

AGENDA

CITY COUNCIL COMMUNITY PLANNING AND DESIGN COMMITTEE

DATE: Thursday, January 14, 2016

TIME: 7:00 P.M. to 9:00 P.M.

PLACE: Torrance City Hall
Council Chambers
3031 Torrance Boulevard, Torrance

COMMITTEE MEMBERS: Councilman Mike Griffiths, Chair
Councilwoman Heidi Ann Ashcraft
Councilman Tim Goodrich

STAFF: LeRoy J. Jackson, City Manager
Mary Giordano, Assistant City Manager
Aram Chaparyan, Assistant to the City Manager
Jeffery W. Gibson, Community Development Director
Linda Cessna, Deputy Community Development Director
Anna Fernandez, Planning Assistant

SUBJECT: View Impairment in the Hillside by Trees and Vegetation

- I. Welcome and Introductions **Chairman Mike Griffiths**
- II. Flag Salute **All**
- III. Committee Item—View Impairment by Trees and Vegetation **Linda Cessna**

Recommendation of the Community Development Director that the Community Planning and Design Committee provide direction regarding the potential adoption of an ordinance designed to preserve views in the hillside obscured by trees and vegetation as outlined in the staff report, including the following possibilities:

1. Inclusion of City-owned trees
2. Designation of specific trees/vegetation allowable in the Hillside
3. Identification of funding sources

- IV. Presentation by Riviera Homeowners Association
- V. Public Comments
- VI. Committee Questions/Discussion/Direction to Staff **Committee**

It is recommended that the Committee provide direction to staff to take one of the following actions:

- A. Return to the Committee with additional information;
- B. Return to the Committee with specific recommendations for implementation of a program; or
- C. Forward a recommendation from the Committee to the City Council for action.

- VII. Adjournment

Honorable Chair and Members of
The Torrance City Council
Community Planning and
Design Committee
City Hall,
Torrance, California

Members of the Committee:

Subject: View Impairment in the Hillside by Trees and Vegetation

RECOMMENDATION:

Recommendation of the Community Development Director that the Community Planning and Design Committee provide direction regarding the potential adoption of an ordinance designed to preserve views in the hillside obscured by trees and vegetation as outlined in the staff report, including the following possibilities:

1. Inclusion of City-owned trees
2. Designation of specific trees/vegetation allowable in the Hillside
3. Identification of funding sources

Potential Expenditure and Funding

\$217,360 for Planning Associate and Office Assistant
May be offset in part by fees paid by view seekers

BACKGROUND AND ANALYSIS

At the direction of Council, Community Development staff prepared an analysis and possible courses of action regarding view impairment due to trees and vegetation in the Hillside Overlay District. This was presented to Council on October 21, 2014, and as a result of that meeting staff was directed to set up a series of public outreach meetings working with the Homeowner Associations within in the Hillside Overlay District to hear resident input regarding the possibility of enacting and ordinance that would protect views from impairment by trees and vegetation. After outreach meetings, staff returned to Council on May 19, 2015 and was directed to bring the results of the outreach meetings and consideration of a view impairment ordinance to the Council Committee on Community Planning and Design.

Early 2015, Community Development Staff held a series of six public outreach meetings with residents of the Hillside Overlay District to get input regarding a possible ordinance addressing view impairment caused by trees and vegetation. Notices were sent to all registered property owners in the Hillside, and the Homeowners Associations with residents in the Hillside were asked to outreach to their members as well. Attendance at the meetings totaled approximately 375. A short survey was given to attendees at all but the

first meeting, asking if they were in support of an ordinance and asking for any comments. Of the 172 responses, 130 were in favor of an ordinance, 38 were not in favor and 4 were undecided. This survey was also included on the web page, and additional on-line responses include 18 in favor, 4 opposed and 3 undecided. A summary of results and comments is attached. (Attachment D)

At the meetings, there were several common themes, the most prominent being the need to include street trees and other City-owned trees in the ordinance. While the current procedure for trimming street trees which allows residents to request to trim City-owned trees at their expense was discussed, many felt that it was too cumbersome and too expensive. Other common themes included the need to look at trees being planted as properties are remodeled, with regulations regarding which trees are appropriate and defining maximum vegetation heights, as well as concerns with original versus acquired views and privacy issues. There were also questions as to whether such an ordinance would apply only to the Hillside or to the entire City.

Several residents referenced the Rolling Hills Estates ordinance (Attachment E) as something that they felt was workable and not too staff intensive, while others felt that even an ordinance that was more staff intensive would result in sufficient increases in property taxes to offset the increased costs of the ordinance. The need to have an arborist available or under contract to assist with assessing trees was also brought up in many of the meetings.

Several cities with either new or well-regarded ordinances dealing with view obstruction by trees (Rolling Hills Estates, Rancho Palos Verdes, Tiburon, Laguna Beach, Malibu and Santa Barbara) were contacted and asked about their experiences implementing and enforcing such an ordinance. This information has been tabulated in Attachment B. Of the six jurisdictions, four had fees ranging from \$278 for a view determination to \$5,106 for View Preservation. Neither Tiburon nor Santa Barbara had fees associated with their ordinance, however Santa Barbara did indicate that they had a member of Planning Staff dedicated to the ordinance.

The city of Tiburon, which previously had an ordinance similar to that of Rancho Palos Verdes, revised their ordinance in the early 1990's to give residents a right to a view, but places all responsibility for enforcing that right on the property owner. According to their staff, they have virtually no involvement whatsoever in the process, leaving it entirely in the hands of the affected property owner. On the other side of the spectrum, Rancho Palos Verdes and Laguna Beach have heavy staff involvement in the process, including Planning Commission and City Council hearings. In the middle are cities such as Rolling Hills Estates and Malibu with some staff involvement, but not nearly to the level of Rancho Palos Verdes.

The number of cases addressed annually range from 4 in Santa Barbara to 47 in Laguna Beach. The Laguna Beach ordinance is fairly recent, and, although they have approximately 8,500 single family residences as compared to almost 6,000 in the Hillside overlay in Torrance, they nonetheless seem to be a more likely comparison in terms of initial interest in making use of the provisions of an ordinance.

I. Basic Elements of an Ordinance

Process

Virtually all of the ordinances surveyed had a similar process for view restoration. Generally, the process begins with some form of documented contact between the "view seeker" and the "vegetation owner", referencing the ordinance and the remedy being sought. In some cases, cities assist in this, in others, the city provides the information to the view seeker, and they move forward on their own.

After initial contact, if no resolution is reached or if the vegetation owner does not respond, the next step is mediation, followed, if necessary, by arbitration.

Once these steps have been undertaken and documented, the process moves either directly to civil litigation or to hearings before the Planning Commission and/or City Council.

Most cities require the view seeker to bear any expenses incurred in this process, although some require the costs to be shared.

Definitions

An effective ordinance will have important terms clearly defined. A "protected view" will need to be clearly defined, as well the area from which that view is seen. While there are views in the Hillside that are considered protected in practice, there is no actual definition in the Torrance Municipal Code (TMC), nor is there any language defining the viewing area from which the protected view is seen. In addition, the time period during which the view is protected will need to be defined. Most jurisdictions use the more recent of the date the property was purchased or a stated number of years prior to the passage of the ordinance as defining the period of protection.

Criteria will need to be developed for determining elements that constitute an unreasonable obstruction of view as well as for the vegetation obstructing the view, such as privacy, aesthetics, and value to the surrounding neighborhood. Finally, a hierarchy of appropriate restoration actions will need to be developed to ensure that the actions taken provide the best result for the view seeker while protecting the rights of the vegetation owner. This is referred to in the Rolling Hills Estates ordinance as "View Equity", and it will be an important component of any ordinance undertaken for the City of Torrance.

Landscaping Requirements

A component the Committee may wish to add to an ordinance could either define what trees are appropriate for the Hillside Overlay in terms of height and general size or specify a maximum height for vegetation in the Hillside. This would require submission of landscape plans for remodels done in the Hillside, but would also provide for better on-going control of view obstruction by vegetation.

City-owned Trees

There is currently a process in place allowing for residents to request trimming of trees at their expense to enhance views, however, it requires the approval of the residents who are directly adjacent to the trees. There is no recourse if the resident refuses to approve trimming of the trees adjacent to their homes. A section could be added to a new ordinance that would allow a procedure for street trees similar to that which would be put in place for private trees, allowing for mediation, as well as applying the criteria defining views, view obstruction and restorative actions. Because this section would be applied to City-owned trees, if mediation between the residents was unproductive, determinations could be made by staff using the established criteria rather than moving on to arbitration.

Financial Responsibility

Most ordinances place the initial financial responsibility for view restoration on the view seeker, requiring them to cover the costs of the mediation and arbitration process as well as the cost of any view restoration actions. After the initial agreement and restoration, the cost of maintaining the vegetation generally falls on the vegetation owner, unless there is an agreement between the view seeker and the vegetation owner regarding the cost of maintenance. However, several residents were concerned that this could be a hardship for residents on fixed incomes who would either be unable to afford to keep up with the maintenance costs or who would be unable to pay the costs to restore a lost view.

