



City of Rolling Hills

INCORPORATED JANUARY 24, 1957

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Agenda Item No.: 6D
Mtg. Date: 12/15/15

TO: HONORABLE CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION

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

SUBJECT: RESOLUTION NO. 2015-24. RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ADMINISTRATIVE REGULATIONS INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION.

ATTACHMENT: RESOLUTION 2015-24.

BACKGROUND

For several months, the Planning Commission has considered recommendations for amending the City's View Preservation Ordinance ("Ordinance") and regulations interpreting Measure B to address ambiguities. Since Measure B was adopted by the voters, it can only be amended by popular vote. In September, the Planning Commission adopted a resolution recommending that the City Council adopt various amendments to the View Preservation Ordinance, and at the November 17, 2015 meeting the Planning Commission voted to adopt regulations interpreting Measure B. These regulations must be adopted by a Resolution, which is attached.

Both, the recommendation by the Planning Commission to amend the View Preservation Ordinance and the interpretation of Measure B will be placed as a public hearing item at a future City Council agenda.

DISCUSSION

At the November 17, 2015 meeting the Planning Commission reached a consensus on the interpretation of Measure B as follows:

Definition of Maturity

Measure B exempts vegetation that was “mature” at the time of acquisition of property from restorative action, but does not define “mature.” The Planning Commission agreed on the following interpretation of this item:

- a. For those trees that have not been previously cut or trimmed, maturity is to be defined as vegetation that has grown to the maximum height it is likely to reach as set forth in the Sunset Western Garden Book. (Definition of “mature height” is taken from ISA language).
- b. Trees that were previously cut or trimmed are unlikely to reach their maximum height and shall not be considered “mature” for the purposes of the View Preservation Ordinance.

Acquisition of Property

Measure B limits views eligible for restoration to those in existence when the current property owner actually acquired the property, but provides no information regarding when a property transfer results in a change of ownership. The Planning Commission agreed on the following interpretations regarding the most common types of property transfers:

- 1) Inheritance- the person inheriting the property may apply to restore a view from the date that the previous owner acquired the property. This would be consistent with standard property tax exemptions.
- 2) Sale to third party- Acquisition limiting the buyer’s ability to restore a view to the date of the sale as evidenced by a deed.
- 3) Trusts- Placement into a revocable trust is not an acquisition, but an acquisition will occur when a revocable trust becomes irrevocable, when property is placed into an irrevocable trust, or when the trust assets are distributed to beneficiaries. This rule would be consistent with the property tax rules regarding change in ownership.

Retroactivity of Measure B

Measure B specified that its provisions apply retroactively “to the date Chapter 17.26 was first made an Ordinance to the City of Rolling Hills”. This is vague and the Council Ad Hoc Committee agreed that this provision needs clarification that Measure B’s retroactivity provision has the effect of invalidating all view restoration orders issued by the City prior to passage of Measure B, (March 18, 2013).

At the very first meeting the Planning Commission reviewed the Council’s Ad Hoc Committee recommendations, Commissioners agreed that this language should be clarified.

CONCLUSION

It is recommended that the Planning Commission adopt Resolution No. 2015-24 recommending to the City Council to adopt administrative regulations interpreting Measure B.

RESOLUTION NO. 2015-24

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ADMINISTRATIVE REGULATIONS INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION.

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

Section 1. In June 1988, the City adopted a View Preservation Ordinance. The ordinance established preservation of views as a primary value of the community and created a process by which a property owner could seek to abate an obstructed view. In November 2003, the ordinance was modified relative to the composition of the Committee on Views and Trees, the body designated to consider view applications.

Section 2. In March 2013, the residents of Rolling Hills passed Measure B to amend the View Preservation Ordinance. The principal effect of Measure B was to shift the protection of the ordinance from views that are *capable* of being enjoyed from a property to views that were *actually* enjoyed from a property when the property owner acquired the property. In particular, the initiative amended the ordinance as follows:

- Only a view that existed when the current property owner “actually acquired” the property may be restored;
- Abatement of view impairment is limited to obstructions caused by trees that were “maturing” at the date of acquisition and trees that were “mature” at the time of property acquisition are excluded from consideration;
- Measure B specified that abatement of view impairment is intended to create “view corridors” and views through trees, and not unobstructed views;
- Measure B specified that its provisions are to be applied retroactively.

