

## ATTACHMENT "E"

Minutes from Planning Commission public hearings.

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**MINUTES  
PLANNING COMMISSION MEETING 02/17/2015**

**NEW BUSINESS**

**Report and Discussion regarding Zoning Code amendment relating to preservation of views and interpretation of Measure B.**

Chairman Chelf introduced the item and asked for staff's comments. Planning Director Schwartz reviewed the background of the Planning Commission's previous discussions regarding the City's View Preservation Ordinance stating that discussions were halted after the passage of Measure B in order to see how the provisions in the measure would be implemented. She reviewed the three items that were changed by Measure B and stated that those provisions cannot be changed without a vote of the people, but the City can provide clarification and define the items that were not defined in Measure B. She stated that before the Planning Commission is a proposal for discussion by the Planning Commission and then scheduling of a Public Hearing once the issues have been discussed. She further stated that the City Council formed an ad-hoc committee that discussed these items and is forwarding them to the Planning Commission for discussion and consideration. She stated that for clarification purposes a redline version of the draft proposed ordinance which includes the changes originally recommended by the Planning Commission as well the more recently proposed changes been placed on the dais. She reviewed the proposed draft Ordinance and stated that the Ad Hoc committee agreed on recommended changes in the following areas:

1. A property may acquire more than one separate and independent view through the Ordinance.
2. "Principal residence" should be defined to exclude bathrooms, hallways, garages and closets.
3. During the course of a hearing, an applicant may be required to amend an application or provide supplemental materials in specified circumstances.
4. Agreements reached in mediation shall be confirmed by an executed contract between the parties and will not be implemented or enforced by the City.
5. The CTV may make a finding that although a view exists and is significantly impaired, restorative action is precluded by specified circumstances (i.e., impacts to the environment or to the privacy of the property on which the objectionable vegetation is located).
6. "View corridor" should be defined.
7. The ordinance should clarify that complainants bear the cost of initial restorative action, up to the amount of the lowest bid.
8. The period to implement the initial restorative action should be extended to reflect field conditions and arborist recommendations.
9. Measure B's retroactivity provision has the effect of invalidating all view restoration orders issued by the City prior to passage of Measure B.
10. A person is not precluded from applying for view restoration if: a) vegetation on the applicant's own property contributes to the view impairment; or b) the applicant previously obtained an order abating impairment of the same view caused by vegetation on another property.

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Planning Director Schwartz further stated that there were additional areas identified that should be changed but the ad hoc committee was not in agreement as to a recommended change. In response to Commissioner Kirkpatrick, Assistant City Attorney Coates clarified that what is being proposed is an amendment to the Zoning Ordinance which requires a recommendation from the Planning Commission to the City Council. She stated that the ad hoc committee was created to help provide focus as to what changes should be of particular importance during the Planning Commission's review. Assistant City Attorney Coates reviewed the unresolved items and stated that they are open to the Planning Commission's recommendation for change to either the Ordinance or the Administrative Regulations interpreting Measure B. The unresolved items included:

- Whether or not the City should be indemnified for its costs and expenses related to litigation arising from view restoration orders. Assistant City Attorney Coates stated that this is a policy decision. Following discussion concerning this point, the Planning Commission asked staff to further research this matter with regard to what the City's insurance carrier recommends and how other cities handle this issue.
- Measure B limits potential view restoration to the view that existed when a "current owner" "actually acquired the property." What constitutes a change in ownership affecting the date that an owner "actually acquired" property? City Attorney stated that the staff report provides several scenarios that could be considered for inclusion in the Administrative Regulations interpreting Measure B.
- Subsequent Maintenance - Section 17.26.060(C) of the Rolling Hills Municipal Code currently provides a general rule that the owner of view obstructing vegetation shall bear the cost and expense of subsequent maintenance of the vegetation required to comply with a view restoration order. However, Section 17.26.060(D) provides that the implementation method may be modified if grounds exist. The two provisions create some uncertainty as to whether subsequent maintenance costs may be allocated in part to a person seeking to restore a view. Planning Director Schwartz reviewed the two alternatives set forth in Section 17.26.060(C) of the draft Ordinance to clarify this conflicting language. Option 2, which currently exists in the ordinance states "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. Option 1 adds to the existing language "...unless the Committee adopts a final position providing an alternative cost allocations which shall be accompanied by written findings justifying the alternative cost allocation."
- Mature vs. Maturing - Measure B exempts from the Ordinance "any vegetation which is already mature at the time any party claiming a view impairment actually acquired the property" and provides that "mature" and "maturing" shall be defined by industry standards predominantly accepted by arborists. It has become apparent that arborists classify trees as "mature" and "maturing" in numerous ways, resulting in differences of opinion regarding the maturity of trees at issue in a view impairment complaint. The *Ad Hoc* Committee determined that the Sunset Western Garden Book is an authoritative reference guide for determining whether vegetation is "mature" or "maturing." That book provides a range of heights at which vegetation is considered "mature." The Planning Commission is asked to decide whether the vegetation should be considered "mature" by the City when it reaches the *lowest* or *average* height of the range and those two alternatives are presented in the draft Ordinance.

