



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.: 7A
Mtg. Date: 8/18/15

TO: HONORABLE CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: YOLANTA SCHWARTZ, PLANNING DIRECTOR *YS*
SHAHIEDAH COATES, ASSISTANT CITY ATTORNEY

SUBJECT: ZONING CASE NO. 881; ZONING CODE AMENDMENT NO. 2015-03: PUBLIC HEARING REGARDING AMENDMENTS TO THE ROLLING HILLS VIEW PRESERVATION ORDINANCE AND CONSIDERATION OF A RESOLUTION RECOMMENDING TO THE CITY COUNCIL TO ADOPT AN ORDINANCE AMENDING CHAPTER 17.26 VIEW PRESERVATION OF THE RHMC

ATTACHMENTS:

- A. RESOLUTION NO. 2015-20
- B. COMPARISON TABLE OF CURRENT AND PROPOSED ORDINANCE

RECOMMENDATION

It is recommended that the Planning Commission continue the public hearing and take brief public testimony and consider adoption of the attached Resolution recommending to the City Council to adopt an ordinance amending Chapter 17.26 View Preservation of the RHMC.

OBJECTIVE

An *Ad Hoc* Committee of the City Council has recommended that the Planning Commission consider amendments to various provisions of the Rolling Hills Zoning Ordinance pertaining to view preservation and administrative regulations interpreting Measure B. Public hearings must be held before the Planning Commission and the Planning Commission may recommend that the City Council amend the Zoning Ordinance, at which time public hearings would be held by the City Council.

BACKGROUND

Recommendations from the City Council's *Ad Hoc* Committee pertaining to the City's View Preservation Ordinance ("View Ordinance") were presented to the Planning Commission by staff at its February 17, 2015 and March 17, 2015 meetings. At the March 17, 2015 Planning Commission meeting, staff provided additional background information to assist the Commission in understanding the implications of the *Ad Hoc* Committee's recommendations. At the April 21, 2015 meeting, the Planning Commission opened the public hearing and took public testimony. The public comment portion of the public hearing was continued to provide an opportunity for greater participation by residents. At the May 19, 2015 public hearing the Planning Commission continued public testimony and commenced reviewing the *Ad Hoc* Committee's recommended amendments. Public hearings continued on June 16, 2015 and July 21, 2015. At the July 21, 2015 public hearing, the Planning Commission directed staff to prepare a Resolution with the proposed amendments recommending to the City Council to adopt an ordinance amending the View Preservation Ordinance, Chapter 17.26 of the RHMC.

At the July 21, 2015 meeting the Planning Commission tabled the discussion on administrative regulations interpreting Measure B until such time as the Commission has an opportunity to review a forthcoming arborist report regarding mature and maturing trees.

At the June meeting, the Planning Commission tabled proposed language for Section 17.26.040 B Eligibility, to a time when the Commission had a discussion regarding how far beyond complainant's property the complainant can claim a view and staff was directed to research how other cities address this issue. The Planning Commission discussed this issue at the July 21, 2015 meeting and came to the conclusion that distance restriction on how far beyond ones property one may claim a view should not be included in the ordinance. However, that Section of the proposed ordinance (17.26.040B) was not fully reviewed following the Commissions decision on the distance. The Council *Ad Hoc* Committee recommended inclusion of the following:

17.26.040 Abatement of view impairment - Procedure.

B. Eligibility. A person shall not be precluded from filing an application for abatement of a view impairment on grounds that vegetation located on the complainant's property contributes to impairment of the requested view. A person who has obtained an order abating impairment of a view against a property shall not be precluded from filing a subsequent application to abate impairment of the same view by vegetation on another property. An application may be filed to abate impairment of one or more distinct views listed in Section 17.12.220 "View;" however, if multiple views are identified, each must be disjointed and observable from a separate viewing area.

What this sections means is:

- a) A person may file an application for a view impairment even if there are trees/foilage on his/her property that contribute to the view impairment
- b) A person may file against multiple tree owners to seek abatement of the same view
- c) A person may pursue remedies simultaneously or separately for view abatement of more than one view, but the views must be disjointed and be from separate viewing areas

This language is included in the attached Resolution; however staff is seeking Commissions formal direction if this provision should be included or amended; and if amended, to what extent.

Also at the July 21, 2015 meeting the Planning Commission discussed whether the City should be indemnified for its costs and expenses related to litigation arising from view restoration order. The Commission chose to recommend that indemnification of the City be included in the proposed ordinance. The attached resolution, Section 17.26.100 contains such provision.