II. Steps Necessary to Implement an Ordinance

Budget

If the City desires to move in the direction of an ordinance protecting views from obstruction by trees and vegetation, there are several steps that will need to be addressed. The first concern will be to find funding for implementation of the ordinance. Based on current staffing levels and workload as well as other programs being considered by the Council, it is anticipated that it will require at minimum one additional Associate Planner and one Administrative Assistant, and at least during the first year of implementation, possibly an additional Planning Assistant, as well. This is because the experience of other jurisdictions has shown that during the initial implementation period, there is high demand for the program. Even with limited staff involvement, there will still be need for staff to explain the process, assist with the appropriate paperwork and keep records of any agreements as they are made. In addition, if the ordinance includes restrictions on vegetation, a new level of plan checking will be required.

If City trees are included, it is also likely that additional staffing will be required in Public Works to deal with assessment of trees and views as well as the administrative aspect of contracting and scheduling trimming. Assuming that the ordinance is structured to place the cost burden of trimming on the view seeker, additional funding should not be necessary for the actual trimming of the trees, but there may be a need for a contract arborist to assist in assessing the trees and the best method of trimming, both for public and private trees. In addition, there has been some mention of trees in City Parks blocking views. Should Park trees be included in the ordinance, Community Services may require additional help as well.

A fee study will also be required once the process has been established in order to set appropriate fees. The study will need to assess the level of staff time and involvement required to implement and maintain the program and present the actual cost to the Council for their use in assessing appropriate fees for the View protection process.

Administrative Actions

Once the provisions of an ordinance are finalized, informational brochures will need to be prepared for the public, laying out the provisions of the ordinance and the steps to be taken in order to implement the process. These will need to include instructions as well as sample forms, and will need to be available both in print and online. Staff will need to be trained in the new process in order to provide assistance both on the phone and at the counter.

In addition, informational meetings should be held with the Hillside Homeowner Associations, providing all the pertinent information and explaining the process.

The biggest concern with roll-out of an ordinance is that there will be an overwhelming interest and staff will be unable to keep up with the demand. Depending on how the ordinance is structured, we may want to set a limit on how many applicants can be in process at any one time, and keep a waiting list to bring residents into the process as others move forward.

III. Next Steps

Should the Committee wish to recommend that the Council move forward with an ordinance regulating trees and vegetation for view, the first priority will be to identify funding, as current staffing levels will not be sufficient to implement a program of this magnitude, even with minimal staff involvement. This will need to take place as part of the mid-year budget process.

In the interim, staff can be directed to work on a View Equity ordinance that can be brought forward for further review and adoption at such time as funding has been identified to provide the services that will be required for implementation of such a program.

In crafting a View Equity Ordinance, the following questions will need to be addressed:

1. Is the Council comfortable with an ordinance similar to Rolling Hills Estates that provides limited staff support and sends disputes that cannot be resolved through the ordinance process to the Civil Court?
 - The amount of funding required to implement a view ordinance will be dependent on the level of staff involvement; should the Council wish to have view issues go through the Planning and Council appeal process, additional funding beyond what has already been identified will be required.
2. Does the Council wish to include City trees?
3. Does the Council wish to regulate the types and/or heights of trees and vegetation in the Hillside Overlay?

Should the Committee wish to move forward with a View Ordinance addressing trees and vegetation, staff recommends that the Committee provide a recommendation to the Council supporting the creation of a view ordinance, as well as identification of funding sources for a tree ordinance as part of the upcoming budget process.

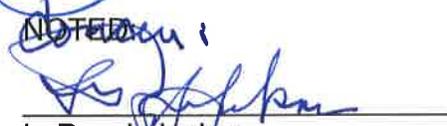
Respectfully Submitted,

JEFFERY W GIBSON
Community Development Director

By 
Linda Cessna
Deputy Community Development Director

CONCUR:


Jeffery W. Gibson
Community Development Director

NOTED:

LeRoy J. Jackson
City Manager

Attachments:

- A. Council Item Oct. 21, 2014
- B. Council Item May 19, 2015
- C. Survey of Jurisdictions with Tree/View ordinances
- D. Outreach Meeting Notes
- E. Survey Results
- F. Rolling Hills Estates View Ordinance
- G. Correspondence (including correspondence from October 21, 2014 Council item through present) Limited Distribution

Council Meeting of
October 21, 2014

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Community Development—Consider options for addressing potential view impairment from trees and vegetation in the Hillside Overlay District.

RECOMMENDATION

Recommendation of the Community Development Director that City Council consider options for addressing potential view impairment from trees and vegetation in the Hillside Overlay District and provide direction to staff on how to proceed.

EXECUTIVE SUMMARY

Staff was requested to present an analysis and recommendations regarding view impairment due to vegetation in the Riviera portion of the Hillside Overlay District. There are at least three options to be considered: maintain the status quo, private view easements, or a view ordinance. These options will be discussed in greater detail in the second section of the item.

The first section of the item is a broad overview of ordinances researched by staff including the following jurisdictions: Rancho Palos Verdes, Rolling Hills Estates, Tiburon, Malibu, and Laguna Beach, among others. These ordinances typically dealt with loss of view due to trees or vegetation on private property. Three main areas were noted: Scope of Ordinance, including definitions of terms; Process for View Restoration; and Potential Cost of Implementation.

The second section is an analysis of the various ordinances and their applicability to the City, a discussion of areas that will need to be defined as well as potential recommendations.

The final section will include a discussion of potential outreach methods to gauge public concerns regarding the issues inherent in the consideration or adoption of any kind of regulation of trees and vegetation.

BACKGROUND AND ANALYSIS

Overview of ordinances dealing with view impairment due to vegetation

Scope of Ordinance

Ordinances addressing view obstruction from trees or vegetation have two major areas that need to be defined. The first is the actual view that is protected and the second is the period of time when the protection begins. Other areas also require definition, such as the responsibilities of the parties involved, including the "view seekers", "vegetation owners" and the City.

Description and definition of the protected view in most ordinances includes two major components: what is included in the definition of a protected view and the area from which that view is seen. Some view definitions include enumeration of specific views available in the area, such as ocean, islands, mountains, or other natural areas as well as man-made points of interest such as city lights or bridges. Some jurisdictions specifically protect long distance views as opposed to short distance views, and some specify a maximum distance from the view seekers property that can be considered as obstructing a view. This can range from a distance of 500 feet to a distance of 1,000 feet in various jurisdictions.

View ordinances generally restrict the view protection to one or at most two major viewing areas, such as living, family or dining rooms, areas with picture windows or glass doors or common exterior areas such as patios, balconies or gazebos designed to take advantage of an available view. In addition, they take into consideration how the view is commonly visible, whether standing or sitting. In some cases, ordinances protect what they call the best or most important view.

The period of protection generally includes views available at the time the current property owner took possession of the property or some period of time prior to the adoption of a view protection ordinance. This period typically ranges from 10 to 15 years. In the case of Rancho Palos Verdes, there are two kinds of view preservation; view preservation as described above and view restoration, which attempts to restore the view that existed at the time the property was subdivided into a separate lot and developed.

View Preservation Process

Most jurisdictions with view preservation ordinances have a similar set of procedures for the process. The main difference lies in the amount of staff involvement in that process, and that varies from a virtual "hands off" on the part of some jurisdictions to extensive staff involvement throughout the process in others. In addition, those jurisdictions with moderate to no staff involvement tend to keep the process separate and apart from the decision making bodies, with any involvement strictly at a staff level.

Generally, the process begins with some form of contact between the "view seeker" and the "vegetation owner". The contact must be documented and must reference the ordinance and the remedy being sought. In some cases, cities assist in this. In others, the city provides the information to the view seeker, such as property owner information, and the view seeker proceeds on their own.

After initial contact, if no resolution is reached or if the vegetation owner does not respond, the next step is mediation. Again, the view seeker must contact the vegetation owner and attempt to set up mediation sessions. Some cities assist in setting up the mediation sessions and provide a meeting place, while others place the onus on the view seeker to arrange mediation. Most cities require the view seeker to pay for the mediation, although some require that the costs be shared and one city pays for the mediation process.

Should mediation fail, the next step is binding arbitration, which follows in much the same vein as mediation. After arbitration, or if the vegetation owner declines to participate in the process, some ordinances move directly to civil litigation by the view seeker against the vegetation owner, with the process having established a trail that can be used in the litigation. Other jurisdictions allow for the view seeker to request an advisory opinion from Planning staff regarding the view obstruction claim, which can then be admissible in civil litigation. Still others allow the matter to be heard by Planning Commission or a View Preservation Board and then appealed to City Council, with the City taking action to trim the offending foliage should the vegetation owner not comply with the decision.

Costs of Implementing a View Obstruction Ordinance

The fees charged by cities with view preservation ordinances range from no fee to \$800 to \$5,500 for a view restoration permit in Rancho Palos Verdes. Rancho Palos Verdes reported taking in \$72,000 last year, but have \$300,000 budgeted for the program. Laguna recently adopted an ordinance and their annual cost was projected to be over \$300,000. Both these jurisdictions have programs with heavy City involvement, including paying for mediation, staff involvement through all phases of the process, Commission and Council hearings and enforcement of the permit should the vegetation owner not comply. Rolling Hills Estates has a more moderate involvement and charges \$800 for their view preservation permit. Their staff assists in notification by certified mail for all phases of the process. Should the process move to mediation, an additional minimum deposit of \$1,000 is charged to cover costs of review by the City's certified arborist as well as other costs of the mediation process.

All jurisdictions agree that initially after passage of a view preservation ordinance, there is heavy demand for the program, but after the first few years, demand slows down. Generally, after the program has been in existence for several years, the largest demand is for maintenance of views that have already been established through the process.

