to remove 10 trees and reduce the height of 10 trees to give Owner C the requested view. Property B's property value drops to \$2,700,000 and property owner C's property (with view) increases to \$3,000,000.</p>		
COMMENTS			
3	<p>Property Owner A purchases a property in Rolling Hills in 2002 for \$3,000,000. The property has a beautiful view of the Queen's Necklace. The owner of the property next door allows his trees to grow and obscure Owner A's view. Owner A however does nothing to reclaim his view, and his property value drops to \$2,700,000. In 2012, the tree-owner sells his property. Owner A files a view impairment complaint against the new owner. The view committee required the new tree owner to reduce the height of his trees out of Owners A's view. Property owner A's property is again valued at \$3,000,000.</p>		
COMMENTS			

# TREES AND VIEW SURVEY RESULTS

## APRIL 27, 2012

A survey to solicit the opinions of Rolling hills residents regarding trees and views was conducted at a neighborhood meeting at the home of Marion Ruth on April 26, 2012. The survey form (attached) was distributed to attendees at the meeting, and those that wished to participate returned a completed survey form at the end of the meeting. The surveyor remained after the meeting so that respondents would have an opportunity to carefully read, deliberate, and respond.

Three view/tree scenarios were included in the survey, and respondents were introduced to the topic, "Rolling Hills is blessed with wonderful views and a multitude of trees. Trees and views can conflict with each other, so both Rolling Hills Community Association and City of Rolling Hills have procedures for resolving view/tree conflicts between neighbors. RHCA is currently reviewing its view policy, and the City may do the same. This survey is to gather opinions of Rolling Hills residents that may be useful in policy deliberations by RHCA and the City." No discussion was allowed in order to not bias survey results.

18 completed survey forms were returned to the surveyor, of which 17 had useable responses. One stated that "Not enough info because each property is unique," and did not provide responses. One responded for only the first scenario, so that responses for all scenarios do not total 17. About half of the attendees at the neighborhood meeting responded, an excellent response rate.

In each scenario, the view committee acted to award a view to the view-seeker. The respondents judged whether the committee acted fairly or unfairly.

Donovan Black assisted the surveyor to tabulate the survey responses . The completed survey responses are on file in City Hall.

SCENARIO	SITUATION	COMMITTEE ACTED FAIRLY	COMMITTEE ACTED UNFAIRLY
1	View-seeker had a view when his property was purchased. Tree-owner's trees impair the view.	16	1
2	View-seeker had no view when property was purchased. Committee provides him with a view.	3	13
3	View-seeker had view when property was purchased but does nothing to preserve the view. When a new tree-owner purchase the neighboring property, the view-seeker files a view claim against the new tree-owner.	5	11

<b>SCENARIO</b>	<b>COMMENTS</b>
1	"View-seeker should have his view restored, as it existed when he bought his property." [Fair response]
2	"View-seeker should have to pay for trimming." [Fair response] "Tree-owner should be able to keep the trees he bought." [Unfair response] "He [view-seeker] should be responsible for full cost of removal." [Fair response]
3	"View-seeker should have to pay for trimming." [Fair response] "New tree owner should keep the trees he bought. View seeker must be diligent to protect his view, and the tree owner should not be penalized for his inactivity." [Unfair response] "Shared cost of removal." [Fair response]
<b>GENERAL</b>	"All decisions based on existing view at time of purchase of impairment complaint, unless agreed to in writing at time of purchased, and filed with City/Association."



## PAMELA & CURTIS REIS

To: Rolling Hills Planning Commission  
From: Pamela and Curtis Reis  
Re: Proposed View Ordinance changes  
Date: November 26, 2012

# RECEIVED

NOV 27 2012

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

Here are a few thoughts on this subject:

- If the City is to be indemnified by a complainant, only the very wealthy will be able to afford to proceed.
- If the City is completely removed from the process, only the very wealthy will prevail or even proceed.
- If the Trees and Views Committee is removed from the process and the legal system becomes the arbiter, there is the real likelihood of very inconsistent rulings (e.g. panorama one time, no view another, etc.). Additionally it is highly unlikely a judge or a jury will personally undertake a site visit and do the due diligence that the Committee does.
- The view corridors should not be specifically defined as every situation tends to be unique. This should remain the purview of the Trees and Views Committee where common sense decisions are likely to occur.

Again, thank you for taking time to address this important issue.

*Curtis A. Reis*  
*Pamela Reis*