The provision requires the complainants to indemnify the City. The City's process is complaint driven and the City's decision is largely based on evidence provided by complainants. The City would seek to recover its costs from a complainant if/when a lawsuit is filed.

CONCLUSION

As stated previously, staff recommends that the Planning Commission, after staff's presentation, continue the public hearing and upon closing the public hearing and discussion adopt Resolution No. 2015-20 recommending to the City Council to amend the ordinance pertaining to view preservation.

Should the Commission make minor changes to the Resolution, they could be incorporated into the Resolution at tonight's meeting. However, if the changes are substantial, the public hearing should be continued and staff would bring an amended Resolution to the next Planning Commission meeting.

Enclosed with the staff report is a table showing the existing ordinance and the proposed ordinance, including explanation of the main changes.

All the background information from previous meetings is available at City Hall.

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RESOLUTION NO. 2015-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ADOPTION OF AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE ROLLING HILLS MUNICIPAL CODE REGARDING ABATEMENT OF VIEW IMPAIRMENT, IN ZONING CASE NO. 881 AND ZONING CODE AMENDMENT NO. 2015-03.

THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1. Rolling Hills Municipal Code ("RHMC") Chapter 17.26 governs the process by which a property owner whose scenic view has become impaired by vegetation growing on another property may obtain abatement of the view impairment. Section 17.12.220 defines a view. Collectively, RHMC Chapter 17.26 and the definition of a view make up the City's "View Ordinance." The City has been engaged in a long-term effort to update the View Ordinance to clarify its provisions and address circumstances that have arisen in the Committee on Trees and Views' application of the View Ordinance.

Section 2. Chapter 17.50 of the RHMC sets forth procedures for amending the Zoning Ordinance. A public hearing before the Planning Commission is necessary before a recommendation for a Zoning Code amendment can be made to the City Council. After receiving presentations from staff at the February 17, 2015 and March 17, 2015 meetings, the Planning Commission opened a duly noticed public hearing on April 21, 2015, which was continued to May 19, 2015, June 16, 2015 and July 21, 2015. Public comment was received at each continuance of the public hearing, which the Planning Commission considered in concert with the recommendations of the City Council's *Ad Hoc* Committee created to recommend changes to the View Ordinance, and reports from City staff. Notice of the public hearings was provided as required by law.

Section 3. Pursuant to the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 to Section 21177, State CEQA Guidelines, 14 California Code of Regulations §§ 15000, *et seq.*, and the CEQA Guidelines of the City of Rolling Hills, staff analyzed the proposed amendments to the View Ordinance and concluded that the amendments are exempt from CEQA because they consist only of minor revisions and clarifications to the RHMC and will not have the effect of deleting or substantially changing any regulatory standards or findings. The proposed Ordinance is an action that does not have the potential to cause significant effects on the environment, but rather will clarify the process by which persons may apply for and obtain an order from the City to abate view impairments.

Accordingly, the proposed Ordinance is exempt pursuant to the “common sense” exemption set forth in Section 15061 (b)(3) of the CEQA Guidelines because there is no possibility that the Ordinance could have a significant effect on the environment. Furthermore, the proposed Ordinance does not constitute a “project” that requires environmental review (*see* specifically 14 CCR § 15378 (b)(2, 5)).

Section 4. After considering all of the evidence in the record on this matter, the Planning Commission finds that the proposed Zoning Ordinance amendments comply with the requirements of the City of Rolling Hills General Plan and State Planning and Zoning Laws (Government section 65000 *et seq.*).

Section 5. The Planning Commission hereby recommends that the City Council adopt an Ordinance amending Section 17.12.220 and Chapter 17.26 of Title 17 (Zoning) of the RHMC as follows:

A. Amend Section 17.12.220 of the RHMC to amend the definition of “View” and add the definition of “View corridor” in alphabetical order to read as follows:

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

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

"View corridor" means a view from a designated viewing area broken into segments by vegetation.

B. Amend Section 17.26.010 of the RHMC to read as follows:

17.26.010 Intent and purpose.

The City recognizes the contribution of views to the overall character and beauty of the City. Views of the Pacific Ocean, Catalina Island, City lights and Los Angeles Harbor are a special quality of property ownership for many residential lots in the City. These views have the potential to be diminished or eliminated by maturing landscaping located on private property. The purpose of this chapter is to protect this important community asset by establishing procedures for the

protection of views and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.