Considerations for Torrance

There are a number of possibilities in looking at the issue of view impairment due to vegetation in the City. The first possibility is keeping the status quo and encouraging neighbors to work together to resolve their issues. In the case of "spite trees" that block views there is already existing legislation that protects homeowners and allows legal action should the parties not be able to arrive at a resolution. The existing Hillside Overlay District purposely excluded vegetation from the ordinance and focused specifically on structures requiring a Building Permit.

A second option could be view easements between neighbors. This would allow a view seeker to compensate a homeowner for the right to a view corridor and would run with the property. Such an arrangement would be between private parties and would include little if any City involvement. It may be possible for the City to create a "boilerplate" easement form that could be used by residents to lessen the potential legal drafting costs to reach such a private agreement and the City could assist in providing guidance on the recordation process with the Los Angeles County Recorder's office. Should the City Attorney determine that such a "boilerplate" could be created, this information can be provided on the City website and made available for download and modification per the specific circumstances that might be involved.

The third option would be to consider an ordinance regulating view impairment by vegetation in the Hillside Overlay District. This would be a major undertaking. In order to consider such an ordinance, the first step would need to include public outreach to all the effected Homeowners Associations, as well as outreach for those in the overlay zone who are not in an HOA. In addition, there would need to be meetings in neutral settings that would allow those not comfortable with such an ordinance a place to air their concerns. A random sample phone survey would also be an excellent method of assessing community tolerance for such an ordinance and the parameters that would be deemed appropriate for such an undertaking.

It would be important to consider all aspects of a vegetation ordinance, including the contents of the ordinance and the potential effects it will have on the community as well as the operating costs due to the increased dedication of staff time. In the case of an ordinance regulating the height of trees and vegetation on private property in order to protect or preserve views of value to homeowners, it must also be remembered that the vegetation often has real value as well. It may protect privacy, provide natural insulation thus lessening costs for heating and cooling and add esthetic value to the owner's property. In many cases, trees and vegetation that block the view of homeowners may at the same time be highly prized and provide great value to the appearance of the street or neighborhood in which they grow. One example is in the Seaside Ranchos neighborhood, portions of which are located within the Hillside overlay District. Removal of private trees in this area would detract from the unique character of the neighborhood. It will be important to take these competing interests into account when formulating an ordinance to ensure that the ambience of one neighborhood or residence is not destroyed or damaged in order to enhance another.

Several of the ordinances have criteria for assessing the competing interests in retaining view and the benefits provided by vegetation. This will be an important component in ensuring what Rolling Hills calls "view equity".

Definitions

While there will be a number of definitions required for an ordinance, the first and most critical priority will be to define exactly what is being protected. Much of the difficulty in enforcing ordinances dealing with subjective issues such as views arise from the lack of a codified definition of exactly what a view is and from where a protected view may be seen. Many of the ordinances cite various specific "views" available in their jurisdiction. The Malibu ordinance seems to have a thorough approach to defining the various considerations in a view including not only a definition of the view itself, but a more precise definition of the main viewing area from which the view is seen as well as a definition for a "primary view corridor".

In Torrance, the practice in interpreting the Hillside Overlay District ordinance has been to look at four different classes of views: water, white water, city lights and pastoral, which would include mountains and other natural features. Codifying a definition of the classes of eligible views would be the first step in establishing a tree ordinance. Neither the Torrance Municipal Code (TMC) nor practice has established a specific definition of the "main viewing area", but this would seem to be the logical next step. Malibu defines a main viewing area as the primary living area of a structure located on the first habitable floor of the structure. The definition specifically excludes bedrooms, offices, bathrooms and other ancillary spaces while allowing living rooms, family rooms, dining room, kitchen or combination thereof as well as outdoor deck or patio areas. Once a main viewing area is established, the Malibu ordinance goes on to define a "primary view corridor", which is a 180 degree view assessed from a single fixed location in the main viewing area. Rolling Hills Estates adds to their view definition that it does not mean "an unobstructed panorama" of the features, as well as a limit for the view obstruction of no more than 500 feet from the main viewing area. In addition, most ordinances define the view as that which was existing at the time the current owner purchased the property or a date based on the adoption of an ordinance, whichever came later.

Process

As previously discussed, the procedures in the initial stages in the view restoration process are very similar across jurisdictions. Initial contact, mediation followed by arbitration, all carefully documented in a manner prescribed in the ordinance are required of the view seeker by the vast majority of such ordinances.. There are varying degrees of staff involvement even in these stages, but for the overall process, the Rolling Hills Estates ordinance seems to be most workable in limiting the demand for increased overhead , as the actions must be taken by the view seeker: they contact the vegetation owner, arrange mediation and arbitration and they take their case to court should the process not culminate in a satisfactory result. Neither the Planning Commission nor the City Council become involved. Given the amount of time required for controversial Hillside cases, which can range from three months to as long as a

year, with numerous site visits, discussions, meetings and written material for presentation to Planning Commission or Council, using a model that brings tree issues to Commission or Council for adjudication would require additional staffing and is not recommended.

Appropriate Restoration Actions

Any ordinance will need to address both considerations of methods for removal of vegetation and how to assess what vegetation should be removed. The Rolling Hills Estates ordinance has sections addressing criteria for unreasonable obstruction, for determining appropriate preservation action and a hierarchy of preservation actions that keeps in mind both the view being preserved and the health of the vegetation being removed. Various methods of pruning and other types of vegetation removal are defined in the ordinance and then rated in terms of most to least appropriate. In some cases, cities have arborists on staff, while others may contract with arborists who can make assessments of the existing vegetation and the best solution for opening a view corridor while maintaining the health and benefits of the vegetation in question.

Responsibility

The majority of ordinances regulating view impairment by vegetation place the initial financial responsibility for the process on the party seeking the view. This would include mediation, arbitration and cost of vegetation removal. As the City contracts with a mediation service, it is possible that the mediation portion of the process could be handled by the contracted service. The cost to the City is minimal and would be a way to defray some of the expense to the view seeker. Cost of maintenance generally falls on the vegetation owner. Should the process move to Court for adjudication, the costs would be apportioned by the judge.

Staff involvement

Implementation of an ordinance dealing with view impairment by vegetation will be a major task for staff, the level of staff involvement included in the ordinance notwithstanding. If an ordinance is adopted, staff will need to prepare informational materials as well as any procedural forms that may be required both in hard copy and for the City website. Initially we would anticipate heavy public inquiry as to the process and procedures which would require staff to be available to answer questions and provide guidance. In addition, should an ordinance be adopted, the question would arise as to how current applications for development in the Hillside Overlay District should be handled with regards to vegetation. The City does not currently require any landscaping plans for single-family remodels or new construction. If a vegetation ordinance is pursued, it might be prudent to do so if property owners run the risk of having to remove vegetation that impairs neighboring views. This would also require additional staff time and greater expertise in regards to landscaping and additional costs to remodelers in preparing formal landscape plans for the approval process.

In terms of the actual ordinance, if that is the path the council chooses, a model similar to Rolling Hills which limits staff and City involvement to a minimum would be preferable. Should the City become involved in holding hearings and actually enforcing

such an ordinance, the anticipated demands on staff time would be far greater than could be met at current staffing levels and allocated budgets.

Community Outreach Prior to Crafting an Ordinance

Outreach to all areas included in the Hillside Overlay District will be crucial prior to making a decision as to whether the City will maintain status quo, encourage view easements or attempt to craft an ordinance to ensure that all points of view are heard and understood. Staff would recommend meetings with all the active Homeowner Associations (HOA) in the Hillside Overlay District, as well as at least one general meeting to ensure that those homeowners in the Hillside Overlay District not in an HOA have an opportunity to be heard. Based on feedback heard at community meetings held in 1996 regarding trees in the hillside area, while there are strong opinions in favor of preserving views, there are equally strong opinions in favor of preserving trees and vegetation in neighborhoods, thus we would anticipate a wide range of opinions on how to approach this issue.

Staff had investigated the cost of doing a statistically valid survey regarding a vegetation ordinance and found that a 10 minute survey of a random sample of 500 homeowners would cost just under \$30,000. Such a survey could provide valuable information in terms of the tolerance residents may have for vegetation removal, the proposed process and other key components of such an ordinance that may not come out in public forums and would provide a firm basis for whatever actions are taken as a result.

If, ultimately, the City wishes to examine the feasibility of a vegetation ordinance finding a test case to assess the real impacts of the process in terms of time and cost both at a staff level and for the residents involved would be a possible first step.

Recommendation

The following are possible next steps for Council to consider:

- Begin the outreach process by scheduling meetings with HOAs as well as setting up at least one general meeting to be held in a central location and explore the possibility of a phone survey. Feedback from the public meetings and survey, if done, will then be used to draft recommendations for further action and brought back to the Planning Commission and the Council to determine definitions and standards for protected views, extent of City involvement, budgetary considerations and appropriate fees; or,
- Incorporate vegetation matters into the existing Mediation Services offered by the City and proceed with drafting a view easement language and develop instructions on the recordation process with the Los Angeles County Recorder's office; or
- Receive and File the information.

The Community Development Director recommends that as a first step Council direct staff to begin the outreach process by scheduling meetings with HOAs as well as at least one general meeting, explore the possibility of a phone survey and bring findings and results back to the Council to determine further action. Due to the proximity of the holidays, staff would begin preparation and scheduling now with the meetings to begin in January. Depending on the availability of the various HOAs, a return to Council would be anticipated for March or April of 2015.

