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REGULAR PLANNING MINUTES

JUNE 6, 2005

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MINUTES

REGULAR PLANNING COMMISSION MEETING

JUNE 6, 2005

1. **CALL MEETING TO ORDER**

A regular meeting of the Planning Commission of the City of Rolling Hills Estates was called to order at 7:30 p.m. in the City Hall Council Chambers, 4045 Palos Verdes Drive North, by CHAIRMAN KILLEN.

2. **PLEDGE OF ALLEGIANCE**

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

3. **ROLL CALL**

Commissioners Present: Southwell, Conway, Rein, Vanden Bos, Bayer, O'Day, Chairman Killen
Commissioners Absent: None
Staff Present: Planning Director Wahba, Assistant Planner Wong

4. **APPROVAL OF MINUTES**

COMMISSIONER BAYER moved, seconded by COMMISSIONER CONWAY,

TO APPROVE THE MINUTES OF THE REGULAR PLANNING COMMISSION MEETING OF MAY 16, 2005.

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

5. **AUDIENCE ITEMS**

None.

6. **CONSENT CALENDAR**

COMMISSIONER SOUTHWELL moved, seconded by COMMISSIONER BAYER,

TO APPROVE THE CONSENT CALENDAR.

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

7. **BUSINESS ITEMS**

A. POLICY DISCUSSION WITH RESPECT TO PROPERTY DEVELOPMENT STANDARDS (LOT COVERAGE, FLOOR AREA RATIO AND LANDSCAPING FOR PARKING STRUCTURES) IN THE INSTITUTIONAL ZONING DISTRICT.

Planning Director Wahba gave a brief Staff Report (as per written material) and reported that the survey conducted of other cities found that most cities use FAR for non-residential projects and use Lot Coverage for residential projects; cities seldom use both.

The City Attorney found that the Municipal Code does correctly define a parking structure as a structure, whether it's below or above grade, and that would, therefore, count towards the site's maximum Lot Coverage of 20%. Also, a letter was received on Friday from the Church's architect expressing concern because if an underground parking structure with landscaping on top is not exempted from the Lot Coverage requirement, it would make the project difficult to comply with the Lot Coverage. The Rolling Hills Covenant Church Subcommittee found that a parking structure, whether above or below grade, should not be exempt from Lot Coverage. The Subcommittee also found that the landscaping on top of a parking structure should be credited to the applicant for their minimum 30% requirement and that if the parking structure is below grade, it should be exempt from FAR, but any portion above grade more than a foot would count towards the FAR. The Planning Commission is asked to make a recommendation to City Council on the application of the City's Lot Coverage, FAR and site landscaping with respect to parking structures in the Institutional Zoning district to be taken to the next City Council meeting on June 14 in order to provide Applicant with direction.

COMMISSIONER O'DAY asked for clarification that the Committee is not being directed to make a recommendation that would include a change the Municipal code, to which Planning Director Wahba replied that the Commission is welcome to provide input on revision or clarification of the Code.

COMMISSIONER BAYER asked for the history of when this Municipal Code section was written as to whether they contemplated an underground structure in an Institutional Zone at the time. Planning Director Wahba explained that the Institutional Zone was adopted in 1991 and probably assumed that the structure is sitting above the ground and is visible. The intent of the Code was to minimize the visual impacts of the site so that only 20% is covered with a three-dimensional structure.

COMMISSIONER VANDEN BOS added that Section 17.02.580 specifically exempts parking lots, thus parking lots do not count against the 20% coverage, but a structure below grade covered with landscaping does count.

COMMISSIONER CONWAY summarized his analysis in saying that the definition of structures in the Municipal Code clearly states that ground structures are any structures above or below the ground, and the City Attorney concurs that the language indicates that a subsurface parking structure is a structure under the Code and, as such, applies to Lot Coverage. A .75 FAR would never be achieved because the height limit would preclude achieving that type of density. In order to be consistent with Code and allow some leeway relative to FAR and reflect what is generally consistent in the surrounding neighborhoods, parking structures should to be exempt from FAR but parking structures above or below ground should be included in the Lot Coverage. What that allows a developer to do in an Institutional Zone is to have subsurface parking below the structure, so they can exempt the structure from FAR, build to the full density and comply with Lot Coverage by having the footprint include the parking structure.