C. Amend Section 17.26.040 of the RHMC to read as follows:

17.26.040 Abatement of view impairment - Procedure.

Any person who owns or has lawful possession of a residence from which a view is impaired, pursuant to the definition of "view impairment" in Section 17.12.220 of this title, by vegetation growing on property other than their own may seek abatement of the view impairment under the following procedure:

- A. **Mediation Application.** The complainant shall submit a complete application for abatement of view impairment by mediation on a form provided by the City. The application shall be accompanied by a fee as provided for in Section 17.30.030 of this title. The complainant shall describe in the application what efforts have been made by the complainant to resolve the view impairment prior to filing the mediation application. An application shall not be accepted for filing unless the complainant can demonstrate that the owner of the view-impairing vegetation has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so.
- B. **Eligibility.** A person shall not be precluded from filing an application for abatement of a view impairment on grounds that vegetation located on the complainant's property contributes to impairment of the requested view. A person who has obtained an order abating impairment of a view against a property shall not be precluded from filing a subsequent application to abate impairment of the same view by vegetation on another property. An application may be filed to abate impairment of one or more distinct views listed in Section 17.12.220 "View;" however, if multiple views are identified, each must be disjointed and observable from a separate viewing area.
- C. **Mediation.** Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for conduct of a mediation session to abate the view impairment. The mediator shall be responsible for notifying the property owner of the view-impairing vegetation of the application and for scheduling and managing the mediation process. At the conclusion of mediation, the mediator shall advise the City Manager as to whether the complaint has been resolved. Agreement reached through mediation shall be reflected in an executed contract and implemented in accordance with the terms of the agreement.

D. Public Hearing Application. In the event mediation fails to achieve agreement, the complainant may submit an application and accompanying fee as provided for in Section 17.30.030 of this title for a public hearing. Upon receipt and acceptance of an application for a public hearing as complete, the City Manager shall schedule the matter for a public hearing before the Committee on Trees and Views. If a complete application for a public hearing is not received within 30 days of the mediator's notification set forth in Section 17.26.040(C), the City shall terminate all proceedings related to the application.

D. Amend Section 17.26.050 of the RHMC to read as follows:

17.26.050 Hearing procedure and findings.

- A. Notice Required. Public notice of the hearing shall be given a minimum of fifteen days prior to the hearing. The hearing shall not proceed unless proof is shown that the owner of the tree or other obstructing vegetation received notice of the hearing as provided herein:
1. Notice shall be given by certified mail, return receipt requested, to the owner of the tree or other obstructing vegetation and to the complainant;
 2. Notice shall be given by first class mail to all property owners within one thousand feet of the exterior boundary of the property on which the tree or other obstructing vegetation are located and to other persons who, in the Committee's judgment, might be affected.
- B. Content of Notice. The notice shall state the name of the complaining party, the name of the property owner against whom the complaint is filed, the location of the tree or other vegetation, and the time and place of hearing. The notice shall invite written comments to be submitted prior to or at the hearing.
- C. Conduct of Hearing. The Committee shall adopt rules for the conduct of required hearings. At the hearing, the Committee shall consider all written and oral testimony and evidence presented in connection with the application. If during the course of the proceedings it is discovered that information submitted in an application is inaccurate or incomplete such that it could be misleading, or a significant change has occurred impacting either the view or the obstruction, an applicant may be directed to amend the application or submit supplemental information. 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 or both parties as

determined by the Committee, pursuant to written agreement with the City. The City shall select such expert and enter into an agreement only upon receipt of a payment for the selected service from the party or parties. An application shall be deemed withdrawn and all proceedings shall be terminated with respect thereto if the parties to a complaint notify the City that it has been voluntarily resolved or the complainant requests a delay of the proceedings for more than one hundred eighty (180) days unless good cause exists for the delay.

- D. Findings. Based on the evidence received and considered, the Committee may find any of the following:
1. That no view exists within the meaning of this chapter;
 2. That a view exists within the meaning of this chapter, but that the view is not significantly impaired; or
 3. That a view exists within the meaning of this chapter and that it is significantly impaired.
 4. The Committee shall make specific written findings in support of the foregoing determinations.
- E. Action. If the Committee makes finding of subsection (D)(3) of this section, it shall order such restorative action as is necessary to abate the view impairment, including, but not limited to, removal, pruning, topping, thinning or similar alteration of the vegetation. Such order is not intended to create an unobstructed view for applicants. Instead it is intended to create view corridors and a view through trees. 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. If restorative action is precluded by the existence of one or more such limiting factors, the Committee shall make specific written findings to that effect.
- F. Environmental Review. If the Committee makes finding of subsection (D)(3) of this section and orders restorative action, the proposed order shall be reviewed by City staff to determine the appropriate level of environmental review. If the action is determined to be exempt from the California Environmental Quality Act ("CEQA"), a resolution containing the Committee's written findings shall be presented for adoption at the Committee's next meeting. If the action is determined not to be exempt from CEQA, the complainant shall bear the City's reasonable costs of environmental review and CEQA compliance, including consultant fees.