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Chairman Chelf called for public comment.

Spencer Karpf, 14 Caballeros Road addressed the Planning Commission to suggest that when the Ordinance is considered it would be helpful to highlight the language added by Measure B.

Following staff's presentation, discussion and public comment the members of the Planning Commission directed staff to provide further information with regard to the items discussed including the indemnification issue and how other cities handle view matters. Discussion of this matter was continued to the next regular meeting of the Planning Commission.

**MINUTES  
PLANNING COMMISSION MEETING 03/17/2015**

OLD BUSINESS

Continued discussion regarding Zoning Code amendment relating to preservation of views and interpretation of Measure B.

Chairman Chelf introduced the item and asked for staff's comments. Planning Director Schwartz distributed the document pertaining to Measure B interpretation that was not included with the staff report, noting that it is the same document from the last meeting. She reviewed the history of this discussion item and stated that a City Council ad hoc committee reviewed the View Ordinance including Measure B and made some recommendations as well as provided some direction for the Planning Commission's discussion on this matter. She further stated that the Planning Commission began discussing this matter at its last meeting and requested further clarification on some of the discussion points. Planning Director Schwartz reviewed a draft ordinance which incorporates the changes that the ad hoc committee suggested with respect to the viewing area, mediation, environmental considerations, view corridor, timing of restorative action, and invalidating orders issued before Measure B. She further stated that there were also several matters discussed but unresolved by the ad hoc committee which included: indemnification and cost allocation for subsequent maintenance. With regard to Measure B

Following staff's presentation and discussion consideration of this matter was continued to the April 21, 2015 Planning Commission meeting.

With regard to Measure B, Planning Director Schwartz stated that there were two unresolved matters which included: what is considered "acquisition" of the property and the definition of mature vs. maturing. She further stated with regard to mature vs. maturing, the ad hoc committee recommended using the Sunset Western Garden Book as a guideline. Discussion ensued concerning the difficulty in making that assessment. Assistant City Attorney Coates stated that the goal of the administrative regulations is to resolve some of the ambiguities that have come to light as the City has tried to apply Measure B. She further commented that the objective is to provide guidance in making the required determinations.

Assistant City Attorney Coates then provided responses to the questions that were raised at the previous meeting. With regard to indemnification, she stated that the City's insurance does not cover discretionary actions. With regard to what other cities do regarding indemnification; she stated that some cities require indemnification and some do not and it is typically written into the respective view preservation ordinances. Planning Director Schwartz commented that included with the staff report is a matrix showing the provisions in their ordinances. Discussion ensued concerning the pluses and minuses of asking for indemnification. Assistant City Attorney Coates stated that it may result in an additional financial burden for the applicant by shifting the burden that is currently on the City to the applicant. Further discussion ensued concerning the matrix and what options are available to the City including the option of not having a view preservation ordinance. Additional discussion ensued concerning Association's view preservation process and the differences between the City's view process and the Association's view process.

In response to Commissioner Kirkpatrick regarding the legal issues and interpretation, Assistant City Attorney Coates stated that the City Attorney's office will guide the Planning Commission through making sure the policy decisions made and recommended to the City Council are reflected in a legally

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defensible way but ultimately, an Ordinance reflects the policy of the City and policy decisions are made by the City Council.

With regard to the ownership issue raised at the last meeting, Assistant City Attorney Coates stated that the State Revenue and Taxation Code provides a series of circumstances under which a change of property ownership has occurred for purposes of reassessing the taxable value of the property. She commented that the City may incorporate that definition of acquisition of property by reference or consider other options. Discussion ensued concerning the pluses and minuses of using that definition as compared to other definitions. Discussion ensued concerning estates and trusts including revocable and irrevocable trusts. In response to Vice Chairperson Smith, Assistant City Attorney Coates stated that the Planning Commission could incorporate the State's definition of acquisition of property. Further discussion ensued concerning inheritance issues and distance limitations. Consideration of this matter was continued to the April 21, 2015 Planning Commission meeting to allow the Planning Commission an opportunity to review the new materials provided.

**MINUTES  
PLANNING COMMISSION MEETING 04/21/2015**

NEW PUBLIC HEARINGS

ZONING CASE NO. 881, ZONING CODE AMENDMENT NO. 2015-03.  
CONSIDERATION OF AND DISCUSSION REGARDING ZONING CODE AMENDMENT,  
CHAPTER 17.26, RELATING TO VIEW PRESERVATION AND ADMINISTRATIVE  
REGULATIONS INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION.

