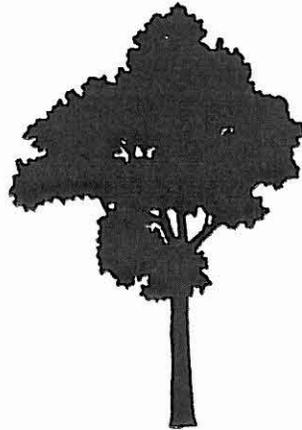


CITY OF RANCHO PALOS VERDES

GUIDELINES AND PROCEDURES

FOR

RESTORATION OF VIEWS WHERE
FOLIAGE IS INVOLVED (VIEW RESTORATION PERMITS)
AND PRESERVATION OF VIEWS WHERE FOLIAGE IS INVOLVED
(CODE ENFORCEMENT)



ADOPTED ON:
July 20, 2010

Community Development Department

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- View Restoration/View Preservation Permit Application Form
- View Restoration Permit Early Neighbor Consultation Process
- View Restoration/View Preservation Permit Process Flowchart
- View Restoration/View Preservation Appeal Process Flowchart
- Map of Miraleste Recreation and Park District Boundaries
- List of Streets within the Miraleste Homeowners' Association
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I. PURPOSE

A. The View Restoration Commission was created in accordance with Article 17 of Paragraph A of Section 2 of the Rancho Palos Verdes Council of Homeowners Association and the City of Rancho Palos Verdes City Council Cooperative View Preservation and Restoration Ordinance, which was passed by the voters of the City on November 7, 1989. The Ordinance has been codified into the City's Municipal Code as Section 17.02.040, View Preservation and Restoration.

B. The ballot measure, which was approved by the voters, states the purposes of the Ordinance as follows:

"The hillsides of the City constitute a limited natural resource in their scenic value to all residents of and visitors to the City. The hillsides provide potential vista points and view lots. The City's General Plan recognizes these natural resources and calls for their protection. The public health, safety and welfare of the City require prevention of needless destruction and impairment of these limited vista points and view lots. The purpose of this Ordinance is to promote the health, safety and general welfare of the public by accomplishing the purposes set forth below, and this Ordinance shall be administered in accordance with such purposes. Where this Ordinance is in conflict with other City ordinances, the stricter shall apply.

Specifically, this Ordinance:

- 1. Protects, enhances and perpetuates views available to property owners and visitors because of the unique topographical features of the Palos Verdes Peninsula. These views provide unique and irreplaceable assets to the City and its neighboring communities and provide for this and future generations examples of the unique physical surroundings which are characteristic of the City.**
- 2. Defines and protects finite visual resources by establishing limits which construction and plant growth can attain before encroaching onto a view.**
- 3. Insures that the development of each parcel of land or additions to residences or structures occur in a manner which is harmonious and maintains neighborhood compatibility and the character of contiguous sub-community development as defined in the General Plan.**
- 4. Requires the pruning of dense foliage or tree growth which alone, or in conjunction with construction, exceeds defined limits."**

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Thus, the general purpose of the Ordinance is to promote the health, safety and general welfare of the residents of the City, by balancing the rights of the residential property owner with foliage against the rights of the residential property owner to have a view from a viewing area restored so that it can be enjoyed, when that view has been significantly impaired by foliage.

C. The Planning Commission accomplishes its purpose through a process of View Restoration Permit application, site inspection, public hearings and a decision on the application. The Commission's jurisdiction is limited to issues regarding view impairment caused by foliage, through the issuance of View Restoration Permits, and appeals of City Tree Review Permits and view preservation determinations.

D. View restoration requests involving trees located on City-owned property, such as public parks, parkways and medians along public streets, are administered by City Staff through the issuance of a City Tree Review Permit issued pursuant to Section 17.76.100 of the Municipal Code. Staff decisions on City Tree Review Permits, and view preservation determinations are appealable to the Planning Commission. When reviewing Staff decisions regarding City Street Tree Review Permits, the Commission shall utilize the same process as is followed when the Commission reviews a View Restoration Permit application, excluding the early neighbor consultation process. Decisions of the Planning Commission on all view related permits are appealable to the City Council.

II. DEFINITIONS

A. Viewing Area

Section 17.02.040 (A)(15) of the Rancho Palos Verdes Municipal Code defines "viewing area" as follows:

"Viewing area" means that area of a structure (excluding bathrooms, hallways, garages or closets) or that area of a lot (excluding the setback areas) where the owner and City determine the best and most important view exists. In structures, the finished floor elevation of any viewing area must be at or above the existing grade adjacent to the exterior wall of the part of the building nearest to said viewing area."

B. View

Section 17.02.040 (A)(14) of the Rancho Palos Verdes Municipal Code defines "view" as follows:

"On the Palos Verdes Peninsula, it is quite common to have a near view and a far view because of the nature of many of the hills on the peninsula. Therefore, a 'view', which is protected by this section, is as follows:

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a. A 'near view' which is defined as a scene located on the peninsula including, but not limited to, a valley, ravine, equestrian trail, pastoral environment or any natural setting; and/or

b. A 'far view' which is defined as a scene located off the peninsula including, but not limited to, the ocean, Los Angeles basin, city lights at night, harbor, Vincent Thomas Bridge, shoreline or off shore islands.

A 'View' which is protected by this Section shall not include vacant land that is developable under the city code, distant mountain areas not normally visible nor the sky, either above distant mountain areas or above the height of off shore islands. A 'View' may extend in any horizontal direction (360 degrees of horizontal arc) and shall be considered as a single view even if broken into segments by foliage, structures or other interference."