COMMISSIONER VANDEN BOS agreed with COMMISSIONER CONWAY's analysis of the code but asked about the intent, to which COMMISSIONER CONWAY responded that there is no room for interpretation.

CHAIRMAN KILLEN summarized that the challenge is to interpret the Code literally or look for change in the wording, which the Commission has not been directed to do.

COMMISSIONER O'DAY agreed with the interpretation but was not willing to support an irrational result just because the law is written a certain way. Perhaps the Commission could suggest to City Council that they modify the Code. Compared to the survey results, RHE would be the only city that had the structures not apply to FAR but apply to Lot Coverage. This situation was not contemplated when the Code was written. The Commission agrees that it would like to have nice green land, even if it's over a parking lot, and the Commission should look at how that situation can be addressed.

COMMISSIONER VANDEN BOS agreed that the Commission could make the suggestion to the City Council to review the Code for change.

COMMISSIONER SOUTHWELL agreed with COMMISSIONER O'DAY's summary that the current Code structure is irrational, and perhaps a recommendation to City Council might be appropriate.

COMMISSIONER CONWAY didn't see any reason to make a Code change. RHE is a rural community that wants open space, and including parking structures in Lot Coverage is an effective way to control that, compelling developers to be compact in their designs. The top of a parking structure is not the same quality of open space as undisturbed soil. The Code works, and there's no conflict in that the City wants more open space

COMMISSIONER VANDEN BOS clarified that a parking structure, above grade or below grade, counts against the 20% lot requirement, but a parking lot does not, with only a 10% requirement to landscape around a parking lot, so a developer could either put in a subterranean parking garage underneath the structure itself or forget a parking structure and place a large parking lot with the minimum requirement of landscaping around it as the alternative.

COMMISSIONER REIN pointed out that the Code differentiates between a parking lot and a parking structure. A parking lot is on-grade and will have fewer parking spaces.

COMMISSIONER CONWAY stated that an open parking lot would be preferable over a below ground parking structure with landscaping on top because that would reduce the density of the development.

COMMISSIONER SOUTHWELL asked about coupling the subterranean parking structure with an additional requirement of maximum parking density for a given area, to which COMMISSIONER CONWAY responded that would be controlled by the height limit.

COMMISSIONER O'DAY asked about a situation where someone wants to put some parking under the structure and add a parking lot in addition. COMMISSIONER CONWAY didn't think that scenario was realistic in an Institutional Zone because the height limit wouldn't create enough square footage to have to do that and questioned the benefit of changing the Code.

COMMISSIONER O'DAY stated that if the subterranean structure shouldn't count for landscaping and FAR, it would be consistent to say it doesn't count for Lot Coverage. All these things going together would be logical. Applying it to Lot Coverage but not FAR is irrational, and no other city has done so.

COMMISSIONER CONWAY explained that the difference is the Commission can decide whether a FAR applies to a parking structure, and the reason for not having a parking structure count in FAR is because the only way it can be used effectively is below the building structure, so the controlling Code issue is the 30% Lot Coverage. The FAR will never be achieved in an Institutional Zone.

CHAIRMAN KILLEN agreed that landscaping over a parking structure isn't as good as landscaping in Mother Nature and was inclined to craft something that makes sense to continue to try to get landscaping. COMMISSIONER CONWAY stated that he wouldn't have a problem supporting that recommendation to Council but doesn't understand proceeding in that manner with no clear benefit to the City.

COMMISSIONER O'DAY commented that the benefit would be to structure the Code so that below-grade parking is encouraged over above-grade parking, to which COMMISSIONER CONWAY responded that it currently compels below-grade parking, not only within the 20% Lot Coverage but under the building they're constructing.