Chairman Chelf introduced the item and asked for public comments. Planning Director Schwartz stated that this item is a public hearing and was noticed in the newspaper as well as the Citywide newsletter and the Planning Commission held two prior public discussions regarding this matter. Planning Director Schwartz reviewed the background on this matter stating that the Planning Commission was directed to consider this item by the City Council upon recommendation from a City Council Ad Hoc committee. She stated that the Ad Hoc committee discussed the View Preservation Ordinance as well as Measure B to determine if there needed to be any modifications or clarifications to aid the Committee on Trees and Views in applying the Ordinance. She stated that the Ad Hoc committee came to consensus on most of the items and recommended that the Planning Commission discuss those items for which the Ad Hoc committee was unable to come to a consensus and make a recommendation to the City Council to consider in amending the Ordinance. She further reviewed the items included in the staff report which includes the information studied and considered in 2012 when this matter was previously discussed by the Planning Commission, comparative ordinances from other cities and a document containing administrative guidelines for interpreting Measure B prepared by the City Attorney. Planning Director Schwartz further stated that another issue raised previously is whether or not the City should have a View Preservation Ordinance and the Planning Commission may wish to further discuss that matter. Discussion ensued concerning what is the best way to proceed in considering this matter. Assistant City Attorney Coates suggested that the Planning Commission may wish to take comments from the public at this time and then determine the best way to proceed.

Chairman Chelf called for public comment.

Marcia Schoettle, 24 Eastfield Drive addressed the Planning Commission to suggest that the city be indemnified and make it so that the City is not financially involved. She further suggested that Committee on Trees and Views be re-named the View Preservation Committee and that the City create a Tree Preservation Committee.

Lynn Gill, 31 Chuckwagon Road addressed the Planning Commission regarding the definition of "mature" and provided several documents which define a mature tree as a tree that has reached at least 75% of its typical final height and spread. He suggested that this definition in conjunction with the mature height range listed in Sunset Western Garden Book be used to determine if a tree is mature. He also suggested, based on his research of how several other Cities handle view issues, that the City act as an ombudsman to reduce the City's legal costs.

Tina Greenberg, 32 Portuguese Bend Road addressed the Planning Commission suggesting that the City should not be involved financially for a legal perspective and stating that she does not feel mature needs to be defined. With regard to ownership and inheritance, she stated that she feels that the view should be established when the heirs take possession of the property.

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Mike Schoettle, 32 Portuguese Bend Road addressed the Planning Commission to also suggest that the view be established when a property changes hands regardless of whether it is being sold or inherited.

Jim Aichele, 14 Crest Road West addressed the Planning Commission stating that he agrees with Mr. Schoettle regarding the inheritance issue and he feels that the City should not be responsible for legal costs. He further commented that he feels the City should not be involved in view disputes at all and that all view issues should be handled by the Rolling Hills Community Association through the CC&Rs.

Lynn Gill addressed the Planning Commission stating that he feels the City should be involved in view issues and further stating that the City needs a well crafted view ordinance that balances the property rights of the tree owner as well as the view.

Following staff's presentation and public testimony, the members of the Planning Commission continued the public hearing.

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**PUBLIC HEARINGS ON ITEMS CONTINUED FROM PREVIOUS MEETING**

**ZONING CASE NO. 881, ZONING CODE AMENDMENT NO. 2015-03,  
CONSIDERATION OF AND DISCUSSION REGARDING ZONING CODE AMENDMENT,  
CHAPTER 17.26, RELATING TO VIEW PRESERVATION AND ADMINISTRATIVE  
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Chairman Chelf introduced the item and asked for staff's comments. Planning Director Schwartz reviewed the background on this matter stating that this matter is before the Planning Commission at the direction of the City Council and the recommendations from a City Council ad hoc committee are included in the staff report. She further stated that since the last meeting, additional information was submitted by Lynn Gill and that information is also included in the staff report including draft ordinance language which incorporated language from the City's existing ordinance as well as the Rolling Hills Estates ordinance. She stated that additional correspondence was received from several residents expressing the opinion that views, as well as trees have value and urging the Planning Commission to have a fair and balanced view preservation ordinance.

Planning Director Schwartz further reviewed the recommendations from the City Council ad hoc committee stating that there were two issues regarding amendments to the City's current ordinance that the ad hoc committee could not come to a consensus on: 1.) cost of subsequent maintenance and 2.) indemnification. She further stated with regard to clarifying and interpreting the provisions in Measure B, that the ad hoc committee could not come to a consensus on: 1.) the definition of mature vs. maturing; and 2.) a definition of when a property is "acquired". She stated that the Planning Commission is asked to review the draft Ordinance which incorporates the changes suggested by the ad hoc committee and then discuss the items for which the ad hoc committee could not come to a consensus.