III. ESTABLISHING THE VIEWING AREA

A. Section 17.02.040 (B)(5) establishes the procedure for determining the "viewing area" as follows:

"The determination of a viewing area shall be made by balancing the nature of the view to be protected and the importance of the area of the structure or lot from where the view is taken. Once finally determined for a particular application, the viewing area may not be changed for any subsequent application. In the event the city and owner cannot agree on the viewing area, the decision of the city shall control. A property owner may appeal the determination of viewing area. In such event, the decision on the viewing area will be made by the body making the final decision on the application. A property owner may preserve his or her right to dispute the decision on viewing area for a subsequent application without disputing the decision on a pending application by filing a statement to that effect and indicating the viewing area the property owner believes to be more appropriate. The statement shall be filed with the city prior to consideration of the pending application by the City."

B. The "viewing area" of the applicant's property is where the best and most important view is taken. The determination of the "viewing area" is made "by balancing the nature of the view to be protected and the importance of the area of the structure or lot from where the view is taken". After adoption of a Resolution or after a decision is rendered on a View Restoration Permit, View Preservation Application, or City Tree Review Permit, the applicant(s), foliage owner(s) or any interested person may file a timely appeal (accompanied with the appeal fee established by the City Council) of the City's determination of the viewing area.

1. On developed lots, the "viewing area" may be located on any level surface within the house (excluding bathrooms, closets, hallways or garages), which is

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at or above the existing grade adjacent to the exterior wall of the part of the building nearest to the "viewing area" or within the buildable area of the lot. A viewing area may be located on a patio, deck, balcony or lawn area which is adjacent to the primary structure (generally within ten feet) and which is located on the same general grade on the lot as the primary structure, excluding the required setback areas and used as a gathering area. In determining the viewing area on a developed lot, greater weight generally will be given to locations within the primary structure where a view is taken than to locations outside of the primary structure where a view is taken, unless no view is taken from within the primary structure.

2. On properties where the applicant claims that he or she has a view from one or more locations either within or outside of the primary structure, it must be determined where the best and most important view is taken to determine the "viewing area" which is to be protected. The "viewing area" may only include multiple rooms or locations on the applicant's property if those locations share the same view.

3. The "viewing area" may only be located on a second (or higher) story of a structure if:

a. The construction of that portion of the structure did not require approval of a height variation permit or variance, pursuant to Chapter 17.02.040 of the Rancho Palos Verdes Municipal Code, or would not have required such a permit if that Section had been in effect at the time that portion of the structure was constructed; or

b. The viewing area is located in a part of the structure that constitutes the primary living area of the house, which is the living room, dining room, family room or kitchen. However, the viewing area may be located in the master bedroom, if a view is not taken from one of the rooms comprising the primary living area, and the master bedroom is located on the same story of the house as the primary living area.

4. In documenting the views, Staff usually will conduct the view analysis in a natural standing position. In those cases where the view is enjoyed from a seated position, Staff will verify if that is the case, and if so, will conduct the view analysis from the seated position in that area at a height of not less than three (3) feet, six (6) inches.

5. Situations involving residential remodels that affect previously existing viewing areas:

a. If a residence is legally remodeled whereby the viewing area, which had been established previously through the issuance of an approved View Restoration, View Preservation or City Tree Review Permit, is eliminated, the approved View Restoration, View Preservation or City Tree Review Permit shall remain in full force and effect, unless a new application is filed by the subject property owner, and the prior determination is amended or repealed by a subsequent decision of the Planning Commission or City Council or Community Development Director.

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b. If a residence is legally remodeled whereby the viewing area, which had been established previously through the issuance of an approved View Restoration, View Preservation or City Tree Review Permit, is modified so that the viewing area is in a different location in the residence or is significantly altered by the remodel, a new viewing area in the remodeled structure may be established by the Planning Commission or City Council or Community Development Director pursuant to a decision on a new View Restoration, View Preservation or City Tree Review Permit application filed by the subject property owner. In such situations, any previously issued View Restoration, View Preservation or City Tree Review Permit decision may be entirely or partially amended or repealed by the subsequent decision of the Planning Commission or City Council or Community Development Director.

IV. APPLICATION PROCEDURES

A. Once an applicant completes the early neighbor consultation process described in Section V-A (Mandatory Findings) of these Guidelines and the view problem is not resolved and the applicant wishes to proceed, the applicant(s) may complete and submit a View Restoration Permit application form (see attached form) to the City's Department of Community Development, accompanied by the appropriate filing fees, in order to initiate a formal request for a View Restoration Permit.

B. It should be noted that the fees required for a View Restoration Permit are established by the City Council by resolution.

C. The following fee structure pertains to View Restoration Permits only and is designed so that the applicant pays two separate flat fees as follows:

1. The first fee is a fixed amount that is paid by an applicant to cover the City's costs associated with processing steps, such as reviewing the application for completeness, conducting the initial site visit and processing a formal application from submittal through a Planning Commission decision. Specifically, said fees would cover the costs of reviewing an application for completeness, conducting site visits, attending the public hearing(s) and preparing the Staff Report(s) and Resolution(s).

2. The second fee or follow-up fee is a fixed amount established by City Council resolution that would be paid by an applicant if an application is approved by the Planning Commission. Specifically, this fee would cover the review of the trimming/removal bids, the monitoring of the work, and the documentation of the restored view.

3. The establishment of a trust deposit account by an applicant to cover the cost of the actual foliage trimming/removal, as described in Section VI-K (Commission Action) is separate from the two processing fees described herein.

D. Once a formal View Restoration Permit application has been submitted, the City will review the application to determine if the information is complete, before

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beginning processing the application. If any information is missing or components of the application are incomplete, the applicant will be notified of any deficiencies in writing, and the application will be held in abeyance until the necessary materials are received by the City. If an applicant does not submit the necessary information and the application remains incomplete for six (6) months, the City shall administratively withdraw the application.

E. Once the application is deemed complete, the following sequence of steps shall occur in order to process an application for a View Restoration Permit (also see attached flow chart):

1. Staff notifies the foliage owner(s), in writing, that a formal request for view restoration has been filed with the City, attaching a copy of the application.

