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APRIL 3, 2006

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MINUTES

REGULAR PLANNING COMMISSION MEETING

APRIL 3, 2006

1. **CALL MEETING TO ORDER**

A regular meeting of the Planning Commission of the City of Rolling Hills Estates was called to order at 7:31 p.m. in the City Hall Council Chambers, 4045 Palos Verdes Drive North, by CHAIRMAN REIN.

2. **PLEDGE OF ALLEGIANCE**

CHAIRMAN REIN led the assembly in the Pledge of Allegiance to the Flag.

3. **ROLL CALL**

Commissioners Present: Southwell, Conway, O'Day, Vanden Bos, Bayer, Chairman Rein
Commissioners Absent: Killen
Staff Present: Planning Director Wahba, Assistant Planner Wong

4. **APPROVAL OF MINUTES**

COMMISSIONER BAYER moved, seconded by COMMISSIONER VANDEN BOS,

TO APPROVE THE MINUTES OF THE REGULAR PLANNING COMMISSION MEETING OF MARCH 20, 2006.

There being no objection, CHAIRMAN REIN so ordered.

5. **AUDIENCE ITEMS**

None.

6. **CONSENT CALENDAR**

A. WAIVE READING IN FULL ALL RESOLUTIONS THAT ARE PRESENTED FOR PLANNING COMMISSION CONSIDERATION TONIGHT.

B. QUARTERLY CODE ENFORCEMENT REPORT.

COMMISSIONER CONWAY moved, seconded by COMMISSIONER BAYER,

TO APPROVE THE CONSENT CALENDAR.

AYES: Southwell, Conway, O'Day, Vanden Bos, Bayer, Chairman Rein
NOES: None
ABSTAIN: None
ABSENT: Killen

7. BUSINESS ITEMS

- A. PLANNING APPLICATION NO. 03-06; APPLICANT: MR. & MRS. DANA MALTUN; LOCATION: 11 COUNTRY MEADOW ROAD; A NEIGHBORHOOD COMPATIBILITY FOR FIRST AND SECOND STORY ADDITIONS AT THE FRONT, SIDE AND REAR YARDS. A MINOR DEVIATION IS REQUIRED TO DECREASE THE FRONT YARD AREA BY LESS THAN 10%.

Assistant Planner Wong gave a brief staff report (as per written material) stating that the Variance has been eliminated and recommended that the Commission approve the application with a condition to lower the media room bay window.

COMMISSIONER BAYER asked Staff to discuss the concerns with the bay window. Planning Director Wahba advised that the window appeared top heavy and out of proportion, making the second story appear more dominant than the first story.

COMMISSIONER O'DAY asked about the Municipal Code for lighting. Planning Director Wahba explained that there is a maximum of 1,500 watts on the exterior of the home, and they need to be shielded and directed down onto the property. COMMISSIONER BAYER asked if there were any lighting issues as proposed on the plans. Planning Director Wahba responded that Roy Beall, Code Administrator, took a look at the lights on the property and agreed that it is currently a Code violation, so that will be addressed separately from this application. However, a condition could be put on the approval stating that all existing and proposed exterior lighting shall be designed to comply with the City's lighting requirements.

CHAIRMAN REIN asked Staff how high the bay window is off the interior floor and suggested that it appears large because it is only a couple of feet above the floor level. Planning Director Wahba responded that it's not just the window itself, but the whole tower element, which the window accentuates.

At CHAIRMAN REIN'S invitation, Olympia Greer (80034 Camino Santa Elise, Indio), the architect on the project, came forward and stated that the bay window is 18" off the floor and can be raised higher. She also stated that she has some design ideas to blend in the rooflines and comply with Staff's request, and she would be able to work with Staff on it. Ms. Greer will also revise the plans to comply with the wattage requirements.

COMMISSIONER BAYER commented that Ms. Greer has done an excellent job working with Staff and thanked her for her hard work and the changes she has made.

COMMISSIONER O'DAY and CHAIRMAN VANDEN BOS pointed out that the window will be facing the television and will get a lot of sun, so reducing the size may be of benefit to the applicant.