Chairman Chelf expressed his appreciation for the time and effort Lynn Gill put into this matter. He further reviewed some of the language from the existing Ordinance and General Plan which includes: "The City of Rolling Hills enjoys both beautiful views and an abundance of trees and other vegetation and values both as contributing to the unique character of the City enhancing the quality of life." He used this point to illustrate that the Planning Commission's objective should be to find a reasonable balance to this issue.

Chairman Chelf called for public comment and asked that the comments be related to the four main issues of indemnification, maintenance costs, acquisition of the property and mature vs. maturing.

Tina Greenberg, 32 Portuguese Bend Road addressed the Planning Commission stating that she feels the issue of mature vs. maturing is being over analyzed and the intent of Measure B was to protect existing large trees that were there when a property was purchased. She stated that the intent is to provide people with the view they purchased and not create views for people who did not have views.

Steve Nuccion, 18 Portuguese Bend Road addressed the Planning Commission stating that they purchased a property with a view and the ordinance is being used against them because of the interpretation of the word maturing. He stated that there are multiple definitions for maturing which

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could include age and he feels that using the Sunset Western Garden Book definition, which uses height, is not accurate.

Marcia Schoettle, 24 Eastfield Drive addressed the Planning Commission stating that she feels the City should not be involved financially and should be indemnified.

Jim Aichele, 14 Crest Road West addressed the Planning Commission stating that he does not feel that age has anything to do with a tree's maturity. He further commented that he too feels that the City should not be involved financially.

Tina Greenberg, 32 Portuguese Bend Road stated that she feels the view someone bought is the view they are entitled to.

Discussion ensued as to how best to proceed. Assistant City Attorney Coates clarified that the staff report contains a redlined version of the Ordinance which reflects all of the changes recommended by the ad hoc committee and the Planning Commission will need to make a determination whether or not to accept those redline changes. She further clarified that in addition to doing so, the Planning Commission will need to come to a decision on the four unresolved items. Assistant City Attorney Coates provided further explanation with regard to the four unresolved items. Based on a suggestion from staff, the Planning Commission concurred to first discuss the proposed Ordinance amendments.

Recognizing that there was one more zoning case on the agenda for consideration, the Planning Commission tabled this discussion until after last the zoning case. *(See continuation below)*.

The Planning Commission reviewed and discussed the redline version of the Ordinance as recommended by the ad hoc committee. Following discussion, the Planning Commission concurred with the following recommended changes:

17.12.220 where the word "view" is defined – after principal residence add, *but not including from bathrooms, hallways, garages or closets.*

17.12.220 add a definition for View corridor – *means a view from a designated viewing area broken into segments by vegetation.*

17.26.010 correct the typos, delete the word panoramic and add the words *of views* after the word protection in the last sentence.

17.26.040 add reference to 17.12.220 for clarification; add reference to the Mediation Application in paragraph A for consistency with the current process; add language in paragraph C to state that *At the conclusion of mediation, the mediator shall advise the City Manager as to whether the complainant has been resolved* and to clarify that the results of the mediation should be documented in an executed contract; and in paragraph D, add language to clarify that an application for a public hearing is required for consistency the current process and add language that sets a 30 day time limit for the applicant to request a public hearing after the City Manager is notified that the mediation was unsuccessful.

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17.26.050 add language in paragraph C pertaining to the hearing procedure and findings to give the Committee the authority to request additional or more accurate information from the applicant if necessary and adding a provision to allow the applicant withdrawal the compliant if the matter was voluntarily resolved and for the City to terminate the proceedings upon delay caused by the applicant unless good cause exists for the delay; add language at the end of paragraph E to clarify that specific findings need to be made; add paragraph F to clarify the requirement for environmental review and assigning cost for such review to the applicant and with regard to paragraph G, Finality of Decision add language to clarify the appeal provision and change date the decision becomes effected from 20 days to 30 days after adoption of the resolution.

17.26.060 add a clarifying statement in paragraph A that the complainant pays the cost of the initial restorative action; in paragraph B change the requirement for the work to be completed in no more than 90 days (was 30) and add additional language to allow it to be longer if recommended by the contractor and approved by the City Manager due to weather or some other conditions; and in paragraph C regarding subsequent maintenance add option 1 proposed by the ad hoc committee where the Committee on Trees and Views has the ability to provide an alternative cost allocation if findings can be made to justify the alternative.

The Planning Commission tabled the discussion on the item in 17.26.040 paragraph B regarding eligibility following discussion regarding adding a distance limitation for which the Planning Commission did not come to concurrence.

Following staff's presentation, public testimony and discussion, the members of the Planning Commission continued the public hearing.

