

ATTACHMENT "B"

Resolution No. 2015-20 of the Planning Commission
recommending amendments to the View Preservation Ordinance.

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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.

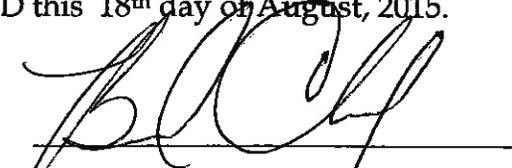
G. Add Section 17.26.100 of the RHMC to read as follows:

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 18th day of August, 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: Commissioners Cardenas, Gray, Kirkpatrick and Chairman Chelf.

NOES: None.

ABSENT: Commissioner Smith.

ABSTAIN: None.

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

Administrative Offices.



CITY CLERK