G. Finality of Decision. The Committee's decision shall be final on the date the Committee adopts a resolution setting forth its decision. The decision shall become effective thirty days after adoption of the resolution, unless an appeal has been filed to the City Council pursuant to the provisions of Chapter 17.54. For purposes of such an appeal, references to the Planning Commission in Chapter 17.54 shall be interpreted as inclusive of the Committee on Trees and Views.

E. Amend Section 17.26.060 of the RHMC to read as follows:

17.26.060 Implementation of restorative action.

- A. The complainant shall bear the cost of the initial restorative action. Within thirty days of a final decision ordering restorative action, the complainant shall obtain and present to the owner of the obstructing vegetation three bids from licensed and qualified contractors for performance of the work, as well as a cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance which protects and indemnifies the City and the complainant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the City.
- B. The owner of the obstructing vegetation may select any licensed and qualified contractor to perform the restorative action (as long as the insurance requirements of subsection A of this section are satisfied), but shall be responsible for any cost above the amount of the cash deposit. The work shall be completed no more than ninety days from receipt of the cash deposit or if additional time is necessary due to weather or unique conditions of the vegetation, at the earliest date recommended by the contractor and approved by the City Manager.
- C. Subsequent maintenance of the vegetation in question shall be performed at the cost and expense of the owner of the property on which the vegetation is growing, unless the Committee adopts a final decision providing an alternative cost allocation, which shall be accompanied by written findings justifying the alternative cost allocation. The vegetation shall be maintained in accordance with the final decision so as not to allow for future view impairments.

F. Amend Section 17.26.080 of the RHMC to read as follows:

17.26.080 Notification of subsequent owners.

Within thirty days of the final decision of the Committee, or the City Council on appeal, an informational covenant shall be recorded against the title of the property on which the offending vegetation exists and the complainant's property, on a form provided by the City, which shall run with the land and be binding upon all successors in interest.

G. Add Section 17.26.100 of the RHMC to read as follows:

17.26.100 Indemnification.

Complainants shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action or proceeding against the City or its agents, officers, attorneys or employees to attack, set aside, void or annul a decision of the Committee or City Council on appeal restoring an impaired view or that otherwise challenges, or seeks damages resulting from, the issuance, defense, implementation, or enforcement of a view restoration order (collectively "action"). Nothing in this reimbursement obligation shall provide to the complainant any control over decisions made by the City in connection with an action.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2015.

BRAD CHELF, CHAIRMAN

ATTEST:

HEIDI LUCE, CITY CLERK

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

I certify that the foregoing Resolution No. 2015- 20 entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ADOPTION OF AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE ROLLING HILLS MUNICIPAL CODE REGARDING ABATEMENT OF VIEW IMPAIRMENT, IN ZONING CASE NO. 881 AND ZONING CODE AMENDMENT NO. 2015-03.

was approved and adopted at a regular meeting of the Planning Commission on August 18th, 2015 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

and in compliance with the laws of California was posted at the following:

Administrative Offices.