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PLANNING COMMISSION MEETING 06/16/2015**

**PUBLIC HEARINGS ON ITEMS CONTINUED FROM PREVIOUS MEETING**

**ZONING CASE NO. 881, ZONING CODE AMENDMENT NO. 2015-03.  
CONSIDERATION OF AND DISCUSSION REGARDING ZONING CODE AMENDMENT,  
CHAPTER 17.26, RELATING TO VIEW PRESERVATION AND ADMINISTRATIVE  
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Chairman Chelf introduced the item and stated that this item will be continued to allow all of the Planning Commissioners to be present for the discussion given the importance of the topic. Recognizing that there were members of the public present that may wish to address this issue, Chairman Chelf called for public comment.

Ralph Black, 36 Saddleback Road addressed the Planning Commission to provide his history and perspective with regard to the City and the Association view regulations. He suggested that the ordinance should protect the taxpayers and vagueness should be eliminated. He further stated that he likes trees but he is in favor of a strong View Ordinance.

Tina Greenberg, 32 Portuguese Bend Road addressed the Planning Commission to provide history on her view case and stated that she does not feel that view should be created where no view existed. She also stated with regard to the definition of mature that she feels there is only one relevant definition and that is when a tree reaches its species height.

Arvel Witte, 5 Quail Ridge Road South addressed the Planning Commission to provide history on his view case and stated that he does not feel that the previous views cases should be disregarded due to the retroactivity portion of Measure B.

In response to Dr. Witte, Chairman Chelf provided a brief overview of what the Planning Commission and City Council Ad Hoc Committee have discussed with regard to amending/clarifying the View Ordinance and stated that the background information is available with the staff report.

Marcia Schoettle, 24 Eastfield Drive addressed the Planning Commission stating that there are some blurred areas in Measure B but she feels that the realtors doing business in the City have an obligation to inform buyers of the view regulations and that views should be documented.

Tina Greenberg, 32 Portuguese Bend Road stated that there are ways to document views, including a website that documents views. Chairman Chelf asked Mrs. Greenberg to provide the web site information to staff for future reference.

Following public comment, the members of the Planning Commission continued the public hearing on this item to the next regular meeting of the Planning Commission scheduled to be held on Tuesday, July 21, 2015 beginning at 6:30 p.m.

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**PUBLIC HEARINGS ON ITEMS CONTINUED FROM PREVIOUS MEETING**

**ZONING CASE NO. 881, ZONING CODE AMENDMENT NO. 2015-03.  
CONSIDERATION OF AND DISCUSSION REGARDING ZONING CODE AMENDMENT,  
CHAPTER 17.26, RELATING TO VIEW PRESERVATION AND ADMINISTRATIVE  
REGULATIONS INTERPRETING MEASURE B RELATING TO VIEW PRESERVATION.**

Chairman Chelf introduced the item and asked for staff's comments. Planning Director Schwartz stated that a letter was received and placed on the dais from a resident requesting that views continue to be protected and suggesting that the City not add an indemnification requirement. She reviewed the history of this discussion stating that this matter is before the Planning Commission to consider clarifying some of the vagueness in the existing Ordinance and to provide guidelines for clarification in interpreting some of the provisions set forth by Measure B after having been reviewed by a City Council ad hoc committee. She stated that this matter has been before the Planning Commission on several occasions and the Commission has reviewed the proposed amendments to the Ordinance, up to circle page 18 relative to subsequent maintenance. She further stated that once the Planning Commission completes its review and makes its recommendations, the matter will be scheduled for Public Hearing before the City Council to consider an amendment to the Ordinance. She recommended that the Commission continue its discussion specifically relative to indemnification and whether or not there should be a distance limitation for which an applicant may apply for view restoration. She stated that this issue came up at the last meeting and staff has provided information on what other cities do in this regard and that information is included in the staff report. She further stated that there are also some pending items relative to the Measure B interpretation including the definition of mature vs. maturing and how property "acquisition" should be defined. She stated that one additional item has come up during a pending case related to who is responsible for the cost of an expert opinion when one is required by the Committee.

Chairman Chelf called for public comment.

Spencer Karpf, 8 Maverick Lane addressed the Planning Commission stating that he feels that Measure B prohibits the Commission from adding a distance limitation.

Arun Bhumitra, 13 Buggy Whip Drive addressed the Planning Commission to urge the Planning Commission to strictly enforce the View Preservation Ordinance.

John Nunn, 1 Crest Road West addressed the Planning Commission urging the City to add a distance limitation and an indemnification requirement. He stated that he feels Measure B has been a good step in the right direction.

Hearing no further comments, the Planning Commission continued its review of the proposed Ordinance.

In response to Mr. Karpf's comment regarding a distance limitation, Assistant City Attorney Coates stated that Measure B does not preclude the City from setting a distance limitation in that a view is defined in as being a visually impressive scene "not located in the immediate vicinity of the residence."