COMMISSIONER CONWAY moved, and COMMISSIONER BAYER seconded,

TO APPROVE PLANNING APPLICATION NO. 03-06 WITH THE CAVEATS THAT THE EXTERIOR LIGHTING COMPLY WITH CODE AND THAT THE APPLICANT WORK WITH STAFF TO ADJUST THE BAY WINDOW TO THE SATISFACTION OF THE PLANNING DIRECTOR.

AYES: Southwell, Conway, O'Day, Vanden Bos, Bayer, Chairman Rein
NOES: None
ABSTAIN: None
ABSENT: Killen

Planning Director Wahba explained the 20-day appeal period.

8. PUBLIC HEARINGS

- A. PLANNING APPLICATION NO. 07-06; APPLICANT: MR. MANSOUR BIGDELI; LOCATION: 14 SEAHURST ROAD; ; A VARIANCE FOR RETAINING WALLS THAT EXCEED 5' IN HEIGHT AND 2' IN HEIGHT IN THE FRONT YARD. A GRADING APPLICATION IS REQUIRED TO REGRADE PORTIONS OF AN ADJACENT SLOPE AND REPLACE AN EXISTING RETAINING WALL ADJACENT TO THE DRIVEWAY WITH A NEW MASONRY BLOCK RETAINING WALL.

Planning Director Wahba reminded the Commission that this is a continuation of a previously opened public hearing, and the Department has not received revised plans. Assistant Planner Wong has been dealing with the adjacent neighbor on the easement issue, and it appears that there are still private issues between the two neighbors. Staff is unclear how to proceed with an application with two parties in disagreement over a private easement. In the past, the Department has advised that the parties work out their differences and then return to the Planning Commission. The Department's responsibility is to look at the grading application and how it applies to Municipal Code, not to look at private easements.

COMMISSIONER O'DAY asked whether all property owners have to be applicants on a grading application. Planning Director Wahba responded that is typically the case. However, because the way the easement was worded and situated, the applicant has the ability to do the driveway in that area, and the Department has a signature from the neighbor approving the seeking of the application on his property. Since that time, the neighbor has come forward with conflicting information from that being provided by the applicant. COMMISSIONER O'DAY asked about the difference between this situation and a utility easement on a property where the utility doesn't involve the property owner for utility work. Planning Director Wahba responded that may apply here, but Staff would like attorneys to make that interpretation.

COMMISSIONER VANDEN BOS asked whether project approval would still be hindered if an easement clearly permitted a situation but the neighbor unreasonably asserts that it doesn't. Planning Director Wahba responded that land-use attorneys would need to get involved, and the Department has backed out of these situations in the past until the neighbors have resolved their issues outside of the City's review process.

At CHAIRMAN REIN'S invitation, Mansour Bigdeli (applicant) came forward and asked Staff for the name of the neighbor opposing the plan. Assistant Planner Wong stated that the opposing neighbor is Troy Donaldson at 51 Shady Vista Road. Mr. Bigdeli stated that all adjacent neighbors have signed copies of the plan, except Mr. Donaldson. Mr. Bigdeli stated that Mr. Donaldson has been difficult to get a hold of. There is a grant deed of the easement recorded in 1957 showing a 20-foot easement on the driveway, of which Mr. Bigdeli is using less than 9 feet, and the driveway needs to be wide enough for emergency vehicle access. Mr. Bigdeli met with Mr. Donaldson and another neighbor after the last meeting, and Mr. Donaldson expressed concern over modifications to his current pool drainage configuration. Mr. Donaldson claims that Mr. Bigdeli has taken down his wall, but Mr. Bigdeli claims that the wall that he took down was not Mr. Donaldson's wall, and Mr. Donaldson is merely attempting to stop the process. Mr. Bigdeli expressed his frustration at the necessity for legal action to enforce a recorded easement.

COMMISSIONER CONWAY asked Staff what the Department needed to receive in order to proceed with this application. Planning Director Wahba suggested that a statement from the neighbor approving the plan would be ideal; otherwise, direction would be needed from the City Attorney. The Department could ask for advice from the City Attorney and also work with the neighbor at the same time to see if there is something that the neighbor would accept.