2. Staff schedules and conducts site visit(s) to the applicant's and foliage owner's properties. During the first site visit to the foliage owner's property, Staff will inquire as to whether the foliage owner wishes to have the Commission members visit their property. A foliage owner may request Commissioners visit his/her property in order to fully assess the case or demonstrate unique site conditions, such as special landscaping, slope stability or privacy concerns. Requests for the Commission to visit a foliage owner's property must be made in writing by the foliage owner and will be honored by the Commission.

3. Staff prepares a Staff Report to the Planning Commission, which will include the following:

- a. Application form;
- b. Early Neighbor Consultation documentation;
- c. An analysis of the six mandatory findings as set forth in Section 17.02.040(C)(2)(c) of the City's Municipal Code;
- d. Recommendation(s) on the disposition of the application;
- e. Determination if any of the Commission members are ineligible to participate on the application, based on a conflict of interest due to the proximity of a Commissioner's properties to the property that is the subject of the application. If a Commissioner owns property that is located within 500 feet of the subject property, a conflict is presumed;
- f. A tentative site visitation schedule for Commission members.

4. Staff establishes a date for the public hearing on the application and provides written notice of the hearing to the applicant(s) and the foliage owner(s) a minimum of 30 days prior to the hearing date. Notice of the hearing date shall also be

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published in a newspaper of general circulation in the City or clearly posted on each applicant's property.

5. Staff distributes the staff report to members of the Planning Commission a minimum of two weeks prior to the actual hearing date, and the Commissioners visit the site(s).

a. Commissioners are required to visit the applicant's property. Eligibility to participate in the decision on a View Restoration Permit application is dependant on the Commissioner visiting the applicant's site(s) prior to the public hearing. If an applicant refuses access to his or her site, the request for a View Restoration Permit will be denied.

b. Commissioners will visit the foliage owner's property if requested to do so by the foliage owner(s), in writing. Even if no request is made, Commissioners frequently will attempt to visit a foliage owner's property unless the foliage owner denies a Commissioner access. Although a foliage owner has discretion as to whether to allow Commissioners into his/ her property, by not allowing site visits of their property, it may be more difficult for Commissioners to evaluate issues raised by the foliage owner when considering an application.

c. Commissioners are responsible for arranging visits to the site(s). However, no more than three (3) Commissioners may visit the site at the same time.

6. The Planning Commission conducts a public hearing pursuant to the Commission's adopted Administrative Procedures. The Chairperson's instructions to the audience will generally follow these guidelines:

a. Any person desiring to speak must first be recognized by the Chairperson.

b. All participants must speak from the podium.

c. All speakers must first state their full names and addresses, and the names of any persons in whose behalf they are appearing (if any).

d. All comments must be made clearly and audibly.

e. Repetition of comments should be avoided, and speakers will be discouraged from reading a submission which has been copied and distributed to the Commission or is contained in the agenda packet.

f. Normally, the applicant(s) and foliage owner(s) will be limited to a five (5) minute presentation and a three (3) minute rebuttal (if requested). All other persons will be generally limited to a three (3) minute presentation each.

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g. Except when necessary for immediate clarification of a particular point, no person shall be allowed to speak a second time until all others wishing to speak have had an opportunity to do so, and then only at the direction of the Chairperson.

h. Due to unusual complexity of the case, submission of expert testimony or a large number of speakers on a particular case, the Chairperson, at his or her discretion, may allocate more than five (5) minutes per side and allow those wishing to speak on each side to designate a spokesperson or to divide the allotted time among themselves.

7. After the public hearing is closed and the Commission has reached a decision on the application, a resolution reflecting the Commission's decision shall be adopted by the Commission. The resolution shall be drafted by Staff and, where appropriate, reviewed by the City Attorney. If necessary, at a subsequent meeting, the resolution may be placed on the Commission's Consent Calendar for final action. Adoption of the resolution shall result in the issuance of a View Restoration Permit or denial of the request.

F. Foliage not Specifically Designated

Conditions of approval of View Restoration and Preservation Permit Applications specify individual trees or plants to be trimmed or removed. However, view-impairing foliage often grows in clusters or is screened by foliage in the foreground so that individual plants are not readily discernible. Therefore, foliage which is located on the same property and is in the view that was analyzed by Staff but was not specifically designated in the view analysis because it was behind other foliage which was specifically designated in the view analysis and was trimmed pursuant to the decision and the conditions of approval, shall be trimmed to the same height that was established by the Commission, for the designated foliage and the applicant shall pay the additional expense of having the foliage trimmed.

G. Once the work is performed, Staff will document the applicant's view with photographs taken from the applicant's viewing area with a standard camera lens that will not alter the actual image that is being documented from the viewing area. The photographs will be kept on file with the City and copies shall be given to all involved parties to maintain the foliage in accordance with the City's final decision.

V. MANDATORY FINDINGS

Section 17.02.040(C)(2)(c) of the Municipal Code requires that, in order for a View Restoration notice to be issued, the Planning Commission must make the following six mandatory findings:

A. "The applicant has complied with the early neighbor consultation process and has shown proof of cooperation on his/her part to resolve conflicts."

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1. Each applicant must provide evidence of early neighbor consultation with each foliage owner, utilizing the process described below.

2. Evidence of adequate early neighbor consultation shall consist of each applicant filing a "Notice of Intent to File a View Restoration Permit Application" with the City prior to the submittal of a formal View Restoration Permit Application. Said notice shall be on a form provided by the City and shall be signed by the owner of the applicant's property. Each applicant shall indicate, by marking the appropriate box on the "Notice of Intent to File a View Restoration Permit Application" that the applicant has made an attempt to contact the foliage owner prior to submittal and shall submit written proof of that attempt in the form of a copy of a registered letter and the return receipt. The notice shall include a signed statement from the applicant agreeing to meet with City representatives and each foliage owner that will be named in the pending application, to attempt to resolve any issues between the parties. The notice also shall indicate at least three days and times when the applicant is available to attend the pre-application meeting (see attached flowchart).