Respectfully Submitted,

JEFFERY W GIBSON
COMMUNITY DEVELOPMENT DIRECTOR

By 
Linda Cessna
Community Development Deputy Director

CONCUR:


Jeffery W. Gibson
Community Development Director

NOTED:

fn 
LeRoy J. Jackson
City Manager

Council Meeting of
May 19, 2015

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Community Development – Consider referring view obstruction by trees and vegetation in the Hillside Overlay District to City Council Subcommittee.

RECOMMENDATION

Recommendation of the Community Development Director that City Council refer the matter of view obstruction by trees and vegetation in the Hillside Overlay District to the Council Community Planning and Design Committee for further action.

BACKGROUND AND ANALYSIS

Community Development staff has completed a series of six community outreach meetings regarding a potential ordinance to address the issue of view obstruction by trees and vegetation in the Hillside Overlay District. To gain the widest possible participation, notices were sent to all property owners in the overlay, a display ad was placed in the Daily Breeze, Homeowner Associations were notified and asked to share the information with their members and the meetings were announced under orals at Council Meetings. In addition, a list of e-mail addresses was gathered at each of the meetings, and e-mail notifications sent out to the list prior to each subsequent meeting. The e-mail list currently contains about 290 addresses and will be used to notify residents of any actions or meetings that will take place regarding this issue. Staff is also working on a web page that will act as a repository for information on the subject as well as providing notice of upcoming meetings.

At the Community meetings, the majority of residents felt that an ordinance was necessary and the blockage of their views by trees was an important issue, affecting not only quality of life but property values as well. There was much concern expressed about the problem of City or street trees blocking views, and each meeting there were a number of residents who said that in order to be effective, the ordinance would have to include street trees as well as trees on private property. Although they were in the minority, as the meetings progressed, those who were not in favor of an ordinance and who felt that trees added value just as do views began to speak up. Some were concerned about environmental impacts of trimming or cutting trees, while others were concerned about loss of privacy.

Having completed this first phase of community outreach, we now need to bring the information forward to decide on the next steps. Options include bringing information forward for consideration to:

- The Council Sub-committee on Community Planning and Design,
- A new, Ad Hoc Council committee formed to review this subject, or
- The Planning Commission

Staff recommends that the matter be referred to the Council sub-committee for Community Planning and Design. Once direction is received as to what body will hear the next steps, a meeting will be scheduled with that body to examine data gathered so far and discuss parameters for a potential ordinance.

Respectfully Submitted,

JEFFERY W. GIBSON
COMMUNITY DEVELOPMENT DIRECTOR

By 
Linda Cessna
Deputy Community Development Director

CONCUR:


Jeffery W. Gibson
Community Development Director


LeRoy J. Jackson
City Manager

View Restoration Ordinances Research										
Municipality	Land Covered by Ordinance (residential properties)	Budget	Fees Collected	Dedicated Staff or Department	Arborists (on staff or contracted)	Other Consultants	City Attorney	Matters addressed Annually		
Rancho Palos Verdes	100%	\$297,642	<ul style="list-style-type: none"> View Preservation \$5,106 City Tree Review \$688 	Senior & Assoc. Planner	YES - Contracted	Mediator - \$40,000	YES	16		
Rolling Hills Estates	75%	NONE	<ul style="list-style-type: none"> View Preservation \$800 Arborist Deposit \$1,000 	NO	YES - Contracted	NO	YES	5		
Malibu	100%	NONE	<ul style="list-style-type: none"> View Determination \$278 View Preservation (public hearing) \$2,250 View Preservation (admin) \$587 	Planning	NO	NO	YES	20		
Laguna Beach	100%	\$175,000	<ul style="list-style-type: none"> View Preservation \$690 View Restoration (Mediation) \$500 View Restoration (Hearing) \$690 	Assoc. Planner	YES - Contracted	Mediator	YES	47		
Tiburon	100%	NONE	\$0	Planning	NO	NO	NO	24		
Santa Barbara	100%	NONE	\$0	Senior Planner	NO	NO	YES	4		

View Blockage by Trees and Vegetation

A series of informational meetings have been held for members of the community residing in the Hillside Overlay Zone. Notification was sent by mail to every registered property owner in the Hillside Overlay Zone, a mailing of just under 6,000. These notices listed all six outreach meetings. The meetings were also announced at the Council meeting prior to the meeting. At each meeting, the Power Point "Potential Strategies for addressing View Impairment from Trees and Vegetation" was presented, after which feedback was received from attendees. A synopsis of comments from these meetings follows:

February 11, 2015, Riviera Homeowners Association Meeting

This was the first of the Community outreach meetings and over 100 residents were in attendance. The HOA presented before and after photos showing views that had been lost to vegetation or tree growth, after which City staff presented the Power Point and took questions and comments. Feedback included a number of questions and comments regarding City Trees, property values and the overall process of a potential ordinance. Comments included:

- How are "spite trees" defined and what is involved in civil litigation?
- Will City trees be included? Private property owners should not be required to cut trees if City does not. Tree trimming schedule is not sufficient, but budget to implement trimming of City trees is going to be staggering.
- There was discussion of the current process for trimming City trees outside of the scheduled trimming, but it was felt to be cumbersome and expensive.
- Stated that Rolling Hills sends out their Planning Director to look at the view impairment, makes a judgment and the issue is generally resolved at that point.
- Suggested that volunteers could go out and take pictures of view impairments.
- Felt that having an ordinance gave weight to discussions and would encourage cooperation.
- Concern was expressed about preserving "old growth" trees
- Questions were asked about determining whether a tree is privately owned or a City tree
- One resident felt that we needed something more like RPV ordinance with greater staff involvement because we are a bigger city. Also felt that definitions were dangerous and that more discretion was needed rather than strict definitions.
- Felt that the regulations and process for building height should be applied to trees and vegetation
- Coastal Commission has regulations for trees- can't be higher than the highest point of the home.
- Health of trees needs to be taken into account
- Consideration needs to be given to elderly residents who would not be able to afford the cost of tree trimming
- Perhaps the City could utilize "Survey Monkey"
- How much does a view impact property value? As much as 20- 50%. View restoration will result in higher property values and more property tax dollars for the City

- Families have to go through a rigorous process to retain views for additions, but then others can block views with trees
- No one wants to get rid of trees, but can't have a huge tree to the detriment of others
- Riviera residents worked hard to get this issue raised and considered. The only model we will get is a low cost model. We are only a small part of the City and need to be reasonable in what we are asking for
- The majority of attendees at the meeting indicated support for a view preservation ordinance

February 19, 2015, General Meeting at Torrance Airport

The second meeting was sponsored by the City and approximately 80 people were in attendance. Staff formulated a very brief survey asking if residents to indicate whether or not they were in favor of some type of vegetation ordinance in the Hillside Overlay Zone, with an area for any comments they would like to make. The survey was designed to create a "safe space" for those who were not in favor of an ordinance to express their feelings, as some residents expressed discomfort talking against such an ordinance when the majority seemed to be strongly in favor. At this meeting 62 residents filled out surveys, with 43 in favor of an ordinance and 19 against.

The same Power Point was presented, with questions and comments following. Again there was a great deal of interest in whether City trees would be included, with the consensus being that City trees needed to be part of the process. There was also discussion of acquired versus existing views, and how those issues would be addressed. Comments included:

- What things are considered when defining "spite trees"?
- City must consider benefits that trees provide such as improving air quality, providing shade and a home for birds
- Must look at both view and privacy and develop a process for competing interests
- Can this issue be considered as an initiative and put on the ballot?
- Why is this being considered only for the Hillside and not for the entire City?
- Does and acquired view have less weight than an existing or original view? How will views gained as a result of remodel be considered?
- Will the City be responsible for trimming city-owned trees, or will the City be exempt?
- Concern was expressed over trees in parks as well as street trees, specifically those in DePortola Park
- There should be something to ensure that poisonous spite trees such as oleander cannot be planted and fines should be implemented if they are
- Questions were asked regarding the direction the City is heading with these meetings, how long the process would take and whether the public would be able to review any draft ordinance
- How do/can residents learn about Hillside regulations and restrictions?
- There should be geological concerns if trees/vegetation are removed from a hillside area weakening the soil underneath and potentially causing landslides
- One resident stated that there is an existing tree ordinance created in 1998 in the Riviera, but it needs to be enforced. Property rights need to be respected, and those who vandalize trees should be punished

- The City needs to look at public trees on city properties and parks
- Concerns were expressed about the potential cost of trimming trees, how that cost would be apportioned and what would happen with those on fixed incomes who could not afford to trim or maintain vegetation
- The size and shape of a tree as seen from one home can be different than what is seen from another home. Trimming may solve one problem but cause another
- Does the City have an arborist? Who will look at trees and determine how they can be trimmed without causing damage or killing the tree?
- Are there or will there be height limits for trees?
- Perhaps if residents could have higher fences, they may not need to have trees
- Trees and landscaping add as much if not more value to a home than a view
- One resident had three points he felt were important: tree ordinance will help reduce the amount of complaints; California Coastal Law Section 841.4 is already on the books but the City does not enforce; and, mediation does not work since not everyone will participate
- Downhill residents with trees need to have their privacy considered and protected, The view of trees is prized, a beautifully landscaped yard is good for the environment as well as residents well-being. There needs to be compromise
- The City should research and act on enforcing all existing civil codes and encourage dispute resolution to solve the problem for the few and not hurt the many who are not affected by this
- Trees provide shade and help with air pollution; we should not be getting rid of any trees
- A neighbor was allowed to build a new deck that took away privacy. When bamboo was planted to regain privacy, the neighbor complained about it.
- Tree ordinance will help keep peace in neighborhoods
- The City should be more careful in deciding which trees can be planted in hillside areas