CHAIRMAN REIN asked the applicant whether the neighbor has a copy of the drawing that was produced by an engineering firm. Mr. Bigdeli responded that the final drawing was not delivered to the neighbor in November. However, a copy of the survey showing the lines, the existing wall and the easement was provided to the neighbor, stating Mr. Bigdeli's rights and Mr. Donaldson's rights. Also, after the last meeting, copies of the plan were provided to Mr. Donaldson and another neighbor. Mr. Bigdeli further stated that if Mr. Donaldson has concerns, he should be present at this Planning Commission meeting.

CHAIRMAN REIN summarized the current status, stating that the applicant has a signed drawing by an engineer that all neighbors agree the project will look like, and there is one neighbor that doesn't concur, who isn't present at this Planning Commission meeting and is not going to say anything to the Commission and hasn't addressed the issue, other than one letter to the Planning Department stating that Mr. Bigdeli has taken down his wall, which Mr. Bigdeli denies. CHAIRMAN REIN asked for clarification from Mr. Bigdeli about the wall referred to in the letter. Mr. Bigdeli referred the Commission to pictures of a white wall on the far side of the driveway and stated that it is unknown who put that wall up, and 75% of it is in Mr. Bigdeli's easement and doesn't have a permit. The lower wall that was taken out was on both Mr. Bigdeli's property and the easement.

Mr. Bigdeli explained that there have been two occasions where delivery vehicles have hit his eaves with a 7-foot clearance due to the narrow driveway. Mr. Bigdeli further advised the Commission that upon moving into the property four years ago, Mr. Donaldson changed the drainage of his property to direct all the water, including pool water, down to Mr. Bigdeli's driveway. CHAIRMAN REIN asked whether Mr. Bigdeli's engineer took that into account during the redesign. Mr. Bigdeli responded that this is not unavoidable water because it is being forced to the property, and Mr. Bigdeli would have to go down 300 or 400 feet and through four other properties in order to drain his neighbor's pool water.

COMMISSIONER O'DAY asked Staff for the regulations on draining pool water into the street. Planning Director Wahba responded that it can be drained into a storm drain and sewer, but it has to be below the chlorinated levels that are acceptable.

CHAIRMAN REIN expressed appreciation of the applicant's problem. However, in the context of this project, the applicant needs to ensure that his engineer has taken all water problems into account in designing this project. Mr. Bigdeli disagreed, stating that the problem did not previously exist, and his drainage needs to be directed somewhere else, not on someone's property, and referred the Commissioners to pictures showing the high volume of water coming off of the wall.

COMMISSIONER VANDEN BOS pointed out that the drainage has nothing to do with the driveway construction. COMMISSIONER O'DAY stated that although it's an easement, it is still his property, and Mr. Donaldson may have the right to drain there, but that requires some property expertise. Planning Director Wahba stated that the County does drainage analysis, but not an analysis of an adjacent property. They would look at the retaining wall to ensure that the water behind it is properly handled.

Mr. Bigdeli suggested that it is the duty of the City to monitor illegal activity and whether he is wrongfully draining water into the driveway affecting Mr. Bigdeli and his neighbors. COMMISSIONER VANDEN BOS advised Mr. Bigdeli to address that as part of Code Enforcement, not as a part of this application process. CHAIRMAN REIN agreed, stating that the engineer probably compensates for the drainage because the design has to stand up to what neighbors might throw at it, whether legal or illegal. However, the Commission has to address the Variance that's requested with this application and cannot resolve the drainage issue.

Planning Director Wahba explained that the Code says if your property naturally drains into that area, you can collect it and discharge it, and you need to dissipate it so that it doesn't negatively impact neighboring properties. Therefore, it can be looked at it, but it may require someone to install a dissipater so that a waterfall condition does not exist, if that is the natural drainage of the property. However, this is a civil dispute between neighbors. If you're at the lower elevation, you have to accept the runoff, but it cannot be in a way that negatively impacts your property. The neighbor may feel like his wall is being undermined by widening it, and he may have a concern that his drains will be cut off or blocked. Sending Code Enforcement out there in these situations generally doesn't resolve anything. Both property owners are trying to make improvements, and this was brought to us through Code Enforcement. It's unfortunate that the neighbor is not here tonight.

COMMISSIONER BAYER stated there is no alternative but to continue this until the neighbors work it out. Planning Director Wahba agreed that it should be continued to a date uncertain, and Staff will get an opinion from the City Attorney.