CHAIRMAN KILLEN asked Staff about the benefit of trying to make a Code change. Planning Director Wahba concurred with COMMISSIONER VANDEN BOS stating that the intent of the Code was to only count visible, above-grade structures for massing. Below-grade with landscaping on top compared to an exempt surface parking lot, aesthetics aside, don't go hand-in-hand, but COMMISSIONER CONWAY had some good points regarding controlling development on the site. The intent of the Code is to try to control development, which is why the RHE Code is onerous, unlike any other city with an FAR and a Lot Coverage requirement, as well as a minimum-landscaping requirement. The upside to an underground parking structure, if landscaping is credited towards the 30% minimum requirement, is that it's easier for them to meet the landscaping requirement, but it is also going to force part of the structure outside the 20% requirement under the buildings. If you're trying to minimize development on the site, the Code is written fine, but if you start to exempt and allow for more underground

parking, you still have the issue of overdeveloping the site, which you'll ultimately see through the traffic studies and parking analysis.

COMMISSIONER BAYER summarized that overdevelopment is encouraged if the subterranean parking is allowed as it's outlined, to which Planning Director Wahba concurred because the underlying goal of the Code is to be restrictive in an Institutional Zone, which is typically surrounded by residential, which is why it has a low 20% Lot Coverage requirement. COMMISSIONER VANDEN BOS pointed out that a massive parking structure could still be built under the footprint of the building, but Planning Commissioner Wahba responded that the economics would basically dictate otherwise.

Douglas Keys (architect with Leo A Daly company) came forward at CHAIRMAN KILLEN's invitation. Mr. Keys reminded the Commission that the Institutional Zone allows certain types of buildings to exceed the 27-foot height limit with a CUP. In the previous Silver Spur Court Planning Application, there was a discussion on Lot Coverage, and "Staff recommended, and the Planning Commission concurred, that Lot Coverage be calculated from an aerial perspective." There was then further discussion about the project providing ample open space. The heart of the intention of Lot Coverage is from an aerial perspective in terms of what construction you see that intersects the natural grade or the natural ground plan. It's that area of intersection that Lot Coverage is measuring in the spirit of the Code. The Municipal Code gives a few examples of ground structures that include patios, pools, spas and sports courts. It's clear from those examples that the ground structure definition is trying to limit a certain type of development that was difficult to define otherwise. Mr. Keys summarized that Lot Coverage should not count a wholly subterranean structure and should encourage developers to enhance and preserve the rural environment, and other controls in place limit the intensity of development.

COMMISSIONER O'DAY asked Staff whether the Commission previously decided to include landscaping on top to count against Lot Coverage in Mixed-Use Zones, to which Planning Director Wahba responded that the Planning Commission recommended to the City Council when they approved Silver Spur Court to not count it as Lot Coverage. It is also part of the proposed Code change in the Mixed-Use Master Plan to use Lot Coverage and exempt those things. The purpose of that was to promote higher density and more of a courtyard open to the sky-type of housing that would be exempt from coverage.

COMMISSIONER VANDEN BOS suggested setting aside the policy issues regarding FARs, allowing landscaping to count on top of the structure, and the constraint of Lot Coverage, as the Commission agrees on all these issues. All Commissioners agreed, and those three issues were set aside.

CHAIRMAN KILLEN stated that the Mr. Keys made a good point that these are things that can be seen from an aerial view where you can see a pool, sport court and spa. When you look at the site, you know that it's there and takes away from natural setting.

The Commissioners then put on the table whether to express concern to City Council regarding the Code and the reason for the concerns.

COMMISSIONER O'DAY recognized that COMMISSIONER CONWAY had strong points about what the benefit to a code change would be, and the other Commissioners had strong points, as well.

CHAIRMAN KILLEN added that the current Code is onerous but not horrendously onerous, and the Commission may be shooting themselves in the foot asking for a Code change and then find that there are some drawbacks to it, to which COMMISSIONER BAYER added that possible benefits should be looked at, as well.