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Planning Director Schwartz stated that the next section for consideration is Section 9 related to notification of subsequent owners. Following brief discussion, the Planning Commission recommended the language be changed as proposed in Section 17.26.080 to clarify the matter regarding notification of subsequent owners.

Planning Director Schwartz stated that the Commission has several outstanding issues to consider including: indemnification, distance limitation and expert cost allocation from the Ordinance; and mature vs. maturing and property acquisition from the Administrative Regulations. Assistant City Attorney Coates stated that there was one additional item tabled regarding eligibility in Section 17.26.040(B). Following brief discussion, the Committee felt that this matter was previously discussed and a decision was made. The Planning Commission asked staff to review the minutes to verify whether or not this item was previously decided.

Discussion ensued concerning setting a distance limitation. Commissioner Cardenas commented that he liked the idea of setting a distance limitation and using the standard of 1,000 ft. as used in other parts of the Zoning Code. Commissioners Gray and Smith concurred. Chairman Chelf commented that he feels there are enough limitations in the ordinance currently that there is no need for a distance limitation. Further discussion ensued concerning the pros and cons of setting a distance limitation. Vice Chairman Gray commented that his concern is that without a distance limitation an up hill property owner could affect the trees on many of the downhill neighboring properties and result in a significant loss of trees. Chairman Chelf commented that there are enough safeguards in the ordinance, like allowing only view corridors and his concern with setting a distance limitation is that over a period of time, all views will be lost. Commissioner Kirkpatrick commented that his objective is to simplify the process and make it easier to apply. Following further discussion, the Planning Commission decided not to include a distance limitation.

Discussion ensued concerning the allocation of cost for expert opinions when requested by the Committee. Chairman Chelf commented that the ordinance currently allows the Committee to request expert opinions when they are necessary to aid the Committee in making a decision. He stated that as written currently, cost for such expert opinions is borne by the applicant unless the Committee goes request that the City Council allocate funds for such services. He stated that he feels that the Committee should have the discretion to allocate those expenses to both parties in situations where doing so is warranted. The other members of the Planning Commission concurred. Planning Director Schwartz stated that the change will be reflected in Section 17.26.050(C).

Discussion ensued concerning indemnification. Vice Chairman Gray commented that he feels that this is an important issue for the City and if the City is to continue with View Preservation, the City should not be put at risk for lawsuits for what should be private property disputes. He stated that he feels that indemnification is a good idea. Chairman Chelf commented that if the City were to require indemnification of one party, it puts a hardship on that party and suggested that maybe both parties should be required to indemnify the City. Assistant City Attorney Coates clarified what indemnification means stating that if the City were to be sued for making its decision, the City would look to the complainant for reimbursement of its legal expenses. She stated that it motivates the parties to be diligent, just as the City is diligent. Chairman Chelf commented that it only motivates one side because the other side is not required to indemnify the City. Assistant City Attorney Coates stated that the City could require both parties to indemnify the City but in her research, it is usually just one party,

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the complainant, that is responsible for indemnification. Discussion ensued concerning indemnification and the possibility of instituting a hold harmless provision. Assistant City Attorney Coates stated that another option would be to craft the Ordinance so that the parties are required to voluntarily comply and if they don't, the parties can sue each other in court using the decision rendered by the City. Further discussion ensued concerning indemnification and requiring both parties to indemnify the City.

Recognizing that there were members of the public wishing to address this issue, Chairman Chelf called for public comment.

Mr. Karpf addressed the Planning Commission stating that indemnification needs to be agreed to - it cannot be imposed on a person (ie: the tree owner) who did not voluntarily decide to participate in this process. He stated that Cities who have an indemnification requirement typically require it of the applicant.

Following further discussion, the Planning Commission concurred that the complainant should indemnify the City. Staff was directed to incorporate that change into the amended Ordinance.

Recognizing that the Planning Commission had completed its discussion with regard the proposed changes to the Ordinance, the Planning Commission began discussion related to the Measure B Interpretation. With regard to the matter regarding mature vs. maturing, the Planning Commission, decided to consider that matter after it receives the opinion from the arborist in the current case, which will be in September. With regard to acquisition of property, Assistant City Attorney Coates reviewed the options including how the State tax code views change of ownership. Discussion ensued concerning what the Ordinance should use as a definition for change of ownership. Recognizing that there was not concurrence on this matter, the Planning Commission decided to continue discussion of this matter to a future date.

Following discussion, the Planning Commission directed staff to prepare a Resolution recommending that the City Council adopt an Ordinance amending Chapter 17.26 relating to View Preservation as discussed for the Planning Commission's consideration at its next meeting scheduled for Tuesday, August 18, 2015 beginning at 6:30 p.m. The Planning Commission continued the discussion on the item related to the administrative regulations interpreting Measure B to the October meeting of the Planning Commission scheduled to be held on Tuesday, October 20, 2015 beginning at 6:30 p.m.