CITY CLERK

**Chapter 17.26 VIEW PRESERVATION
COMPARISON CHART (NEW UNDERLINED)**

CURRENT	PROPOSED	COMMENTS
<p>17.12.220 "V" words, terms and phrases. "View" means a view from a principal residence and any immediately adjoining patio or deck area at the same elevation as the residence which consists of a visually impressive scene or vista not located in the immediate vicinity of the residence, such as a scene of the Pacific Ocean, off-shore islands, city lights of the Los Angeles basin, the Palos Verdes Hills or Los Angeles Harbor. "View impairment" means a significant interference with and obstruction of a view by landscaping, trees or any other planted vegetation.</p>	<p>"View" means a view from a principal residence, <u>but not including from bathrooms, hallways, garages or closets</u>, and any immediately adjoining patio or deck area at the same elevation as the residence which consists of a visually impressive scene or vista not located in the immediate vicinity of the residence, such as a scene of the Pacific Ocean, off-shore islands, city lights of the Los Angeles basin, the Palos Verdes Hills or Los Angeles Harbor. "View impairment" means a significant interference with and obstruction of a view by landscaping, trees or any other planted vegetation. <u>"View corridor" means a view from a designated viewing area broken into segments by vegetation.</u></p>	<p>Add that bathrooms, closets, garages, & hallways are not considered viewing areas</p> <p>Measure B introduced language that one is not eligible to a "panoramic" view but to a view corridor. This section defines view corridor.</p>
<p>17.26.010 Intent and purpose. The City recognizes the contribution of views to the overall character and beauty of the City. Panoramic views of the Pacific Ocean, Catalina Island, City lights and Los Angeles Harbor are a special quality of property ownership for many residential lots in the City. These views have the potential to be diminished or eliminated by maturing landscaping located on private property. The purpose of this chapter is to protect this important community asset by establishing</p>	<p>The City recognizes the contribution of views to the overall character and beauty of the City. Views of the Pacific Ocean, Catalina Island, City lights and Los Angeles Harbor are a special quality of property ownership for many residential lots in the City. These views have the potential to be diminished or eliminated by maturing landscaping located on private property. The purpose of this chapter is to protect this important community asset by</p>	<p>Delete the word "Panoramic" and add "of views" in the last sentence</p>

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CURRENT	PROPOSED	COMMENTS
<p>procedures for the protection and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.</p>	<p>establishing procedures for the protection of <u>views</u> and abatement of view obstructions created by landscaping, while at the same time protecting natural vegetation from indiscriminate removal.</p>	
<p>17.26.020 Committee on trees and views. A Committee on Trees and Views is established for the purpose of administering the provisions of this chapter. The Committee shall be composed of three members of the Planning Commission appointed by the Commission annually at the same time as the Commission selects its officers, or whenever a vacancy occurs. Committee meetings shall be scheduled as adjourned or special meetings of the Commission. The Committee is authorized to consult with City officials and with specialists such as landscape architects and arborists as required, but shall not incur any expense on behalf of the City without prior approval of the City Council.</p>		<p>No change</p>
<p>17.26.030 Desirable and undesirable trees. A. The Committee is authorized and directed to prepare lists of types of desirable and undesirable trees for planting within the City. The list shall be based upon tree size and shape, rate of growth, depth of roots, fall rate of leaves or bark or fruit or branches, and other factors related to safety, maintenance and appearance. The purpose of this provision is to make information available to property owners which may serve to avoid future occasion for permits, complaints, and other proceedings authorized by this chapter.</p>		<p>No change</p>

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CURRENT	PROPOSED	COMMENTS
<p>17.26.040 Abatement of view impairment – Procedure. Any person who owns or has lawful possession of a residence from which view is impaired by vegetation growing on property other than their own may seek abatement of the view impairment under the following procedure:</p> <p>A. Application Required. The complainant shall submit a complete application for abatement of view impairment on a form provided by the City. The application shall be accompanied by a fee as provided for in Section 17.30.030 of this title. The complainant shall describe in the application what efforts have been made by the complainant to resolve the view impairment prior to filing the complaint. A complaint shall not be accepted for filing unless the complainant can demonstrate that the owner of the view-impairing vegetation has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so.</p>	<p>Any person who owns or has lawful possession of a residence from which a view is impaired, pursuant to the definition of “view impairment” in Section 17.12.220 of this title, by vegetation growing on property other than their own may seek abatement of the view impairment under the following procedure:</p> <p>A. <u>Mediation</u> Application. The complainant shall submit a complete application for abatement of view impairment by <u>mediation</u> on a form provided by the City. The application shall be accompanied by a fee as provided for in Section 17.30.030 of this title. The complainant shall describe in the application what efforts have been made by the complainant to resolve the view impairment prior to filing the <u>mediation application</u>. An application shall not be accepted for filing unless the complainant can demonstrate that the owner of the view-impairing vegetation has been given notice of the impairment and a reasonable opportunity to abate it, but has refused to do so.</p> <p>B. <u>Eligibility</u>. A person shall not be precluded from filing an application for abatement of a view impairment on grounds that vegetation located on the complainant’s property contributes to impairment of the requested view. A person who has obtained an order abating impairment of a view against a property shall not be precluded from filing a</p>	<p>Include reference to the definition of a view impairment.</p> <p>A. Clarify the process and submittal requirements for mediation and if the mediation fails, separately of an application to the Committee on Trees and Views (CTV).</p> <p>B. Add new Paragraph “B”: A person may file an application for a view impairment even if there are trees/foilage on his/her property that contribute to the view impairment. A person may file against multiple tree owners to seek abatement of</p>