CHAIRMAN REIN asked Staff for the basis of the neighbor's objection, as expressed by him. Assistant Planner Wong advised that the neighbor is afraid that he'll lose his wall, and the drainage will be blocked, causing his hillside to slide. Also, he doesn't trust

Mr. Bigdeli because he was unaware of the work being done, which was caught by Code Enforcement.

COMMISSIONER VANDEN BOS stated that the public hearing needs to be kept open to get the advice of the City Attorney. COMMISSIONER O'DAY pointed out that the applicant is left in an unfortunate situation of needing to go through an expensive external process through the courts, but this should get worked on because it's clearly a hazard, and it is likely to collapse. COMMISSIONER VANDEN BOS reminded the Commission that the applicant removed the wall without permitting. Also, if the Commission approves the application, the neighbor will still have a private course of action. Planning Director Wahba agreed that the neighbor could file an injunction on his own property. Mr. Bigdeli suggested that as a solution in order to move forward.

CHAIRMAN REIN asked whether there was any current legal objection or threat of legal action. Planning Director Wahba and Mr. Bigdeli confirmed that there was none, adding that there is no legal opinion submitted by the neighbor.

COMMISSIONER O'DAY asked Staff about the request to work with the applicant to reduce part of the wall. Planning Director Wahba stated that Staff is in support of the Variance for the wall in the front yard over 2' high, given the condition of the property and the desired width for emergency vehicles, but Staff would like a 5-foot exposed portion eliminating the need for a second Variance. Mr. Bigdeli advised the Commission that the maximum exposure is currently 5 feet, not 6, which makes the issue moot.

COMMISSIONER BAYER moved, seconded by COMMISSIONER CONWAY,

TO CONTINUE PA 07-06 TO THE NEXT PLANNING COMMISSION MEETING OF APRIL 17, 2006 TO GIVE STAFF AN OPPORTUNITY TO DISCUSS THE ISSUES WITH THE CITY ATTORNEY AND GIVE THE APPLICANT AN OPPORTUNITY TO ATTEMPT A RESOLUTION WITH HIS NEIGHBOR OR IDENTIFY THE ISSUES AND HAVE THE NEIGHBOR ATTEND THE NEXT HEARING.

AYES: Southwell, Conway, O'Day, Vanden Bos, Bayer, Chairman Rein
NOES: None
ABSTAIN: None
ABSENT: Killen

B. PLANNING APPLICATION NO. 08-06; APPLICANT: MR. & MRS. HARRY ARNDT; LOCATION: 5113 BLUEMOUND ROAD; A NEIGHBORHOOD COMPATIBILITY FOR A SINGLE STORY ADDITION AND IMPROVEMENTS LOCATED TO THE SIDE OF THE HOME. VARIANCES ARE REQUIRED FOR ADDITIONS TO ENCROACH INTO THE REQUIRED 25' FRONT SETBACK AND A POOL EQUIPMENT ENCLOSURE TO ENCROACH INTO THE REQUIRED 10' SIDE YARD SETBACK.

Assistant Planner Wong gave a brief staff report (as per written material) and stated that adjacent neighbors and the Rollingwood Homeowners Association support the project. The applicant does not wish to eliminate the Variances because the proposed location does not impact neighboring views. The lot is not a typical rectangular shape and is restricted from constructing a second story addition, from increasing the ridge height and from adding an addition on the east side since the home is located on the scenic view side of Bluemound Road. However, Staff believes that the proposed project can be redesigned to comply with the Municipal Code utilizing the rear yard.

COMMISSIONER VANDEN BOS asked whether this lot was out of character with most of the lots straight back. Planning Director Wahba responded that the issue is that we have a substandard front setback, but the Department attempts to have applicants maintain the 25-foot setback at a minimum, so in this case, it could be done. COMMISSIONER VANDEN BOS pointed out that there's not a lot of physical hardship on this lot to support a Variance, and the Commission has not previously approved Variances on lots with little hardship.

COMMISSIONER BAYER asked Staff how they would propose the plans be changed in a way that would meet their needs but not be a hardship on the lot. Planning Director Wahba responded that this is a difficult home to expand because the building pad is typical of the neighborhood and has a covered patio off the back, a swimming pool and a lawn area and then a slope with an existing lawn towards the bottom. COMMISSIONER

BAYER pointed out that it's quite steep with a big drop off on each side and the retaining wall in the back that comes straight along. Planning Director Wahba suggested the possibility of relocating the pool equipment as one alternative, although it may not be the ideal situation. COMMISSIONER BAYER stated that doing so would take away from their view, which is the essence of the property.