February 23, 2015, General Meeting at Katy Geissert Library

This was the third outreach meeting and approximately 30 people were in attendance. The survey was filled out by 17 residents, with 14 in favor and 3 opposed to a vegetation ordinance. As with previous meetings, there was concern that City trees needed to be included in any ordinance. Comments from the meeting included:

- Residents outside the Hillside Overlay should not be involved in this
- Will City trees be included?
- Will a view seeker have to pay for trimming of City trees? And would an ordinance place restrictions on height of city and park trees?
- If the City decides to adopt an ordinance, the City needs to follow the same rules
- The City should not pay for trimming or removal of private trees
- There should be an arborist on contract to be called out and paid for by fees charged to the view seeker
- Resident noted that a group of neighbors got together to have 15-20 City trees trimmed following all the City protocols to have it legally done
- By doing nothing the City is doing something

- The view seekers should not have all the responsibility and bear the cost. Tree growers have a head start and can “blackmail” view seekers
- Rolling Hills Estates has a “View Equity” ordinance that looks at what is an unreasonable obstruction versus a reasonable obstruction and tries to balance the interests of view seekers and vegetation owners
- Guidelines rather than hard laws might be better, with an arborist only giving opinions on trees and approving actions to be sure that the health of the tree is considered
- A lot of trees would be fine if they were just thinned out
- Some of the City trees cause damage to plumbing and sidewalks
- Resident stated that he can see both sides as a person with tall trees and a view seeker. Wants to know what the timeline for compliance will be, will there be fines and when will it take effect
- Is there a possibility that there will be no ordinance?
- Believe that there is a legal right to a view and restoration should be compulsory
- Sounds like the City wants to empower the residents to deal with it and facilitate but not enforce
- It would be great to have guidelines for working out a legal view easement
- There should be height limits for trees. They should be no higher than the house or roof height
- With different topographies taller may be a problem for one resident while shorter obstructs view for another. It is better to have subjectivity
- Edison power poles have been replaced with taller poles that are now obstructing views
- Need to define right to a view versus right to privacy
- Believes that we need an ordinance similar to RHE
- Any new ordinance should stand alone and not an “add-on” to the Hillside ordinance
- Landscape plans should be part of Hillside approval process

March 2, 2015 General Meeting at Torrance Airport

Approximately 45 residents attended this meeting and 23 completed the survey. Of the completed surveys, 23 were in favor of an ordinance, 2 were opposed and 2 were undecided. As with other meetings, street trees were a concern. Comments from this meeting included:

- How does the ordinance apply to City trees?
- Rolling Hills Estates ordinance is a good model
- Street tree roots cause sewer problems
- Seems to be a reluctance on the part of Council to take action
- Property taxes will increase as views are restored
- Interested in data from other cities regarding resolution of issue through process versus taking the issue to court
- Riviera trees give the area character, add aesthetic value
- Topping trees is not a good idea
- Property owner bears the cost for maintenance of trees and landscape
- What about trees that don't interfere with a view but are unsafe?
- Need to look at pre-existing conditions—right of privacy versus view

- How do you establish what the view consists of?
- There is bias in mediation, and it will encourage people to grow trees to profit off the process
- Perhaps there should be a silhouette process for trees as there is for additions
- Need for an ordinance to resolve neighbor disputes with penalties and citations
- Why can't trees be regulated like additions and construction?
- Should have an ordinance that applies to new vegetation
- Need a tree height limitation
- Need a way to address old growth and existing trees
- Ordinance needs to be clear and not convoluted

March 16, 2015 Hillside Homeowners Association, Alta Loma Park

This meeting was sponsored by the Hillside HOA. There were approximately 50 residents in attendance and survey results included 7 responses in favor of an ordinance, 9 opposed and one who favored only if City trees were part of the ordinance. As with previous meetings, City owned trees were a concern and several residents mentioned surveying residents for interest. Comments included:

- When is a view established?
- What is the process for getting a City tree trimmed, and why do residents have to pay for trimming?
- Residents are tired of the City writing ordinances that don't apply to them (the City) and that the City doesn't have to pay for
- The City puts trees in our parkway without asking if we want them and then the resident has to pay for trimming it?
- Has any consideration been given to the loss of value due to trees being removed? Bought the house in part for the large tree and shade
- Will there be a third party who will come in, assess the situation, and give an opinion that will be admissible in court?
- How would you deal with views obstructed by multiple houses and multiple trees?
- How will the ordinance look at acquired view versus original view?
- Is privacy and loss of privacy more or less important than view?
- Ordinance has the potential to spiral out of control. There are already multiple issues with views through other properties
- How will the City ensure that photo-shopped or fraudulent photos aren't used to gain a view?
- Will the ordinance apply to overlay or all of City?
- How would view easements work?
- Suggested sending a survey to residents
- Is the City looking at revisiting the Hillside ordinance?
- The cost of reduced property value for tree loss is much less than loss due to view impairment
- Trimming trees, especially topping them can cause death of tree. Pines are especially susceptible
- Will this be put to a vote of the City?

- Resident bought house with intention of building a second story but was denied due to an acquired view. Doesn't think this law will stand up in court. Privacy is a constitutional right
- Should have a survey to see what is being affected
- Ownership of views is a grey area. Really need to look at original versus acquired views
- With acquired view, younger generation is penalized
- How many people are in the Overlay? How do we explain to the rest of the people in Torrance that they need to pay for this? Wouldn't pass
- People need to be considerate
- Rolling Hills Estate View Equity Ordinance stood up in Court and is cost neutral
- What is the difference between where we are now and where we will be if an ordinance is passed? It will increase costs for additions in the Hillside, and possible lead to silhouetting of trees
- What view will be considered? From the yard or the house? Living room, patio, den?
- Hillside lots are small. Planted a tree for privacy and if this passes will have no rights to protect that privacy
- Are there case studies as to whether view trumpsw privacy or privacy trumps view?
- Ordinance needs to be written strictly with regards to permit requirements
- Where does the City take accountability? Just in steeing the rules?
- Concerned that this will be rammed through whether residents want it or not
- What happens to a view agreement when a property changes hands?
- Has the City looked at unintended consewquences of this type of regulation?
- Send a postcard to everyone in the overlay and let them mark "yes" or "no" and bring it back to City Hall.
- Was there any discussion of only including the Riviera HOA in this since they are the ones who seem to want it? Can we be left out of it?
- Can pocket areas in the Hillside but not in the overlay zone be included?
- It's not fair to make this ordinance that only affects a small section of the City
- Is it possible to strengthen spite tree legislation and use that?

March 31, 2015, Katy Geissert Library Meeting Room

Approximately 70 residents attended this meeting and 49 completed the survey. Of those, 43 were in favor of an ordinance, 5 were not in favor and 1 was undecided. As in previous meetings, City owned trees were a major concern, and there was discussion regarding the cost of an ordinance, with the consensus seeming to be that even if it cost as much as Laguna Beach estimates of \$360,000 per year, the return in property tax due to increased home values would more than make up for it. Comments included:

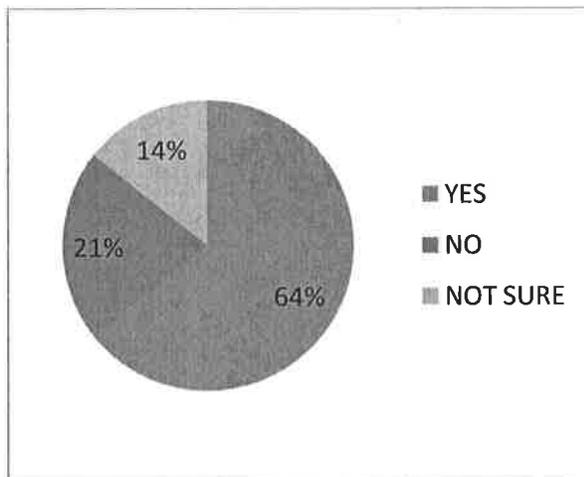
- The \$360,00 cost is for heavier staff involvement, but the trade off with revenue lost to the City due to decreased property values would counterbalance even that amount
- Biggest problems are the City trees.
- Can we have the City trees removed?
- Trees around the water tanks need to be trimmed more often

- Decisions should be weighted towards the families who have owned their properties the longest as opposed to families who just bought
- Maximum roof height should be maximum tree height
- How do you balance privacy versus view? Don't want neighbors to be able to look into their yard.
- Would view easements be part of the ordinance?
- Is there a heritage tree rule?
- The cost of \$360,000 would be much less than the cost of lost property values. Values would be in the millions for lost views
- Will there be examples of other City's ordinances when the web page is up?
- 10 years before the passage of the ordinance is not enough time. Should be at least 20 years to establish view.
- There are many benefits to having trees, benefits to the environment and the air quality. There needs to be compromise and a consideration of the health of the community
- There has been discussion of this issue since at least the 1980s
- The first minutes of the Riviera HOA in the 1950s talks about a tree ordinance
- Doesn't think the person who lost their view should have to pay to get it restored. Person with trees should have to pay for trimming and maintenance
- Can you ask that City trees not be replaced when they are removed?
- There are places in the Hillside that trees can be planted and not affect views. Plant there and not in areas where they can block views.
- It's very important to have a good relationship with your neighbors—then these issues can be worked out
- Park trees are a problem as well as street trees.
- School trees, as well
- Will original view versus acquired view be considered?
- Landscaping plans should be submitted with remodels or new construction