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CURRENT	PROPOSED	COMMENTS
	<p><u>subsequent application to abate impairment of the same view by vegetation on another property. An application may be filed to abate impairment of one or more distinct views listed in Section 17.12.220 "View;" however, if multiple views are identified, each must be disjointed and observable from a separate viewing area.</u></p>	<p>the same view. A person may pursue remedies simultaneously or separately for view abatement of more than one view, but the views must be disjointed and be from separate viewing areas</p>
<p>B. Mediation. Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for conduct of a mediation session to abate the view impairment. The mediator shall be responsible for notifying the property owner of the view-impairing vegetation of the application and for scheduling and managing the mediation process. If agreement is reached through mediation, it shall be implemented in accordance with Section 17.26.060.</p> <p>C. Public Hearing. In the event mediation fails to achieve agreement, the matter shall be returned to the City Manager, who shall schedule the matter for a public hearing before the Committee on Trees and Views.</p>	<p>C. Mediation. Upon receipt and acceptance of an application as complete, the City Manager shall refer the matter to a mediator for conduct of a mediation session to abate the view impairment. The mediator shall be responsible for notifying the property owner of the view-impairing vegetation of the application and for scheduling and managing the mediation process. <u>At the conclusion of mediation, the mediator shall advise the City Manager as to whether the complaint has been resolved. Agreement reached through mediation shall be reflected in an executed contract and implemented in accordance with the terms of the agreement.</u></p> <p>D. Public Hearing <u>Application</u>. In the event mediation fails to achieve agreement, <u>the complainant may submit an application and accompanying fee as provided for in Section 17.30.030 of this title for a public hearing. Upon receipt and acceptance of an application for a public hearing as complete, the City Manager shall schedule the matter for a public hearing before the Committee on Trees and Views. If a complete application for a public hearing is not received within 30 days of the</u></p>	<p>C. Clarification of the mediator's role and that if an agreement is reached through mediation it shall be implemented per the terms of the agreement.</p> <p>D. The current language uses the word "shall", as if it was mandatory that the complaining party apply to CTV after mediation fails.</p> <p>The City Council Ad Hoc Committee thought and the Planning Commission concurred that a time period should be established for when</p>

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CURRENT	PROPOSED	COMMENTS
<p>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.</p>	<p>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. <u>If during the course of the proceedings it is discovered that information submitted in an application is inaccurate or incomplete such that it could be misleading, or a significant change has occurred impacting either the view or the obstruction, an applicant may be directed to amend the application or submit supplemental information.</u> 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 <u>or both parties as determined by the Committee, pursuant to written agreement with the City. The City shall select such expert and enter into an agreement only upon receipt of a payment for the selected service from the party or parties. An application shall be deemed withdrawn and all proceedings shall be terminated with respect thereto if the parties to a complaint notify the City that it has been voluntarily resolved or the complainant requests a delay of the proceedings for more than one hundred eighty (180) days unless good cause exists for the delay.</u></p>	<p>C. This item clarifies that additional information may be submitted by the applicant and that the CTV could request more information; or that an amended application could be submitted. The PC also recommends that if an expert opinion is required to aid in the CTV decision, that the CTV have the ability to require either the complaining party or both parties to bear the cost of such an opinion, depending on circumstances.</p> <p>The Planning Commission discussed and voted to add a provision that if an expert opinion is requested by the CTV, that the members of the Committee could require either the complaining party, or under certain circumstances both parties to pay for such an opinion. Also added to this provision is the method by which such an opinion should be obtained; and that an application would be deemed withdrawn under certain conditions.</p>

CURRENT	PROPOSED	COMMENTS
<p>D. Findings. Based on the evidence received and considered, the Committee may find any of the following:</p> <ol style="list-style-type: none"> 1. That no view exists within the meaning of this chapter; 2. That a view exists within the meaning of this chapter, but that the view is not significantly impaired; or 3. That a view exists within the meaning of this chapter and that it is significantly impaired. <p>The Committee shall make specific written findings in support of the foregoing determinations.</p> <p>E. Action. If the Committee makes finding subsection (D)(3) of this section, it shall order such restorative action as is necessary to abate the view impairment and to restore the complainant's view, including, but not limited to, removal, pruning, topping, thinning or similar alteration of the vegetation. Such order is not intended to create an unobstructed view for applicants. Instead it is intended to create view corridors and a view through trees. 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.</p>	<p>E. Action. If the Committee makes finding subsection (D)(3) of this section, it shall order such restorative action as is necessary to abate the view impairment, including, but not limited to, removal, pruning, topping, thinning or similar alteration of the vegetation. Such order is not intended to create an unobstructed view for applicants. Instead it is intended to create view corridors and a view through trees. 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. <u>If restorative action is precluded by the existence of one or more such limiting factors, the Committee shall make specific written findings to that effect.</u></p>	<p>D. No Change</p> <p>E. Language added that if restorative action is precluded due to environmental constraints, CTV shall make specific findings to that effect.</p>