COMMISSIONER CONWAY asked whether most of the homes in the neighborhood are built from side yard setback to side yard setback. Planning Director Wahba responded that many of them are terraced.

COMMISSIONER VANDEN BOS asked whether the City would be as concerned about the encroachment of the front yard if the retaining wall was not on the side, and there was no 10-foot side yard setback. Planning Director Wahba responded affirmatively because if they move it back and meet the 25-foot setback, the laundry room and the half bathroom would be reconfigured.

COMMISSIONER O'DAY asked if this was a Minor Deviation on an existing nonconforming. Planning Director Wahba responded that it is not on a front setback, and that only applies to the extension of a nonconforming side yard.

COMMISSIONER CONWAY moved, seconded by COMMISSIONER BAYER,

TO OPEN THE PUBLIC HEARING.

AYES: Southwell, Conway, O'Day, Vanden Bos, Bayer, Chairman Rein
NOES: None
ABSTAIN: None
ABSENT: Killen

Bruce Ellison (5121 Bluemound) came forward and stated that the project will not make the home look big and out of place with the neighborhood, stating that a side yard setback would give it a chopped up look, rather than a smooth, even flow. Mr. Ellison stated that the applicant is only looking for a bathroom and laundry room, pointing out that their home is worth \$1.5 million, and they don't have a laundry room; it is a small addition. Mr. Ellison is the only neighbor that would be impacted, and he has no objection. Every project should go on its own merit, house-by-house, and this will be an asset to the neighborhood.

Roxanne Ellison (5121 Bluemound) came forward to express her support of the project. Ms. Ellison stated that Rollingwood is like a second child of Rolling Hills Estates. However, it is a really nice little neighborhood that is growing up, and big money is being invested there. The yard is large, but it's unusable. The lower lawn has 20 or 30 steps to it. A third bath and not having the laundry in the garage really makes a difference, and it's time for Rollingwood to grow up and start improving the homes. This will not impact anybody and will be an improvement.

Harry Arndt (applicant) came forward and pointed out that the garages weren't built for SUVs, and some storage in the garage has been removed to allow more space for getting in and out of the vehicles. Some storage and a mudroom are going around the laundry room. Relocating the pool equipment would kill two tress and bring the equipment closer to the neighbors, both visually and in terms of noise. Mr. Arndt already has a Variance for the current location of the equipment, which is being moved up and over, further away from the neighbors. To move it to the other side of the house would require a stronger pump, a bigger gas line, more energy and running it down over the hill and across, digging under concrete. Using a 25-foot setback would look ridiculous. There are two homes in the neighborhood (10 Silver Arrow and 5217 Bluemound) that have already done this, there's nowhere else to put the bathroom.

COMMISSIONER CONWAY stated that he doesn't have a problem with the front yard encroachment, but asked if the pool equipment could be placed on the northeasterly end of the addition to avoid the side yard encroachment. COMMISSIONER CONWAY and Mr. Arndt looked over the pictures and discussed the option.

COMMISSIONER O'DAY asked what constitutes a structure for the pool equipment and whether it would still be subject to the setback if it was underground. Planning Director Wahba confirmed that it would be and explained that the Code requires that replacement or moved equipment have a 10-foot side yard setback and be fully enclosed. COMMISSIONER O'DAY then asked about the Variance mentioned by the applicant.

Planning Director Wahba clarified that it is a Minor Deviation, not a Variance, and added that the Code changed in the mid-90s, and if the equipment is moved, there would be no legal nonconforming status.

COMMISSIONER O'DAY pointed out that the applicant's response to the first finding is about the applicant's needs instead of any topographical issues that make the property different than other properties in the area. The essence of the first finding is that the property has a hardship that makes it so that the laws that apply to most applicants do not apply in this situation. Mr. Arndt expressed that the question was difficult to understand. COMMISSIONER O'DAY asked the applicant about moving the front back 5 feet, and Mr. Arndt responded that the 5 feet gives them the bathroom and pointed out that it flows well and would look odd with the setback. COMMISSIONER O'DAY responded, stating that the Commission cannot use the fact that the house looks better with a Variance as a standard.