3. Upon receipt of a signed and complete Notice from an applicant, the Community Development Director shall provide written notification to each foliage owner listed in the Notice, via certified mail, of the pending application. The City's notification letter shall also request that the foliage owner attend one pre-application meeting at City Hall to discuss the City's view restoration process with City representatives and the applicant(s). The notification letter to each foliage owner shall contain three possible meeting times (date and time) identified by the City from which the foliage owner may select. The determination of the three meetings shall be based on the applicants' and City representatives' availability. The notification letter shall require that the foliage owner respond back to the City in writing, within 10 working days of the City's certified mailing of the notification, with one selected date.

4. If any foliage owner responds in writing with a date selection within the specified time frame, the Community Development Director shall arrange a pre-application meeting at City Hall between the applicants, the foliage owners and City representatives. Notice of the meeting shall be provided by the City to all parties, at least 5 working days prior to the meeting date.

The purpose of the pre-application meeting is to discuss the City's view restoration process with the affected parties and attempt to resolve the issues in order to avoid the filing of a formal application.

5. The initial pre-application meeting arranged by the City shall occur no later than 60 calendar days from the date that a "Notice of Intent to File a View Restoration Permit Application" is filed by an applicant with the City. Additional pre-application meetings with the City shall occur only if there is written consent from every applicant and foliage owner. This does not preclude foliage owners and applicants from meeting on their own with no City participation. If the applicant requests more than one

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meeting within a 12-month period, then the City shall charge the applicant a mediation fee (as established by City Council resolution) for each additional meeting, and the applicant shall pay the fee to the City prior to the scheduling of any additional mediation meetings.

6. The Community Development Director or his/her designee shall attend the pre-application meeting. In addition, a view restoration mediator shall attend the pre-application meeting. Mediators who reside within 500 feet of the applicant or foliage owner properties are ineligible to participate in the pre-application meeting.

7. Once an applicant submits a "Notice of Intent to File a View Restoration Permit Application" and the City provides notification to a foliage owner of the pending application and requests their attendance at a pre-application meeting, the early neighbor consultation process shall be deemed to be terminated and the applicant(s) may immediately file a formal View Restoration Permit Application with the City if any of the following occurs:

a. A foliage owner fails to respond in writing with a date selection within the time frame specified in the City's notification letter;

b. A foliage owner notifies the City in writing that he/she does not wish to attend the pre-application meeting;

c. A foliage owner fails to attend the arranged pre-application meeting;

or

d. Unless waived in writing by every applicant for a particular application, sixty (60) calendar days have elapsed from the date that a complete "Notice of Intent to File a View Restoration Permit Application" was submitted to the City by the applicant(s).

8. If an agreement is reached between the parties as a result of the pre-application meeting, Staff and/or the Mediator will encourage the participants to prepare and will assist in the preparation of the private agreement for the parties to sign (see attached sample).

9. At the public hearing, the applicant may be asked to explain his/her specific efforts to comply with the ordinance requirement for attempting to resolve conflict.

B. "Foliage exceeding sixteen (16) feet or the ridge line of the primary structure, whichever is lower, significantly impairs a view from the applicant's viewing area, whether such foliage is located totally on one property, or when combined with foliage located on more than one property."

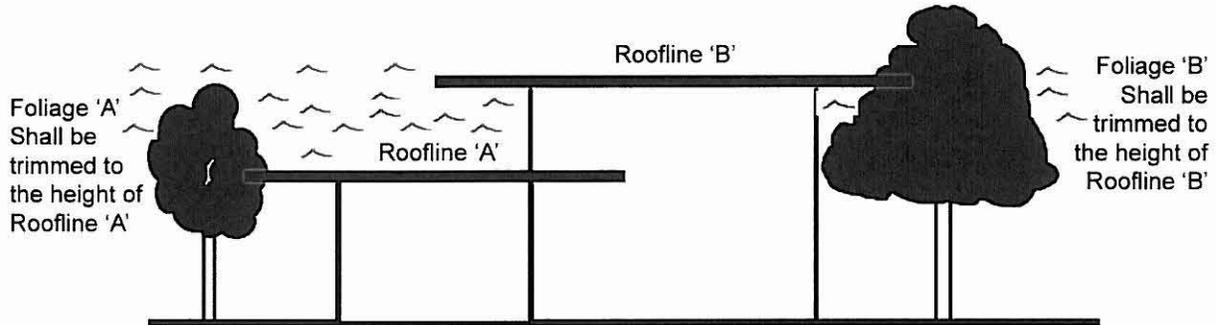
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1. After the location of the "viewing area" on the applicant's property is determined, the Commission must find whether foliage, which exceeds the lower of sixteen feet or the ridge line of the primary structure, significantly impairs a view from the "viewing area".

2. To determine which of the two measurements referenced in the paragraph above is the lowest, the sixteen (16) foot height measurement shall be measured from the base of the plant or tree (where it emerges from the ground).

3. For structures with multiple roofline heights that would block the view if the foliage were not present, foliage on the property, shall be lowered to the roofline of that portion of the structure that otherwise would block the view, as illustrated below in Figure 1. Where a structure with multiple roofline heights does not otherwise block a view, foliage on the property shall be trimmed to the applicable height limit set forth in this paragraph "B".

Figure 1



Multiple Roofline Structure with Foliage
(Example: Ocean view from the applicant's viewing area)

4. Section 17.76.030 of the City's Development Code limits the height of hedges. A "hedge" is defined by the Code as "shrubby or trees planted and maintained in such a manner as to create a physical barrier." A hedge can be included in a View Restoration Permit application, if the top of the hedge exceeds sixteen feet, the Planning Commission may require a hedge to be trimmed to the lesser of sixteen (16) feet or the ridgeline of the primary structure, if necessary to restore the view. However, if the top of the hedge is below sixteen feet or the ridgeline of the primary structure, whichever measurement is lower, these cases shall be referred to the City's Code Enforcement Division for resolution. Foliage which is determined by the Los Angeles County Fire Department to be a fire hazard also shall be referred to the City's Code Enforcement Division for immediate resolution.