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CURRENT	PROPOSED	COMMENTS
<p>28</p> <p>F. Finality of Decision. The Committee's decision shall be final twenty days after adoption of its written findings, unless it is appealed to the City Council pursuant to the provisions of Chapter</p>	<p>F. <u>Environmental Review. If the Committee makes finding subsection (D)(3) of this section and orders restorative action, the proposed order shall be reviewed by City staff to determine the appropriate level of environmental review. If the action is determined to be exempt from the California Environmental Quality Act ("CEQA"), a resolution containing the Committee's written findings shall be presented for adoption at the Committee's next meeting. If the action is determined not to be exempt from CEQA, the complainant shall bear the City's reasonable costs of environmental review and CEQA compliance, including consultant fees.</u></p> <p>G. Finality of Decision. The Committee's decision shall be final <u>on the date the Committee adopts a resolution setting forth its decision. The decision shall become effective thirty days after adoption of the resolution, unless an appeal has been filed to the City Council pursuant to the provisions of Chapter 17.54. For purposes of such an appeal, references to the Planning Commission in Chapter 17.54 shall be interpreted as inclusive of the Committee on Trees and Views.</u></p>	<p>F. Add new paragraph "F" specifying that environmental review pursuant to CEQA requirements shall be conducted prior to adoption of a final decision by CTV and that if the project is deemed not to be exempt from CEQA, the complainant shall bear reasonable cost of the environmental review including consultant fee.</p> <p>G. This provision in the current ordinance is confusing, since pursuant to the zoning ordinance, a decision of the final reviewing body is final upon adoption of a Resolution and is effective 30-days later, unless an appeal has been filed. View cases are not automatically reviewed by the City Council, unless appealed. This clarification is necessary to be consistent with other provisions.</p>
<p>17.26.060 Implementation of restorative action. A. Within thirty days of a final decision ordering restorative action, the complainant shall obtain and present to the owner of the obstructing vegetation</p>	<p>A. <u>The complainant shall bear the cost of the initial restorative action. Within thirty days of a final decision ordering restorative action, the</u></p>	<p>A. This is to clarify up front that the complainant is to pay for the initial restorative action.</p>

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<p>three bids from licensed and qualified contractors for performance of the work, as well as a cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance which protects and indemnifies the City and the complainant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the City.</p> <p>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.</p> <p>C. Subsequent maintenance of the vegetation in question shall be performed as prescribed by the Committee's final decision at the cost and expense of the owner of the property on which the vegetation is growing. The vegetation shall be maintained in accordance with the final decision so as not to allow for future view impairments. A notice of the decision shall be recorded against the title of the property and shall run with the land,</p>	<p>complainant shall obtain and present to the owner of the obstructing vegetation three bids from licensed and qualified contractors for performance of the work, as well as a cash deposit in the amount of the lowest bid. In order to qualify, the contractors must provide insurance which protects and indemnifies the City and the complainant from damages attributable to negligent or wrongful performance of the work. Any such insurance shall be subject to the approval of the City.</p> <p>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 <u>ninety days from receipt of the cash deposit or if additional time is necessary due to weather or unique conditions of the vegetation, at the earliest date recommended by the contractor and approved by the City Manager.</u></p> <p>C. Subsequent maintenance of the vegetation in question shall be performed at the cost and expense of the owner of the property on which the vegetation is growing, <u>unless the Committee adopts a final decision providing an alternative cost allocation, which shall be accompanied by written findings justifying the alternative cost allocation.</u> The vegetation shall be maintained in accordance with the final</p>	<p>B. Certain trees cannot be remediated in certain months, therefore a 30-day period is too restrictive. Both the Ad Hoc Committee and the PC reviewed this provision and agreed on this change.</p> <p>C. The City Council Ad Hoc Committee could not agree on who should pay for the maintenance of trees, following the initial restorative action; and deferred this item to the Planning Commission. The Planning Commission recommends that the CTV have</p>