Online Survey Responses and Suggestions

Online View Ordinance Survey Responses

YES	18	64%
NO	6	21%
NOT SURE	4	14%
TOTAL SURVEYS RECEIVED	28	100%



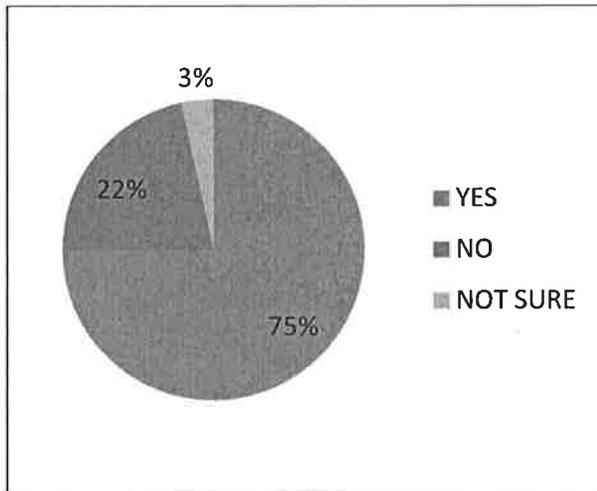
Online Survey Suggestions

- Model after Rolling Hills (not listed as to Rolling Hills Estates or City of Rolling Hills)
- Aggrieved party should share cost of trimming tree equally with vegetation owner
- Establish voluntary tax to be used for city tree maintenance
- Enforce height of trees in accordance with rooftop height
- Include city trees with private trees

Outreach Meeting Survey Responses and Suggestions

Outreach Meeting Survey Responses

YES	131	75%
NO	38	22%
NOT SURE	6	3%
TOTAL SURVEYS RECEIVED	175	100%



Outreach Meeting Survey Suggestions

- Ordinance should cover entire city
- Limit height to rooflines
- Balance Ordinance to protect old/heritage trees
- Increase view establishment period beyond 10 years (20 years, when home was built)
- Consider including park and city trees/vegetation
- Include set timelines for process
- Provide framework for mediation/arbitration but exclude City involvement.

CITY OF ROLLING HILLS ESTATES
LOS ANGELES COUNTY, CALIFORNIA
ORDINANCE NO. 661

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES ADDING CHAPTER 17.55 ENTITLED VIEW PRESERVATION TO TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF ROLLING HILLS ESTATES.

WHEREAS, both views and trees/vegetation contribute to the aesthetic value, quality of life, ambiance and economic value of properties within the city. Similarly, access to sunlight across property lines contributes to the health and well being of community members, enhances property values and provides an opportunity to utilize solar energy. Utilization of passive solar energy reduces air pollution, visual blight and ill health; and

WHEREAS, views, whether of the Pacific Ocean, the surrounding hillsides and canyons or other natural and manmade landmarks produce a variety of significant and tangible benefits for both residents and visitors. Views contribute to the aesthetic visual environment of the community by providing scenic vistas and inspiring distinctive architectural design. Views contribute to property values; and

WHEREAS, residents and property owners cherish their outward views from the Palos Verdes Peninsula. Outward views contribute greatly to the quality of life in the city and promote the general welfare of the entire community; and

WHEREAS, trees and vegetation produce a wide variety of significant psychological and tangible benefits for both residents and visitors to the community. Trees and vegetation provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, maintain soil moisture, mitigate soil erosion and provide wildlife habitat. Trees and vegetation contribute to the visual environment and aesthetics by blending, buffering and reducing the scale and mass of architecture. Trees and vegetation within the city provide botanical variety and a sense of history. Trees and vegetation also create shade and visual screens and provide a buffer between different land uses. Trees contribute to property values. Absent an unreasonable obstruction of the view of a neighboring property, the city encourages and supports the growth and maintenance of trees and vegetation; and

WHEREAS, owners and residents should maintain trees on their property in a healthy condition for both safety reasons and for preservation of outward views. Before planting trees, owners and residents should consider view blockage potential, both currently and at tree maturity, and should not plant, maintain or permit to grow any tree or vegetation which unreasonably obstructs the view from a neighboring property; and

WHEREAS, the benefits derived from views and trees/vegetation may come into conflict. The planting of trees and other vegetation and their subsequent growth, particularly when such trees are not properly maintained, can produce unintended harmful effects both on the property on which they are planted and/or on neighboring properties; and

WHEREAS, it is in the interest of the public health, safety and welfare to:

(a) Establish the right of real property owners in the city to preserve and/or restore views which existed from unreasonable obstruction by the growth of trees and other vegetation. Such a right shall accrue, and shall protect views that existed, on the date the property was acquired or fifteen years prior to the effective date of the ordinance codified in this chapter, whichever is later;

(b) Recognize that every real property owner in the city is entitled to a process to resolve conflicts that negatively impact view equity, in order to preserve a reasonable amount of the view benefiting such real property;

(c) Establish a process and evaluation criteria by which property owners may seek restoration of views when unreasonably obstructed by the growth of trees or other vegetation; and

WHEREAS, the City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the following sections of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3: i) Section 15061(b)(3) (CEQA only applies to activities which have the potential for having a significant effect on the environment), ii) 15060(c)(3) (the activity is not a project as defined in Section 15378), and iii) 15175 (the Master Environmental Impact Report for the city's General Plan certified on September 22, 1992 has addressed mitigating environmental measures for all proposed amendments to be made to the Municipal Code); and

WHEREAS, the original version of Ordinance No. 661 has been posted on the city's website for public review since March 4, 2010, and has been the subject of significant public input and commentary; and

WHEREAS, the city council, upon giving the required Notice, did on the 11th day of May, the 13th day of July, the 10th day of August, the 28th day of September, and the 12th day of October 2010, conduct Public Hearings, at which time all interested parties were given full opportunity to be heard and present evidence.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1 Chapter 17.55, entitled View Preservation, is hereby added to Title 17 of the Rolling Hills Estates Municipal Code.

CHAPTER 17.55 - - VIEW PRESERVATION

SEC. 17.55.010 Findings and declarations.

The city council finds and declares as follows:

(1) Both views and trees/vegetation contribute to the aesthetic value, quality of life, ambiance and economic value of properties within the city. Similarly, access to sunlight across property lines contributes to the health and well being of community members, enhances property values and provides an opportunity to utilize solar energy. Utilization of passive solar energy reduces air pollution, visual blight and ill health.

(2) Views, whether of the Pacific Ocean, the surrounding hillsides and canyons or other natural and manmade landmarks produce a variety of significant and tangible benefits for both residents and visitors. Views contribute to the aesthetic visual environment of the community by providing scenic vistas and inspiring distinctive architectural design. Views contribute to property values.

(3) Residents and property owners cherish their outward views from the Palos Verdes Peninsula. Outward views contribute greatly to the quality of life in the city and promote the general welfare of the entire community.

(4) Trees and vegetation produce a wide variety of significant psychological and tangible benefits for both residents and visitors to the community. Trees and vegetation provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, maintain soil moisture, mitigate soil erosion and provide wildlife habitat. Trees and vegetation contribute to the visual environment and aesthetics by blending, buffering and reducing the scale and mass of architecture. Trees and vegetation within the city provide botanical variety and a sense of history. Trees and vegetation also create shade and visual screens and provide a buffer between different land uses. Trees contribute to property values. Absent an unreasonable obstruction of the view of a neighboring property, the city encourages and supports the growth and maintenance of trees and vegetation.

(5) Owners and residents should maintain trees on their property in a healthy condition for both safety reasons and for preservation of outward views. Before planting trees, owners and residents should consider view blockage potential, both currently and at tree maturity, and should not plant, maintain or permit to grow any tree or vegetation which unreasonably obstructs the view from a neighboring property.

(6) The benefits derived from views and trees/vegetation may come into conflict. The planting of trees and other vegetation and their subsequent growth, particularly when such trees are not properly maintained, can produce unintended harmful effects both on the property on which they are planted and/or on neighboring properties. It is, therefore, in the interest of the public health, safety and welfare to:

(a) Establish the right of real property owners in the city to preserve and/or restore views which existed from unreasonable obstruction by the growth of trees and other vegetation. Property owners shall have the right to preserve views that existed on the date the property was acquired or fifteen years prior to the effective date of the ordinance codified in this chapter, whichever is later;

(b) Recognize that every real property owner in the city is entitled to a process to resolve conflicts that negatively impact view equity, in order to preserve a reasonable amount of the view benefiting such real property; and

(c) Establish a process and evaluation criteria by which property owners may seek restoration of views when unreasonably obstructed by the growth of trees or other vegetation.

(7) When a dispute arises concerning the impairment or obstruction of a view, the parties should act reasonably to resolve the dispute through friendly communication, thoughtful negotiation, compromise, and other traditional means, such as discussions with the appropriate neighborhood or homeowner association. Those disputes which are not resolved through such means shall follow the procedure established herein. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.020 Intent and purpose.

The intent and purpose of this chapter is to:

(1) Recognize and establish a process by which real property owners may preserve or restore view equity within the immediate vicinity of their property as set forth in Section 17.55.040;

(2) Establish procedures and evaluation criteria by which real property owners may seek resolution of view equity disputes;

(3) Discourage duplicative, repetitive or serial claims for view equity; and

(4) Discourage ill-considered damage to trees/vegetation and promote proper landscaping establishment and maintenance.