5. The Planning Commission may, at its discretion, require the review of any case by a qualified biologist or ornithologist, soils engineer, landscape architect, arborist, or other appropriate professionals. The Staff shall be responsible for obtaining qualified consultants to review and comment on the specific cases requested by the Commission. In cases where expert advice is sought by the City, the applicant(s) shall

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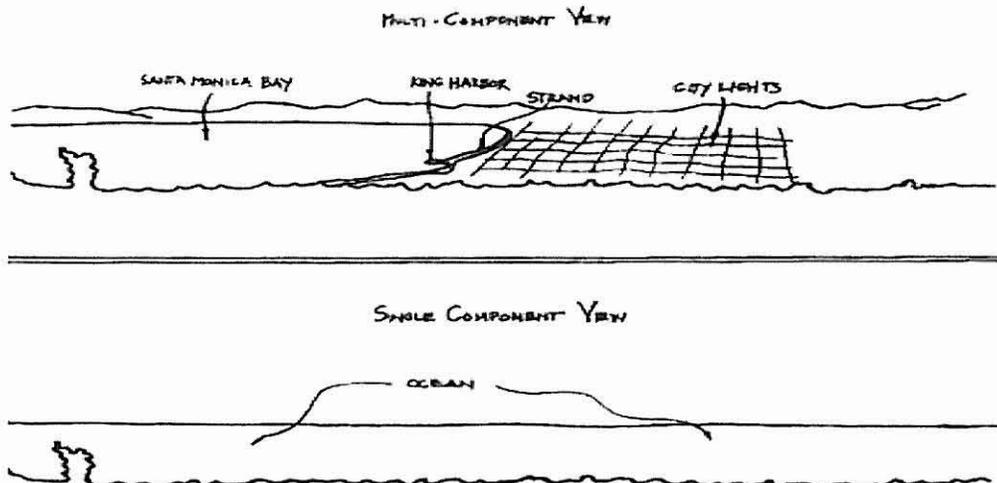
be responsible for bearing those costs. Staff will advise the applicant of the estimated additional expense for the expert advice. If the applicant refuses to pay for that expense and does not augment the trust deposit to cover that expense, then the application will be administratively withdrawn by City Staff. If the applicant agrees to pay for the expert advice, and the advice is provided to the Commission, the Commission, again at its discretion, may abide by, or reject, the advice of the consultant(s). Commission decisions must be supported by substantial evidence in the record before the Commission.

6. The Commission shall only take action on foliage which significantly impairs a view from the applicant's viewing area. Foliage which does not significantly impair a view may remain in the applicant's view frame. The following criteria may be used to help determine whether a view is being "significantly" impaired by foliage:

a. Foliage Position Within the View Frame. Foliage that is located in the center of a view frame is more likely to be found to create a significant view impairment than foliage located on the outer edge of a view frame.

b. Single-component View vs. Multi-component View. Some view frames contain a combination of different view components, such as a view of the ocean, harbor and City lights (multi-component view); while some view frames consist entirely of one component, such as only a view of the ocean (single-component view). Foliage that entirely obscures one of the components of a "multi-component" view is more likely to be found to create a significant view impairment than foliage that impairs the same degree of view of a "single-component" view (see diagram below).

c. Prominent Landmarks. Greater weight should be given to prominent landmarks or other significant features in the view frame such as the Vincent Thomas Bridge, harbor, shoreline, distant mountain areas, city skylines, and Channel Islands. As a result, foliage which impairs a view of any of these landmarks is more likely to be found to create a significant view impairment.



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C. "The foliage to be removed is located on property, any part of which is less than one thousand (1,000) feet from the applicant's property line."

Staff from the Department of Community Development will determine the distance from the applicant's property line to the nearest property line of the site containing the foliage under consideration.

D. "The foliage significantly impairing the view did not exist as view impairing vegetation when the lot from which the view is taken was created."

1. Where the applicant's property and the property containing the foliage in question, are both located in the same subdivision or in adjacent subdivisions, Staff will determine the date at which the lots were created. Generally, the lots' recordation date shall be the lots' creation date.

2. In other cases, the following sources of information may be used to determine the time when the foliage under consideration began to impair the view:

a. Aerial photographs maintained by the City.

b. Other photographs taken on known dates indicating the presence of vegetation or lack of vegetation.

c. Property descriptions prepared in connection with the sale of property (e.g. multiple listing information, newspaper advertisements, real estate flyers, etc.).

d. Testimony of witnesses.

e. Any reports documenting land conditions or site surveys that include information about vegetation.

3. Recorded lot line adjustments shall not be considered to create a new lot for the purpose of determining the date when the lot was created.

E. "Removal or trimming of the foliage will not cause an unreasonable infringement of the privacy of the occupants of the property upon which the foliage is located."

1. The burden of proving an "unreasonable infringement of indoor and/or outdoor privacy" shall be on the foliage owner. The Commission will make a determination on a case-by-case basis.

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2. Given the variety and number of options which are available to preserve indoor privacy, greater weight generally will be given to protecting outdoor privacy than to protecting indoor privacy.

F. "For property located within the boundaries of the Miraleste Recreation and Parks District, the Commission shall also find that removal or trimming of foliage strikes a reasonable balance between meeting the purposes of Section 17.02.040 set forth in Section 1 of the Ordinance approved by the voters on November 7, 1989, and preserving the historical development of the Miraleste Recreation and Parks District with large numbers of trees."

1. The Miraleste Recreation and Parks District has adopted a procedure for responding to view restoration and maintenance requests for foliage located on its property. Such properties owned by the District are not subject to the City's View Restoration Permit process.

2. Properties located within the boundaries of the District, but owned by a person or entity other than the District, are subject to the View Restoration Permit process and the additional finding above.