**MINUTES  
PLANNING COMMISSION MEETING 08/18/2015**

**PUBLIC HEARINGS ON ITEMS CONTINUED FROM PREVIOUS MEETING**

DISCUSSION AND RESOLUTION NO. 2015-20. A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROLLING HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING ROLLING HILLS MUNICIPAL CODE CHAPTER 17.26 RELATING TO VIEW PRESERVATION IN ZONING CASE NO. 881, ZONING CODE AMENDMENT NO. 2015-03. THE PROPOSED ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) 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.

Chairman Chelf introduced the item and asked for staff's comments. Planning Director Schwartz stated that this is a continued Public Hearing to consider a Resolution recommending that the City Council adopt an Ordinance amending the View Preservation Ordinance. She stated that the Planning Commission held several public meetings in addition to several public hearings at which the current Ordinance was reviewed and recommendations for change were made. She stated that this matter was before the Planning Commission upon a recommendation from the City Council's View Preservation Ad Hoc Committee after their review of the Ordinance. The Ad Hoc Committee asked the Planning Commission to review its recommendations and to address the issues that the Committee did not concur on. She stated that most of the changes are minor changes to clarify the language in the Ordinance and to be consistent with the provisions set forth in Measure B. She stated that there are a few additional items recommended for change including adding a provision that the complainant indemnify the City for legal expenses incurred should a lawsuit arise. She stated that there is one additional item for which the Committee has not yet come to concurrence regarding eligibility as proposed by adding a paragraph B to section 17.26.040.

Planning Director Schwartz further reviewed the proposed changes recommended in the Resolution which include allowing for cost sharing between the applicant and tree-owner when an expert opinion is required by the Committee; adding language to address environmental constraints; and allowing for cost sharing between the applicant and tree-owner for subsequent maintenance costs. She further commented that during its discussions, the Planning Commission was also considering administrative regulations interpreting Measure B, but that matter was tabled until the Committee receives the arborist report concerning mature vs. maturing in the case that is currently before the Committee. She stated that the Resolution is presented for the Planning Commission's consideration and once it is adopted, it will then go before the City Council for public hearing and consideration of adopting an Ordinance as recommended.

Chairman Chelf called for public comment.

Arvel Witte, 5 Quail Ridge Road South addressed the Planning Commission suggesting that the tree owner be required to pay the maintenance costs and that volunteer trees be kept under control.

The Planning Commission discussed the suggested language for adding as paragraph B in Section 17.26.040 regarding eligibility which states that a person shall not be precluded from filing an application for abatement of a view impairment on grounds that vegetation located on the

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complainant's property contributes to the 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. Discussion ensued with Vice Chairman Gray expressing concern that allowing this provision will make the process more complicated and difficult, especially for the tree-owner if applications are filed simultaneously. Assistant City Attorney Coates clarified that the language is added to simply provide clarification that views in multiple directions can be acquired. Following discussion, the Planning Commission concurred to include this provision in the Resolution.

Following further discussion, Commissioner Kirkpatrick moved that the Planning Commission adopt Resolution No. 2015-20 recommending that the City Council adopt an Ordinance amending Rolling Hills Municipal Code Chapter 17.26 relating to View Preservation including Section 17.26.040(B). Commissioner Cardenas seconded the motion, which carried without objection.

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**ITEMS FROM STAFF**

Discussion of Administrative Interpretation Regulations of Measure B regarding Views and Trees.

Chairman Chelf introduced the item and asked for staff's comments. Planning Director Schwartz reviewed the background and history of this discussion item. She stated that the Planning Commission previously discussed amendments to the View Ordinance and adopted a Resolution making changes to the Ordinance that will be reviewed and considered by the City Council in January. She further stated that the Planning Commission also previously discussed administrative regulations to interpret Measure B so that it can be applied consistently given that it cannot be changed except by a vote of people. She stated that discussion on that matter was continued in hopes that the Committee on Trees and Views would obtain useful information with regard to issue of mature vs. maturing during its deliberation on a previous view case. She stated that during the previous view case, the Committee on Trees and Views obtained four opinions with regard to that matter, but none provided a definitive answer. She stated that staff recommends that the Planning Commission review the four arborists reports included in the staff report, discuss the matter and choose a methodology to use in making the determination as to whether a tree is mature or maturing. She further explained that one methodology that seems widely accepted by the arborists in determining maturity is tree height and *Sunset Western Garden Book* provides height ranges for many trees which the Planning Commission may wish to use that as a reference. She further stated that the City Council ad hoc committee that previously discussed this matter and referred it to the Planning Commission, agreed that *Sunset Western Garden Book* was a good reference but could not agree on what percentage of the maximum potential height should be used in making the determination regarding maturity. She further reviewed the options for determining tree maturity before the Planning Commission as presented in the staff report.