COMMISSIONER O'DAY stated that the Commission did recommend the change to Mixed-Use, and compared to other cities, it looks like an inconsistent approach. Laws should be consistent and rational. The current Code may achieve certain purposes, but they are unintended consequences, not a design of the Code. The rational thing to do would be to treat the Mixed-Use Zone and the Institutional Zone the same with the aerial view concept throughout the community. COMMISSIONER CONWAY disagreed, saying that Institutional Zones should be separately regarded.

COMMISSIONER VANDEN BOS added that there's an overriding concern about the treatment of parking structures below-grade verses having a parking lot, as it is not internally consistent.

COMMISSIONER O'DAY moved, and COMMISSIONER VANDEN BOS seconded,

TO RECOMMEND TO CITY COUNCIL THAT THEY CONSIDER STUDYING THE DEFINITION OF PARKING STRUCTURE AND HOW UNDERGROUND PARKING STRUCTURES SHOULD BE CONSIDERED IN TERMS OF LOT COVERAGE IN THE MUNICIPAL CODE SECTIONS THAT APPLY TO THE INSTITUTIONAL ZONE.

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

8. PUBLIC HEARINGS

- A. PLANNING APPLICATION NO. 15-05; APPLICANT: MR. & MRS. BRYAN TIMM; LOCATION: 5009 RANGEHORSE LANE; A NEIGHBORHOOD COMPATIBILITY FOR FRONT, SIDE, AND REAR YARD ADDITIONS. A GRADING APPLICATION IS REQUIRED TO RELOCATE THE EXISTING HILLSIDE DRIVEWAY. MINOR DEVIATIONS ARE REQUIRED TO DECREASE THE REQUIRED FRONT YARD BY LESS THAN 10%, AND TO EXTEND A LEGAL NONCONFORMING BUILDING LINE IN THE SIDE YARDS. VARIANCES ARE REQUIRED TO EXCEED THE MAXIMUM GRADE OF 15% FOR THE DRIVEWAY AND TO ENCROACH INTO THE FRONT YARD AREA RESULTING IN A LEGAL NONCONFORMING SIDE YARD SETBACK.

Assistant Planner Wong gave a brief Staff Report (as per written material) and reported that this Application was continued from the Planning Commission meeting on April 18, 2005. One objection has been received to the revised project for the relocation of the proposed driveway by a neighbor at 5017 Rangehorse Lane. Staff is able to support the Variance application, Grading, Minor Deviations and the Neighborhood Compatibility Determination.

COMMISSIONER VANDEN BOS moved, seconded by COMMISSIONER BAYER,

TO OPEN THE PUBLIC HEARING.

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

Bryan Timm (5009 Rangehorse Lane), owner of the property, came forward at CHAIRMAN KILLEN's invitation to address the neighbor's concerns. Mr. Timm reminded the Commission that he was directed to minimize the grade of the driveway to 15%. When the property survey was conducted, it was identified that at the front of the property, the property line extended 3 feet into what the concerned neighbors consider to be their own property, which is in the same direction that the driveway is being relocated towards. It's important that both parties clearly understand where the property line exists. Mr. Timm empathizes with the concerned neighbors that the driveway may impact shrubbery that has been tended over the years. If the driveway were relocated 2 to 3 feet over, as the concerned neighbors are requesting, the grade would increase approximately 2%.

COMMISSIONER CONWAY asked if Mr. Timm was aware of any existing or proposed improvements that encroach beyond his property line, to which Mr. Timm answered no; the one part that goes beyond the current landscaping line is the top of the driveway.