3. A map of the boundaries of the Miraleste Recreation and Parks District and a list of the streets within the Miraleste Homeowners' Association are attached.

VI. COMMISSION ACTION

A. If the Commission is able to make all of the mandatory findings set forth in Section V (Mandatory Findings) above, then the Commission must determine the action(s) which must be taken to restore the view. Such action(s) may include culling, lacing, trimming, or removal of the foliage, which is significantly impairing the view from the viewing area. These terms are defined as follows:

1. Culling shall mean the removal of dead, decayed, or weak limbs or foliage from a tree or shrub.

2. Lacing shall mean a comprehensive method of pruning that systematically removes excess foliage from a tree or shrub, but maintains its shape.

3. Trimming shall mean the removal of limbs or foliage from a tree or shrub. Trimming includes, but is not limited to:

a. "Crown reducing", which is a comprehensive method of pruning that reduces a tree's or shrub's height and/or spread. Crown reduction entails the reduction of the top, sides or individual limbs by means of removal of the leaders or the longest portion of limbs to a lateral branch large enough to assume the terminal; and,

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b. "Crown raising", which is a comprehensive method of pruning that removes limbs and foliage from the lower part of a tree or shrub in order to raise the canopy of the tree or shrub over the view.

c. "Topping", which is the cutting of branches and/or trunk of a tree or shrub in a manner which substantially reduces the overall height of the tree or shrub.

4. Removal shall mean the removal and disposal of a tree or shrub, by grinding the shrub's or tree's stump to the existing grade or a depth below existing grade to be determined by the Planning Commission on a case-by-case basis. If existing topography or other physical limitations identified by the tree service contractor preclude mechanical stump grinding, the stump shall be flush cut to existing grade or as close to existing grade as possible, as determined by the tree service contractor. If a foliage owner wishes to keep the stump, he or she may so elect; then, in no case, may the remaining stump height exceed 18 inches above grade. Unless otherwise directed by the Commission in connection with the decision on a particular application, removal of the foliage shall not include the removal and disposal of a plant's root system.

B. If any tree or shrub that is ordered to be culled, laced, or trimmed dies within two years of the initial work being performed due to the performance of the work, the applicant or any subsequent owner of the applicant's property shall be responsible for providing a replacement tree or shrub to the foliage owner. This time period may be extended by the Commission if evidence is provided by a certified arborist that a longer monitoring period is necessary for a specific type of tree or shrub. However, if the city arborist determines that culling, lacing, or trimming said tree or shrub will in all probability cause the tree or shrub to die, and the foliage owner chooses not to accept removal and replacement as an option, either in writing or in public testimony during the public hearing, then the applicant will not be responsible for providing a replacement tree or shrub to the foliage owner. The replacement foliage shall be provided in accordance with the specifications described in section VI-E (Commission Action) of these Guidelines. If the work is performed by the foliage owner, said foliage owner shall forfeit the right to replacement foliage if the trimmed tree dies. If a tree or shrub dies it is subject to removal pursuant to Section 8.24.060 (property maintenance) of the RPV Municipal Code.

C. Complete removal of any remaining portion of the tree or shrub that does not significantly impair the view will only be ordered if the owner of the property where the foliage is located consents to the complete removal of the remaining tree or shrub and the Commission finds:

1. That upon the advice of the City's arborist, culling, lacing, or trimming the foliage to sixteen (16) feet or the ridge line is likely to kill the tree or shrub or threaten the public health, safety and welfare; or

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2. That upon the advice of the City's arborist, culling, lacing, or trimming the foliage to sixteen (16) feet or the ridgeline will destroy the aesthetic value of the foliage that is to be trimmed, laced or reduced in height.

D. In order to balance trimming, the commission may require trimming portions of a tree or shrub that are below 16 feet or the ridgeline provided the foliage owner agrees. If a foliage owner agrees to such trimming, then he must do so either in writing, within 30 days of final approval of a View Restoration or View Preservation Permit or in public testimony taken during the hearing. If the foliage owner does not agree, then the foliage owner will not be required to trim, lace or prune below that level and the applicant will not be required to pay for the additional work.

E. The Commission also may order the applicant to replace trees or shrubs which have been removed if the owner of the property where the foliage is located consents to the replacement of the tree or shrub and the Commission finds:

1. That removal without replacement foliage will cause a significant adverse impact on:

a. The public health, safety and welfare;

An example of this would be a situation where there is evidence before the Commission that replacement foliage is needed to help stabilize a slope or minimize slope erosion.

b. The privacy of the owner of the property where the foliage is located;

An example of this would be a situation where there is evidence before the Commission that replacement foliage to mitigate the loss of privacy provided by pre-existing foliage is needed to help screen or block views from the applicant's property into the foliage owner's usable yard area (deck, patio, pool/spa area, barbecue area) and/or residence (unless interior privacy can be achieved by other means).

c. Shade provided to the dwelling or the property where the foliage is located;

An example of this would be a situation where there is evidence before the Commission that replacement foliage is needed to help provide shade to an area of the foliage owner's property, such as a usable yard area (deck, patio, pool/spa area, barbecue area) or residence, that is receiving shade from the foliage that is to be removed.

d. The energy-efficiency of the dwelling where the foliage is located;

An example of this would be a situation where there is evidence before the Commission that replacement foliage is needed to help cool an area of the foliage owner's residence in the summer months that is being kept cool by foliage that is to be removed.

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e. The health or viability of the remaining landscaping where the foliage is located; or

An example of this would be a situation where there is evidence before the Commission that replacement foliage is needed to help provide shade to existing sun-sensitive landscaping on the foliage owner's property, that is receiving shade from the foliage that is to be removed.

f. The integrity of the landscaping of the property on which the foliage is located.

An example of this would be a situation where there is evidence before the Commission that replacement foliage is needed to replace foliage that is a focal point or integral element of an existing landscaping plan.

g. The function of the landscaping as screening of an unfinished wall or structural elements of a deck or other similar structure on an adjacent property.