Planning Director Schwartz stated that the other issue before the Planning Commission with regard to Measure B interpretation is what is considered acquisition of property for use in determining what view is protected.

Assistant City Attorney Coates reviewed the options before the Planning Commission with regard to property acquisition based on the previous discussion by the ad hoc committee as well as the Planning Commission. She stated that the goal of these administrative regulations interpreting Measure B with regard to both mature and acquisition is to create some level of certainty for complainants and those subject to complaints so they know what type of evidence needs to be presented. With respect to acquisition of property, she stated that there are three common types of transfers to consider: inheritance; sales to third properties; and trusts, both revocable and irrevocable. She further explained with regard to trusts, that Property Tax Law treats a revocable trust as though there is no acquisition but if a property is placed in an irrevocable trust, the transfer occurs thus there is an acquisition and staff recommends that the Planning Commission adopt that interpretation for trusts. She further stated that the Planning Commission will need to discuss inheritance and trusts to determine which type of transactions will be considered a change in ownership as well as the definition of mature vs. maturing.

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Chairman Chelf called for public comment.

Tina Greenberg, 32 Portuguese Bend Road addressed the Planning Commission stating that she feels it is being overanalyzed. She stated that the intent of mature trees was to indicate that the tree had already grown to its full species height. She further explained that the intent was to have the evidence be the determining factor as to whether a view existed or not and that she feels inheritance should be like if a car is inherited. It should be valued at today's value not the original value.

Marcia Schoettle, 24 Eastfield Drive addressed the Planning Commission concurring with Mrs. Greenberg and stating that she also feels Measure B is being overanalyzed.

Discussion ensued concerning the issue of change in ownership/acquisition of property. Chairman Chelf commented that he feels that the City should follow the County tax laws and interpret a transfer the way they do. Commissioner Cardenas expressed a similar sentiment but expressed concern that it could potentially be retroactive over multiple generations. Further discussion ensued considering the inheritance issue specifically. Chairman Chelf pointed out that a party seeking view restoration would still be bound by the other restrictions of Measure B which include requirement to provide proof that the view existed and only being eligible for view corridors. Vice Chairman Gray expressed concern that residents that had trees for many years could be forced to trim or remove them if inheritance doesn't qualify as a change in ownership. He further stated that he feels that the clock (for a view) should start again when a property is inherited. Commissioner Kirkpatrick commented that he feels using the tax code as a guideline for change in ownership makes sense. Commissioner Cardenas commented that there is no perfect answer but there should be a strict guideline and the County tax code makes sense. Commissioner Smith concurred. Following brief discussion the Planning Commission concurred that the guidelines set forth in the County tax should be used to make decisions with regard to acquisition of property, specifically regarding inheritance and trusts. Vice Chairman Gray noted for the record that he was not in favor of that recommendation.

Discussion ensued concerning the matter related to mature vs. maturing. Chairman Chelf commented that the term "mature" has caused a great deal of trouble in resolving the view cases since Measure B was adopted and it is very important to determine a concrete definition. He suggested using the maximum height as specified for the specific tree species in *Sunset Western Garden Book* as the standard to be applied to the Ordinance. Commissioner Cardenas commented that he agrees and doing so would set a specific, defensible guideline. He further commented regarding the definition of mature trees, that the arborist report from Kevin Eckert references the ISA "Glossary of Arboriculture Terms" which defines a mature tree relative to its "mature height," and he feels that such a definition should be incorporated into the guidelines. Commissioner Gray commented that he agrees, but feels that a caveat should be added that if during the period of a tree's life it has been altered for a view and may not have reach its full height, it should not be exempted from the ordinance as a mature tree. The Planning Commission concurred. Following further discussion, the Planning Commission concurred that the definition of mature for the purposes of the View Preservation Ordinance and Measure B is that a tree that has reached its mature height as defined as 100% of the maximum potential height as set forth in *Sunset Western Garden Book* per species and trees that show evidence of previous trimming should be exempt from qualifying as mature trees that would otherwise be exempt from restorative action. The Planning Commission also concurred that the definition of "mature height" from the ISA Glossary of Arboriculture terms should be incorporated into the guidelines for the interpretation of Measure B.

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Following further discussion, Commissioner Smith moved that the Planning Commission direct staff to finalize the Administrative Regulations as discussed and return the final draft to the Planning Commission for approval at its next meeting. Commissioner Kirkpatrick seconded the motion which carried without objection. Upon Planning Commission approval, the Administrative Regulations will be forwarded to the City Council for approval and implementation.

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