Section 3. Measure B contains various ambiguities that have resulted in uncertainty in its application in view obstruction cases submitted to the City’s Committee on Trees and View for consideration. Measure B can only be amended by the voters; however, the City may adopt administrative regulations providing guidance and interpreting ambiguities in voter initiatives. Based on this authority, the City Council directed the Planning Commission to review, discuss and develop a policy interpreting Measure B.

Section 4. The Planning Commission finds that the attached Administrative Regulations Interpreting Measure B Relating to View Preservation clarify the initiative and recommends their adoption by the City Council. :

PASSED, APPROVED AND ADOPTED THIS 15th DAY OF DECEMBER 2015.

BRAD CHELF, CHAIRMAN

ATTEST:

HEIDI LUCE, CITY CLERK

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in section 17.54.070 of the Rolling Hills Municipal Code and Code of Civil Procedure Section 1094.6.

Attachment A

City of Rolling Hills
Administrative Regulations Interpreting Measure B
Relating to View Preservation

Chapter 1	Date of Property Acquisition
Chapter 2	“Mature” versus “Maturing” Trees
Chapter 3	Retroactivity of Measure B

Chapter 1
DATE OF PROPERTY ACQUISITION

Section 1001. Interpretation of the Date of Acquisition of Property.

Measure B provides that a person may only apply to restore the view existing from the date that the current owner of the property actually acquired the property. In determining whether a transfer of property has resulted in an acquisition affecting the view that a person may apply to have restored, the City shall generally apply the rules applicable to reassessment of property taxes in the County of Los Angeles.

The impacts of common transfers of property are illustrated below:

- A. The acquisition date of property acquired through inheritance shall be the date that the previous owner acquired the property, not the date of the transfer by inheritance.
- B. The acquisition date of property acquired from a third party through an arms-length purchase and sale shall be the date of the sale as evidenced by a deed.
- C. When property is placed into a revocable trust, the acquisition date of property shall not change. When property is placed into an irrevocable trust, or a revocable trust becomes irrevocable, the acquisition date shall be the date that the property was placed into the irrevocable trust or the revocable trust became irrevocable.

Chapter 2

“MATURE” VERSUS “MATURING” TREES

Section 2001. Definition of “Mature” Trees

The International Society of Arboriculture defines maturity by “mature height,” which means the “maximum height that a plant is likely to reach if the conditions of the planting site are favorable.” The Sunset Western Garden Book is a trusted reference guide on trees, plants and other vegetation present in the region and defines a plant species’ “maturity” as the time at which a plant achieves a certain height range and displays other characteristics. The Sunset Western Garden Book provides maximum height ranges for species of plants typically involved in View Preservation cases in the City.

For purposes of the View Preservation Ordinance and Measure B, a plant is “mature” when it reaches the maximum height for the species specified in the Sunset Western Garden Book. However, arborists agree that plants that have been regularly cut may never reach their maximum potential height, and several alternative methodologies are recognized to determine the age of such trees. However, the alternative methodologies are complex and require reliance on a professional arborist. Further, the proponents of Measure B testified before the Planning Commission that the intent of Measure B was to exempt trees that have reached their full species height prior to acquisition of a complainant’s property. Therefore, trees that show evidence of regular cutting and are therefore unlikely to reach their maximum potential height shall not be considered “mature” for purposes of the View Preservation Ordinance and shall not be exempt from restorative action.

Section 2002. Definition of “Maturing” Trees

Trees and other vegetation that are not “mature” as specified in these regulations are “maturing.”

Section 2003. Presumption that Trees were not “Mature”

If evidence is presented, such as historical aerial photographs, showing that none of the offending trees or vegetation subject to a complaint was planted at or around the time that the complainant acquired the property from which a view is claimed, the complainant shall be entitled to a presumption that the offending trees and vegetation were not “mature” at the date of acquisition and are therefore subject to restorative action.

Chapter 3
RETROACTIVITY OF MEASURE B

Section 3001. Retroactive Application.

Any resolution of the City of Rolling Hills adjudicating any complaint regarding view impairments adopted by the Committee on Trees and Views, or the City Council on appeal, prior to March 18, 2013, is hereby considered void and will not be enforced by the City.

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

I certify that the foregoing Resolution No. 2015-24 entitled:

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT
THE CITY COUNCIL ADOPT ADMINISTRATIVE REGULATIONS
INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION.

was approved and adopted at a regular meeting of the Planning Commission on
December 15, 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