It is not the intent of the city to encourage clear-cutting or substantial denuding of any property of its trees by overzealous application of provisions of this chapter. It is also not the intent or purpose of this chapter for the city to create either a covenant running with the land (for example, CC&R's or deed restriction) or an equitable servitude (for example, easement or license). However, the City will keep a record of agreements and decisions reached pursuant to Sections 17.55.070, 17.55.080, 17.55.90 and 17.55.110 of which it is notified, and provide those agreements and/or decisions as part of the pre-purchase inspection report it provides to prospective purchasers of property in the city who request such a report. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.030 Definitions.

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

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

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

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

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

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

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

“City” means the City of Rolling Hills Estates.

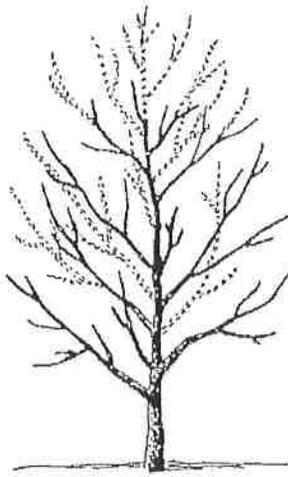
“City maintained trees” means trees which are specifically designated for maintenance by the city council. “City maintained trees” include heritage trees which are located in the unimproved portion of a dedicated and accepted street right-of-way easement and for which the real property owner has requested and given the city written permission to maintain.

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

“Claim, view equity” means documentation, as set forth in Section 17.55.050, that outlines the basis of view equity diminishment and the specific preservation action that is being sought.

“Crown” means the rounded top of the tree.

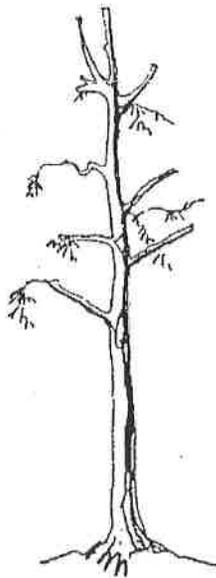
“Crown reduction/shaping” means a method of comprehensive pruning that reduces a tree’s height and/or spread. Crown reduction entails the reduction of the top, sides or individual limbs by means of removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal. The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



Crown Reduction/Shaping

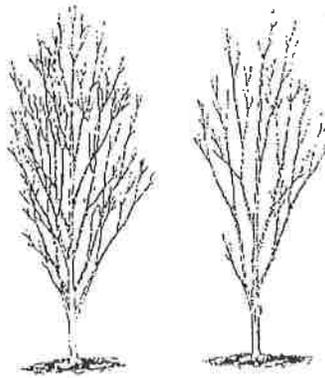
“Destroy” means to kill or take action that endangers the health or vigor of a tree or vegetation, including, but not limited to, cutting, girdling, interfering with the water supply, applying chemicals or re-grading around the base of the trunk.

“Heading back” means the overall reduction of the mass of a tree by modification to major limbs. The diagram that follows is illustrative of “heading back” within the meaning of this chapter.



Heading Back

"Lacing" means a comprehensive method of pruning that systematically and sensitively removes excess foliage and improves the structure of the tree. The diagram that follows is illustrative of "lacing" within the meaning of this chapter.



Before and After

Lacing

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

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

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

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

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

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

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

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

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

"Street" means the portion of a right-of-way easement used for public purposes, such as roadway improvements, curbs, gutters and sidewalks, dedicated to the city, and formally accepted by the city into the city public street system for maintenance purposes.

“Sunlight” means the availability or access to light from the sun across property lines.

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

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

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

“View” means a vista of features, including but not limited to, bodies of water, beaches, coastline, islands, skylines, mountains, city lights, ridges, hillside terrain, canyons, geologic features and landmarks. The term “view” does not mean an unobstructed panorama of these features.

“View equity” means achievement of a fair, reasonable, and balanced accommodation of views and competing obstructions (such as structures, trees and/or vegetation), privacy and the use and enjoyment of property. Development, including its landscaping, shall be designed to preserve views from neighboring properties. No person shall plant, maintain, or permit to grow any trees or vegetation which unreasonably obstructs the view from a neighboring property.

“View Seeker” means any real property owner in the city or authorized agent of such property owner who alleges that tree(s)/vegetation located within the immediate vicinity of the property as set forth in Section 17.55.040 is causing unreasonable obstruction of the view benefiting such real property

“Vista pruning” means the selective thinning of framework limbs or specific areas of the crown of a tree to allow a view from a specific point. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.040 View equity claim limitations.

Subject to the other provisions of this chapter, a real property owner in the city may initiate the claim resolution process as outlined in Section 17.55.060. However, a claim for preserving or restoring view equity may only be made i) regarding any tree/vegetation located on real property, as defined herein, which is within five hundred feet from the view seeker's real property boundary, and ii) if a claim has not been initiated against that real property by the view seeker or any other real property owner in the city within the last two years, unless the subsequent claim is made within 45 days of notice of the original claim as provided in Section 17.55.080 of this chapter. In addition, a view seeker may only seek to preserve or restore a view from one common interior or exterior space used by the view seeker, including but not limited to, the living, family, and dining rooms, rooms that have features such as picture windows, sliding glass doors, and French doors, and common exterior areas such as patios, balconies, decks, pool areas, and gazebos designed to take advantage of views. Properties which have more than one unique or different view shall be permitted to apply for preservation or restoration of one additional view.

Requests for view equity with regard to any tree and/or vegetation located on city property or in city parks, or with respect to city maintained trees, may only be initiated as outlined in Section 17.55.070 of this code. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.050 View equity claim.

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

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

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

(3) Specific view equity preservation actions proposed by the view seeker to resolve the allegedly unreasonable obstruction;

(4) Evidence that initial discussion as described in Section 17.55.070 has been made and has failed. Evidence may include, but is not limited to, copies of receipts for certified or registered mail correspondence; and

(5) Evidence confirming the ownership and the date of acquisition of the view seeker's property. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.060 View equity claim resolution process.

The view seeker shall follow the process established by this chapter in seeking preservation or restoration of view equity. First, the view seeker must complete the "initial discussion" process described in Section 17.55.070. Second, if that process does not yield a result mutually satisfactory to the view seeker and the tree/vegetation owner, then the view seeker may file a view equity claim with the city and request mediation, as described in Section 17.55.080. Third, if the tree/vegetation owner does not participate in mediation or if mediation is unsuccessful in resolving the claim, the view seeker may next pursue resolution by arbitration, as set forth in Section 17.55.090. Fourth, if arbitration is not accepted by the tree/vegetation owner, the view seeker may next request that the city's planning director issue an advisory opinion on the view equity claim pursuant to Section 17.55.100. If all of these steps are taken and processes are exhausted by the view seeker but no resolution is reached, the view seeker may then initiate litigation as described in Section 17.55.110. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.070 Initial discussion.

A view seeker who believes that one or more trees or vegetation which has grown on another person's property in the city has caused unreasonable obstruction of view equity from the view seeker's property, shall first notify the tree/vegetation owner of such concerns. The notification shall request personal discussions to enable the view seeker and tree/vegetation owner to attempt to reach a mutually agreeable solution, and shall be followed-up in writing. The notification shall include a copy of the view preservation ordinance (chapter 17.55 of this code), available from the city. The view seeker shall invite the tree/vegetation owner to view the alleged obstruction from the view seeker's property, and the tree/vegetation owner is urged to invite the view seeker to view the situation from his/her property. Failure of the tree/vegetation owner to respond to the written request for initial discussion within forty-five days from the date of delivery shall be deemed formal refusal by the tree/vegetation owner to participate in the initial discussion.

If the initial discussion is refused, or if the parties do not agree as to the existence and nature of the view seeker's obstruction and the appropriate preservation action, the view seeker may proceed with the subsequent claim resolution process outlined in Section 17.55.060. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.080 Mediation.

If the initial discussion outlined in Section 17.55.070 does not result in an agreement between the tree/vegetation owner and the view seeker, the view seeker may file a written view equity claim with the city requesting mediation. Upon receiving the written claim and processing fee, in the amount established by resolution of the city council, city staff shall prepare and send by certified mail to the tree/vegetation owner, a copy of the written claim and notice requesting that the tree/vegetation owner agree to participate in a mediation process to attempt to resolve the view equity claim. In addition, city staff shall notify all property owners within 500 feet of the tree/vegetation owner's property of the pending view equity claim, their right to file a view equity claim on their own behalves within 45 days of city staff's mailing of notice of the original view equity claim, and the fact that their view equity claim will be subject

to the two-year time limit set forth in Section 17.55.040 if it is not filed within 45 days of staff's mailing of notice of the original claim. Any view equity claim(s) submitted by surrounding property owners after being advised by staff of the pending view equity claim shall, to the extent possible, be combined with the existing view equity claim for purposes of mediation and arbitration.

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

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

The mediator shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.55.130 and 17.55.140, and the hierarchy of preservation actions set forth in Section 17.55.150, respectively, in attempting to resolve the view equity claim. The mediator shall also consider recommendations of the certified arborist regarding landscape techniques and/or maintenance procedures.