COMMISSIONER CONWAY asked Staff for the square footage of the front yard and what portion will be encroached upon by this application. Planning Director Wahba responded that it's not technically encroaching because the corner of the house is the side yard, but when you extend into the side yard, the face of the building becomes the front face of the building, rather than a fence line. Front yard coverage is not decreased, and the area is not technically reduced, but the legal nonconforming front face of the building is being extended into the side yard. The side yard setback is still being respected, except for the pool equipment. The Variance is required because the front wall of the building that is being added results in a front setback of less than 25 feet. A Minor Deviation can't be applied because it's not a side yard setback.

COMMISSIONER CONWAY expressed that he doesn't know what is being saved by preserving it. COMMISSIONER BAYER agreed, adding that it's an extremely tasteful addition, which can't be done any other way.

COMMISSIONER O'DAY reminded the Commission that a Variance is to be looked at as an empty lot and the property itself, and the Commission is consistent in applying that reasoning and logic. As an addition, these plans make more sense, but if this was a new plan to build a home, Variance findings would be a challenge. COMMISSIONERS BAYER and CONWAY disagreed, stating that the building pad is small and the lot, itself, is a nonconforming lot with a significant topography change that limits any extension off of the back yard, and they can't go to any side yard.

COMMISSIONER VANDEN BOS summarized the issue for the applicant. The Commission agrees this is a small, tasteful proposal. However, under the Code, specific findings have to be met for a Variance, and the Commission is struggling to find special things about the physical property that means if the Variance isn't granted, the applicant is at a disadvantage. The Commission does not approve Variances based upon whether a project would look better with the Variance, and the Commission needs to be consistent with how they apply the law across all applications.

COMMISSIONER CONWAY suggested that the Commission let Staff make findings specific to this property. CHAIRMAN REIN asked about the Neighborhood Compatibility determination, and Planning Director Wahba responded that they go hand-in-hand, and if the Variance findings can be met, the Neighborhood Compatibility findings can be met and suggested that Staff come back with a draft resolution at the next meeting, making Variance findings in support of the project, consistent with how findings are typically applied.

Bruce Ellison re-approached the Commission appealing to Planning Director Wahba to keep the pool equipment out of the way and quiet, again stating that there is no impact on anybody. Roxanne Ellison then re-approached and reminded the Commission that she wholeheartedly believes the project would improve their property and the neighborhood. COMMISSIONER CONWAY then added that if there were an objecting neighbor, the Commission would have a more difficult time supporting the project, to which Mr. Arndt replied that he received phone calls from neighbors in support of the project.

COMMISSIONER VANDEN BOS moved, seconded by COMMISSIONER BAYER,

TO CONTINUE PA 08-06 TO THE NEXT PLANNING COMMISSION MEETING OF APRIL 17, 2006 AND DIRECT STAFF TO BRING BACK A DRAFT RESOLUTION RECOMMENDING APPROVAL WITH THE PROPER FINDINGS FOR THE VARIANCES.

AYES: Southwell, Conway, Vanden Bos, Bayer, Chairman Rein
NOES: O'Day
ABSTAIN: None
ABSENT: Killen

9. COMMISSION ITEMS

COMMISSIONER CONWAY asked Staff if he had provided his Form 700, and there was a brief discussion about who received notices. Planning Director Wahba suggested that he check with Hope.

10. DIRECTOR'S ITEMS

None.

11. MATTERS OF INFORMATION

A. PARK AND ACTIVITIES MINUTES (MARCH 21, 2006).

B. CITY COUNCIL ACTIONS (MARCH 28, 2006).

COMMISSIONER VANDEN BOS moved, and COMMISSIONER CONWAY seconded,

TO RECEIVE AND FILE ITEMS 11A and 11B.

There being no objection, CHAIRMAN REIN so ordered.

12. ADJOURNMENT

At 9:10 p.m. CHAIRMAN REIN adjourned the Planning Commission meeting to April 17, 2006, at 7:30 p.m.

Julie Cremeans
Minutes Secretary

Douglas R. Prichard
City Clerk