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<p>thereby giving notice of this obligation to all future owners.</p> <p>D. The implementation method provided for in this section may be modified by the parties or in any final decision if grounds exist to justify such a modification. In particular, the Committee may allocate the cost of restorative action as follows:</p> <ol style="list-style-type: none"> 1. If the Committee finds that the tree or other vegetation constitutes a safety hazard to the complainant or his property, and is being maintained by the owner in disregard of the safety of others, the owner may be required to pay one hundred percent of the cost of correction; or 2. If the owner is maintaining a hedge fifteen feet or more in height, the Committee may allocate the cost of correction to the property owner, provided that the owner of the land on which the hedge exists shall not be required to pay more than twenty-five percent of the cost of such correction 	<p>decision so as not to allow for future view impairments.</p> <p>D. To be deleted</p>	<p>the ability to require the owner of the trees or both parties to maintain the trees, depending on the circumstances.</p> <p>D. Paragraph D is deleted. Some of the provisions of this paragraph are incorporated in the other paragraphs of Section 17.26.060; and some of the language is very vague and does not belong or apply to the ordinance.</p>
<p>17.26.070 Enforcement.</p> <p>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.</p> <p>B. A final decision rendered under this chapter</p>		<p>A. No Change to this section.</p>

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<p>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.</p> <p>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.</p>		
<p>17.26.080 Notification of subsequent owners. The owner on whose property the offending vegetation exists shall notify all successor owners of the final decision in any proceeding under this chapter, and such decision shall be binding upon all such successors in interest. Within thirty days of the final decision, an informational covenant shall be recorded against the title of the property on a form provided by the City.</p>	<p>Within thirty days of the final decision of the <u>Committee, or the City Council on appeal</u>, an informational covenant shall be recorded against the title of the property <u>on which the offending vegetation exists and the complainant's property</u>, on a form provided by the City, which shall run with the land and be binding upon all successors in interest.</p>	<p>Clarifies that the City will record an informational covenant for both properties that would run with the land. Currently the covenant is recorded against the property on which the vegetation exists.</p>
<p>17.26.090 Preservation of views defined. Notwithstanding any other provision of Chapter 17.26.010 to 17.26.080 inclusive, the following provision shall apply and supersede in priority any other provision.</p> <p>1. A view is defined in Chapter [Section] 17.12.220 and only applies to that view existing from the date any current owner of a property in the City of Rolling actually acquired the property.</p> <p>2. Chapter [Section] 17.26.010 provides that the intent of the Ordinance is to protect views from "maturing" vegetation. As such, in addition to the limitations otherwise set forth in Chapter 17.26, including but limited to this Section 17.26.090, any vegetation which is already mature at the time any</p>	<p>ADDED BY MEASURE B.</p>	<p>No Change.</p>

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<p>party claiming a view impairment actually acquired the property shall be exempt from Chapter 17.26. "Mature" versus "Maturing" shall be defined by industry standards predominantly accepted by arborists.</p> <p>3. The burden of proof to show that any view is impaired shall be upon the party claiming such impairment, and the standard shall be by "clear and convincing evidence". Evidence shall be weighted in the following order of priority:</p> <p>a. Photographs; b. Expert testimony; and lastly c. Other evidence.</p>		
<p>Editor's note – Ord. No. 333 (Measure B) which added the provisions set out herein, was adopted March 18, 2013, as a result of a vote of the electorate and thus cannot be changed except by another vote. Said ordinance states, "This Section 17.26.090 shall be effective retroactively to the date Chapter 17.26 was first made an Ordinance to the City of Rolling Hills."</p>	<p>MEASURE B</p>	<p>No Change.</p>
<p>INDEMNIFICATION –Not currently in the Ordinance</p>	<p><u>17.26.100 Indemnification</u></p> <p><u>Complainants shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action or proceeding against the City or its agents, officers, attorneys or employees to attack, set aside, void or annul a decision of the Committee or City Council on appeal restoring an impaired view or that otherwise challenges, or seeks damages</u></p>	<p>The City Council Ad Hoc Committee couldn't agree whether a provision should be included in the ordinance regarding indemnification of the City, and deferred that decision to the Planning Commission. After lengthy discussion, public input and deliberation, the Planning Commission recommends that the</p>

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	<p>resulting from, the issuance, defense, implementation, or enforcement of a view restoration order (collectively "action"). <u>Nothing in this reimbursement obligation shall provide to the complainant any control over decisions made by the City in connection with an action..</u></p>	<p>complaining party indemnify the City.</p>

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