The role of the mediator shall be advisory in nature and shall not be binding in establishing the preservation or restoration of view equity. Any agreement reached between the two parties as a result of the mediation process described herein shall be reduced to writing and signed by the mediator and all of the parties, and two copies shall be submitted to the city clerk. The cost of mediation, including review by a certified arborist, shall be paid initially by the view seeker, provided, however, that the ultimate responsibility for such cost may subsequently be modified by mutual agreement of the parties. The mediator is encouraged to suggest a just and reasonable allocation of responsibility for the cost of mediation as part of the mediation process. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.090 Arbitration.

If the initial discussion under Section 17.55.070 and mediation under Section 17.55.080 fail to achieve agreement between the tree/vegetation owner and the view seeker, the view seeker may send to the tree/vegetation owner a request to participate in a binding arbitration process. The tree/vegetation owner shall have forty-five days from delivery of the request for arbitration to either accept or decline arbitration. Failure to respond within forty-five days shall be deemed formal refusal of arbitration. If arbitration is accepted, the parties shall agree in writing to the selection of an individual arbitrator, who shall be chosen from a list of professional arbitrators available from the city within thirty days of such acceptance. If the parties are unable to agree on a specific arbitrator within thirty days, they may jointly request that city staff randomly select an arbitrator from the list maintained by the city. In addition, either party may petition a court of competent jurisdiction to appoint an arbitrator from the list maintained by the city.

The arbitrator shall be guided by the provisions of this chapter, including the evaluation criteria set forth in Sections 17.55.130 and 17.55.140, and the hierarchy of preservation actions set forth in Section 17.55.150, respectively, in attempting to resolve the view equity claim, and shall submit a complete written decision to the view seeker and the tree/vegetation owner. Any decision of the arbitrator shall be enforceable pursuant to the provisions of California Code of Civil Procedure Section 1285 et seq., and two copies of the decision shall be submitted to the city clerk.

The costs of arbitration shall be paid initially by the view seeker, provided, however, that the ultimate responsibility for such costs may subsequently be modified either by mutual

agreement of the parties or by a determination of the arbitrator as to a just and reasonable allocation of responsibility. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.100 Advisory Opinion.

If the initial discussion and mediation processes fail to result in a resolution or agreement, and if the view seeker requests but the tree/vegetation owner declines to participate in arbitration, the view seeker may request that the city's planning director assess and issue an advisory opinion on the view equity claim. Such requests must be made to the planning director in writing within thirty days after arbitration is refused or deemed refused pursuant to Section 17.55.090. The planning director may, but is not required to, assist the parties in resolving the view equity dispute. It is the intention of this section that the advisory opinion be admissible as evidence in any civil action brought pursuant to Section 17.55.110 of this chapter.

SEC. 17.55.110 Litigation.

If a view seeker has attempted to obtain but has been unsuccessful in attaining agreement or resolution under Sections 17.55.070, 17.55.080, and 17.55.090, the view seeker may initiate civil action in a court of competent jurisdiction for resolution of his/her view equity claim under the provisions of this chapter. It is the intent of this chapter that the evaluation criteria set forth herein be utilized in adjudicating view equity claims in civil litigation. In the event of civil litigation, the view seeker shall provide two copies of the filed complaint to the city clerk.

The prevailing party in any civil action brought pursuant to this chapter shall be entitled to recover its reasonable costs and attorneys' fees incurred in the litigation, subject to the following exception: a tree/vegetation owner who prevails in litigation shall not be entitled to recover attorneys' fees and costs if the tree/vegetation owner has declined to participate in the initial discussion, mediation, or arbitration processes set forth in Sections 17.55.070, 17.55.080 and 17.55.090, respectively. The notice of the view equity claim and request for mediation provided by the city in accordance with Section 17.55.080 shall inform the tree/vegetation owner of this provision and the consequences of non-participation in the initial discussion, mediation, and/or arbitration processes. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.120 Preservation action limitations.

Except as otherwise authorized by law, no tree and/or vegetation on real property owned or controlled by another person may be removed, destroyed or altered unless the view seeker either enters into a written agreement with the tree/vegetation owner or obtains an arbitration award or judicial decision specifying, in detail, the nature and timing of the preservation action and the parties responsible for performing such action. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.130 Criteria for determining unreasonable obstruction.

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

- (1) The vantage point(s) from which the view is observed;
- (2) The extent of the view obstruction, both currently and at tree/vegetation maturity;
- (3) The quality of the view, including the existence of landmarks, vistas, or other unique view features;
- (4) The extent to which the tree(s) and/or vegetation have grown to obscure the enjoyment of the view from the view seeker's property since the view seeker's acquisition of his or her property;
- (5) The extent to which the view has been or is diminished by factors other than tree(s) and/or vegetation. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.140 Criteria for determining appropriate preservation action.

When it has been determined that unreasonable obstruction has occurred, then the following unweighed factors shall be considered in determining appropriate preservation action:

- (1) The number of existing trees or amount of vegetation in the area and the current effects of the tree(s) and their removal on the neighboring vegetation;
- (2) The extent to which the tree(s) and/or vegetation provide:
 - (a) Screening or privacy,
 - (b) Energy conservation and/or climate control,
 - (c) Soil stability, as measured by soil structure, degree of slope and extent of the tree's root system when a tree is proposed to be removed,
 - (d) Aesthetics,
 - (e) Community/neighborhood quality, value or significance,
 - (f) Shade,
 - (g) Historical context due to the age of the tree/vegetation,
 - (h) Rare and interesting botanical species,
 - (i) Habitat value for wildlife,
 - (j) Blending, buffering or reduction in the scale and mass of architecture.
- (3) Any hazards posed by the tree(s) or vegetation including, but not limited to, fire danger or the danger of falling limbs or trees;
- (4) The age, projected rate of growth, and maintenance requirements of the tree(s) or vegetation;
- (5) The date the view seeker purchased his/her property; and
- (6) The date the tree/vegetation owner purchased his/her property. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.150 Hierarchy of preservation actions.

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

- (1) **Lacing.** Lacing is the most preferable pruning technique that removes excess foliage and can improve the structure of the tree.
- (2) **Vista Pruning.** Vista pruning of branches may be utilized where possible, if it does not adversely affect the tree's growth pattern or health.
- (3) **Crown Reduction.** Crown reduction is preferable to tree removal, if it is determined that the impact of crown reduction does not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.
- (4) **Stand Thinning.** The removal of a portion of the total number of trees from a grove of trees, without any replacement plantings.

(5) **Heading Back.** Eliminating the outer extent of the major branches throughout the tree. Heading back is only to be permitted for trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if restoration actions (1) through (4) of this section will not accomplish the determined preservation action and the subsequent growth characteristics will not create a future obstruction of greater proportions.

(6) **Tree/Vegetation Removal.** Tree and/or vegetation removal, which may be considered when the above-mentioned preservation actions are judged to be ineffective and may be accompanied by replacement plantings or appropriate plant materials to restore the maximum level of benefits lost due to tree removal. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.160 Responsibility for preservation action and subsequent maintenance.

The view seeker shall be responsible for paying the cost of any determined preservation action unless the parties agree to share the costs in some other manner. Subsequent maintenance shall be the responsibility of the tree/vegetation owner, unless otherwise agreed to by the parties or required pursuant to any final arbitration decision or court order. It is the intent of this chapter that a tree/vegetation owner who sells his or her property notify the purchaser of any agreement, decision, or court order requiring subsequent maintenance of trees or vegetation. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.170 Liability.

(1) The city shall not be liable for any damages, injuries, costs or expenses which are the result of an advisory opinion issued by a city employee or official or any agreements or determinations resulting from mediation, arbitration or litigation concerning view equity claims or a view seeker's assertions pertaining to views granted or conferred herein. Nor shall the city have any liability because a particular neighborhood is granted or denied an exemption pursuant to Section 17.55.180 of this chapter.

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

(3) A failure to comply with the provisions of this chapter is not a misdemeanor, and the enforcement of this chapter shall be only by the affected and interested private parties. (Ord. 661 § 1 (part), 2010).

SEC. 17.55.180 Petition for exemption.

A recognized and established neighborhood in the city may petition the city council for an exemption from this chapter. The factors the city council will consider in determining whether such an exemption should be granted shall include, but not be limited to, whether the neighborhood has unique or historic trees or trees that provide shade or otherwise add to the character of the neighborhood, and whether the properties in the neighborhood have views of unique scenic vistas. A petition for exemption may be submitted by the authorized homeowners' association in the petitioning neighborhood or by a majority of the homeowners in the neighborhood. The procedures governing exemption petitions shall be established by resolution of the city council.

SEC. 17.55.190 Severability.

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

The city council hereby declares that it would have adopted this and each section, subsection, phrase or clause of this chapter irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared invalid or unconstitutional on their face or as applied. (Ord. 661 § 2 (part), 2010).

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

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

ADOPTED this 12th day of 2010



JOHN C. ADDLEMAN, MAYOR

ATTEST:



DOUGLAS R. PRICHARD, CITY CLERK

I HEREBY CERTIFY that the foregoing Ordinance No. 661 was adopted by the City Council of the City of Rolling Hills Estates at a regular meeting held thereof on the 12th day of October, 2010, by the following vote:

AYES:	ADDLEMAN, MITCHELL, SEAMANS, ZERUNYAN, ZUCKERMAN
NOES:	NONE
ABSTAIN:	NONE
ABSENT:	NONE



DOUGLAS R. PRICHARD, CITY CLERK

MATERIALS AVAILABLE MONDAY