An example of this would be a situation where there is evidence before the Commission that replacement foliage is needed to replace foliage that provides effective screening of unsightly feature(s) located on an adjacent upslope property. Such features may include but are not limited to unfinished walls, or the support elements underneath decks and structures.

F. The Commission shall ensure that replacement foliage is reasonably comparable to the foliage removed in terms of function and/or aesthetics while understanding that the replacement foliage will not be of the same height, size and breadth as the pre-existing mature foliage. For example, if replacement foliage is determined to be necessary to replace foliage located on a slope, the replacement foliage should be of a woody-root species variety that provides soil stability. The selection of the type of replacement foliage shall be made by the foliage owner subject to approval by the Community Development Director.

G. The Commission is not obligated to order replacement of every tree or shrub ordered removed with a new tree or shrub. For example, two new replacement trees may be able to provide the same level of privacy as five pre-existing trees that are ordered removed. Replacement trees or shrubs generally should be of a 15-gallon size, and should not be larger than a 24-inch box size, unless warranted by the need to reasonably protect privacy or exceptional circumstances and the tree or shrub that is being replaced is substantially larger than a 24-inch box size.

H. The Commission may require that a long-term foliage maintenance schedule be incorporated into the conditions of approval of an approved View Restoration Permit. The purpose of the maintenance schedule is to dictate the minimum frequency of future trimming (i.e. semi-annual, annual or biennial) based on the growth rates of the subject foliage so as to not significantly impair a view. Alternatively, the Commission may

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specify the amount of allowable growth as measured with respect to a fixed point of reference that will not significantly encroach into the view, and require that when this point is reached, the foliage owner may be required to trim the foliage back to the height established by the Commission. In establishing the maintenance schedule, the Commission may take into account seasonal dormant periods of the subject foliage, when trimming is least harmful to the foliage.

I. The Commission shall require that a property owner trim or remove foliage within ninety (90) days. If no date is specified by the Commission, the ninety day time frame shall commence upon the receipt of a letter from the City notifying the foliage owner to trim/remove the foliage. Such a letter is sent by the City once a trust account has been established by the applicant for the cost of the trimming/removal and tree or shrub replacement. Within the ninety (90) day time frame, but not less than two weeks before the trimming/removal date, the foliage owner shall inform City Staff of the date and approximate time the work is scheduled to occur, so that staff may be available on-site to ensure the work is performed in accordance with the Commission's decision. Staff strongly encourages that the foliage owner to schedule a date during the Monday thru Friday workweek. Staff's on-site monitoring of the tree trimming/removal work shall include, if necessary, directing the foliage owner to trim additional foliage that was not specifically designated by the Planning Commission but found by staff to be significantly impairing the same view after the specified foliage is trimmed, provided the Planning Commission had imposed such a condition in its decision. Said additional foliage shall be trimmed to the same height that was established by the Commission for the designated foliage and the applicant shall pay the additional expense of having the foliage trimmed.

If evidence is provided to the Commission that a tree or shrub, subject to tree trimming or removal, contains nests (or eggs) of birds that are designated under the Migratory Bird Treaty Act and California Department of Fish and Game Code, the Commission may require that the subject foliage be trimmed within a ninety (90) day time period after the nest(s) is determined by a qualified biologist or ornithologist to be inactive.

If evidence is provided to the Commission that it is less harmful to trim certain foliage during the foliage's dormant period, the Commission may require that the subject foliage be trimmed ninety (90) days from an established date. In situations where foliage is dormant during the winter months, the Commission shall require that the trimming be performed during the months of November through March. In situations where the Commission determines that not all of the foliage on a property needs to be trimmed during a specific time of the year, the Commission may take either of the following actions:

1. Establish a specified time period for trimming the time-sensitive foliage and establish a different time period for trimming the remaining foliage. This will require the foliage owner to perform two separate trimming actions.

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2. Establish a specified time period for trimming the time-sensitive foliage and require that the remaining foliage also be trimmed at that time.

J. Unless the Commission specifies the amount of allowable growth pursuant to subsection VI-H the Commission may require that all maintenance schedules incorporated into the conditions of approval of a View Restoration Permit be reviewed at a future date to allow the Commission an opportunity to assess the adequacy of the maintenance schedule, as well as the foliage owner's ability to maintain the foliage in compliance with the conditions of approval. The review date shall occur a minimum of one year after the initial trimming is performed. The specific date shall be set by the Commission at the time it makes its decision on a View Restoration Permit, and shall be based on the growth rates of the subject foliage, as well as any other factors that the Commission finds are pertinent to the decision. On or about the specified review date, City Staff will inspect the foliage sites and transmit a brief report to the Commission which describes whether the foliage is being maintained in accordance with the conditions of approval. The report shall also contain a recommendation from City Staff as to whether the maintenance schedule should be amended. The Commission shall consider the report and determine if a public hearing to amend the conditions of approval is necessary. If a public hearing is determined to be necessary, Staff shall transmit to the Commission a report with recommendations for additional or modified conditions of approval. Notice of the public hearing shall be provided in the same manner as required by Municipal Code Section 17.02.040 for the original public hearing. The Commission decision on the review hearing is appealable to the City Council pursuant to Municipal Code Section 17.02.040.

The Commission shall require that an applicant submit one (1) to three (3) itemized estimates to the City for carrying out the work required by an approved View Restoration Permit. The work estimate shall also include tree or shrub removal and replacement costs for any tree or shrub that dies as a result of the ordered trimming, provided that the tree or shrub was not a tree or shrub identified by the City Arborist as likely to die as a result of said trimming. Said estimates shall be submitted within thirty (30) days after the adoption of the Resolution and shall include the cost to have an ISA certified tree trimmer or accredited arborist on site to perform or supervise the work being done. Said estimates are to be supplied by licensed landscape or licensed tree service contractors, acceptable to the City, which provide insurance by insurers in a form acceptable to the City, and shall include all costs of cleanup and removal of debris. Said insurance shall identify the property owner and the City (and its officers, agents and employees) as additionally named insureds, and shall have a coverage amount of no less than \$1,000,000 for each occurrence and no less than \$2,000,000 in the aggregate. In addition, the applicant shall pay to the City an amount equal to the lowest of the estimates and such funds shall be maintained by the City, in a City trust account until completion of the work as verified by City Staff.