Dan Matulich (5017 Rangehorse Lane), the concerned neighbor, came forward. Mr. Matulich has owned his property since 1965, and Mr. Timm has been very kind and worked with them on the project from the beginning. The remaining issue is the issue of the frontage area. A chain link fence and retaining wall have been inherited that were built by Mr. Timm's predecessor, which appear today to be on Mr. Matulich's side of the

property, and the frontage is on Mr. Timm's side. Either something has changed, or original line wasn't properly observed. Mr. Matulich will lose a few bushes, etc. in the area that was planted and developed to retain some protection from Silver Spur, which is becoming busier with more traffic. The frontage is allegedly encroaching 3 feet into Mr. Timm's property, but on the other end, 200 feet below, Mr. Timm's property is encroaching into Mr. Matulich's by about 4 feet. Mr. Matulich's opinion is that it would be easier to respect the line the way it was previously understood than to go to the expense of modifying both ends, and there wouldn't be much of an advantage added by moving the driveway, although they will continue working together.

COMMISSIONER VANDEN BOS asked whether he would consider agreeing to the moving of the driveway if Mr. Timm provided substituted planting for the lost landscaping, to which Mr. Matulich agreed that it could be considered but asked if it really made sense to go to all that trouble and expense. The new driveway would still not comply with the 15% ordinance. It also might not help the traffic safety because the turning radius would increase, necessitating moving further into the street before making a turn.

COMMISSIONER O'DAY advised Mr. Matulich that he may have rights in legal court, but the Planning Commission can't look at adverse possession, to which Mr. Matulich responded that changing the angle of the driveway is within the Commission's jurisdiction.

COMMISSIONER BAYER asked Staff whether they had discussed the issue with the applicant. Planning Director Wahba answered that it's the same issue that came up last time, but this is more of a civil dispute; the Planning Commission cannot make a binding decision. COMMISSIONER BAYER then asked whether there was any consideration of increasing the grade by 2% if the neighbors did come to an agreement. Planning Director Wahba pointed out that they couldn't comply with the 15% unless they raise the grade of the garage about 4 feet. By shifting it over, they improve the situation but are still not complying. That's the only way it can be improved; it can't be slid the other direction.

COMMISSIONER BAYER asked if without Mr. Timm reclaiming his property and angling the driveway and decreasing the slope it would be impossible for the Commission to approve the plans. Planning Director Wahba clarified that it wouldn't change the slope of what's there today. The only way to lessen the slope is to come in at more of a diagonal or raise the landing area at the garage, but that's not economically feasible.

CHAIRMAN KILLEN summarized that the Commission would approve the plans if left the way it is today. Mr. Timm is attempting to make an existing nonconforming better, but if it was left alone, the rest of the project could be approved. Planning Director Wahba added that it would not require a Variance because it's not more than a 50% remodel.

COMMISSIONER REIN asked Mr. Timm whether he had talked about putting substitute landscaping in, to which Mr. Timm responded that he would be open to those discussions.

COMMISSIONER BAYER moved, seconded by COMMISSIONER VANDEN BOS,

TO CLOSE THE PUBLIC HEARING

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

COMMISSIONER CONWAY moved, seconded by COMMISSIONER VANDEN BOS,

TO APPROVE PA-15-05 AS PRESENTED BY THE APPLICANT.

COMMISSIONER O'DAY added that although it will inconvenience the neighbor, improving the driveway situation is a safety issue, and it would be worth the effort and the inconvenience of the neighbor to addresses that. CHAIRMAN KILLEN added that the Applicant should respond to help landscape and put back the area that Mr. Matulich has been maintaining for years.

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

Planning Director Wahba explained the 20-day appeal period.

9. COMMISSION ITEMS

None.

10. DIRECTOR'S ITEMS

None.

11. MATTERS OF INFORMATION

A. PARK AND ACTIVITIES COMMISSION MINUTES (MAY 17, 2005).

B. CITY COUNCIL ACTIONS (MAY 24, 2005).

COMMISSIONER O'DAY moved, and COMMISSIONER VANDEN BOS seconded,

TO RECEIVE AND FILE ITEMS 11A AND 11B.

There being no objection, CHAIRMAN KILLEN so ordered.

12. ADJOURNMENT

At 8:47 p.m. CHAIRMAN KILLEN adjourned the Planning Commission meeting to June 20, 2005, at 7:30 p.m.

Julie Cremeans
Minutes Secretary

Douglas R. Prichard
City Clerk