Upon completion of the work, the foliage owner shall submit a copy of a paid invoice to the City. Within 10 calendar days of the submittal of the invoice and verification by City Staff of compliance, the City shall authorize the transmittal of funds

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from the City trust account to the foliage owner. If there are remaining funds in the trust account to cover the costs of removing and replacing trees or shrubs, then the funds shall remain in the trust account for a period of two years or longer if determined by the Planning Commission until City Staff determines that removal of dead trees or shrubs is not warranted. A reimbursement check to the foliage owner shall be released by the City no later than 30 days following Staff's authorization. If the paid invoice submitted by the foliage owner is for an amount less than the funds in the City's trust account, the foliage owner shall only be transmitted an amount equal to the actual cost of the trimming. In such situations, the balance of the trust account (less the monies needed to remove and replace dead trees or shrubs) shall be refunded to the applicant within 30 days of receipt of the appropriate billing. If the paid invoice submitted by the foliage owner is for an amount that exceeds the funds in the City's trust account established for the initial trimming or removal and replacement of trees or shrubs, the foliage owner shall only receive the funds from the City trust account and the foliage owner shall be responsible for paying the difference. If a foliage owner chooses to do the required work himself/herself, the foliage owner shall not be compensated from the City trust account and the amount in the trust account shall be refunded to the applicant(s).

If the required work as specified herein is not completed, as verified by Staff, within the stipulated time periods, then the City of Rancho Palos Verdes will utilize the City's code enforcement process to authorize a bonded tree service to perform the work at the subject property at the foliage owner's expense, and the applicant's deposit will be refunded. In the event that the City is required to perform the work, the foliage owner will be billed for all City expenses incurred in enforcing the View Restoration order. If the foliage owner does not pay the invoice, a lien or assessment may be recorded against the foliage owner's property, pursuant to Title 8, Chapter 24 of the Rancho Palos Verdes Municipal Code.

VII. APPEAL OF COMMISSION DECISION

A. A decision of the Commission on a view related permit is appealable to the City Council. After considering the written and oral testimony at the appeal hearing, the City Council may take one of the following actions:

1. Affirm the decision of the Planning Commission and approve the application upon finding that all applicable findings have been correctly made and all provisions of Section 17.02.040(C)(2) of the Municipal Code have been complied with; or

2. Approve the application but impose additional or different conditions as the City Council deems necessary to fulfill the purposes of Section 17.02.040(C)(2); or

3. Disapprove the application upon finding that all applicable findings cannot be made or all provisions of Section 17.02.040(C)(2) have not been complied with; or

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4. Refer the matter back to the Planning Commission to conduct further proceedings. The remanded proceedings may include the presentation of significant new evidence which was raised in conjunction with the appeal. The City Council shall state the ground(s) for the remand and shall give instructions to Planning Commission concerning any error found by the City Council in the Commission's prior determination.

B. The appeal hearing may be conducted in a room other than the regular City Council chambers (e.g. the Fireside Room at the Hesse Park Community Center). The establishment of specific time allotments for speakers is optional and may be set or waived by the Mayor at the Mayor's discretion. The room may be arranged in a manner that promotes a "round table" discussion among the involved parties.

VIII. VIEW PRESERVATION

With regard to foliage obstructing a view after the issuance of a View Restoration Permit or upon the effective date of the Ordinance (November 17, 1989), Section 17.02.040(B)(3) of the Municipal Code states:

"Foliage Obstruction. No person shall significantly impair a view from a viewing area of a lot:

a. By permitting foliage to grow to a height exceeding the height determined by the View Restoration or Planning Commission through the issuance of a View Restoration Permit under subsection C.2 of this section; or

b. If no View Restoration Permit has been issued by the View Restoration Commission or Planning Commission, by permitting foliage to grow to a height exceeding the lesser of:

(i) The ridge line of the primary structure on the property, or

(ii) Sixteen (16) feet.

If foliage on the property already exceeds the provisions of subdivisions (i) and (ii) referenced above on the effective date of this Section, as approved by the voters on November 7, 1989, and significantly impairs a view from a viewing area of a lot, then notwithstanding whether any person has sought or obtained issuance of a view restoration permit, the foliage owner shall not let the foliage exceed the height existing on the effective date of this section (November 17, 1989). The purpose of this paragraph is to ensure that the owners of foliage which violates the provisions of this paragraph on the effective date of this section shall not allow the foliage to increase in height. This paragraph does not 'grandfather' or otherwise permit such foliage to continue to block a view."

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A. View Preservation After the Issuance of a View Restoration Permit (Maintenance Trimming)

1. After the issuance of a View Restoration Permit (VRP) and the initial foliage trimming and/or removal has been completed in accordance with the approved permit, Staff shall document the restored view through the use of color or black and white photography or other method approved by the Commission. The photographic documentation shall be made part of the City's permanent records and shall be kept on file at the Community Development Department. Once the initial work associated with an approved View Restoration Permit is performed and the restored view is documented with a photograph, the photographic documentation of the restored view shall be used as a benchmark by City Staff for making a determination of significant view impairment in any future view preservation enforcement actions that become necessary.

Upon receipt of a complaint from a View Restoration Permit (VRP) applicant or the subsequent owner of an applicant's property, that foliage subject to a VRP decision has exceeded the height limit imposed by a View Restoration Permit, City Staff shall visit the site and examine the photographic documentation on file or other evidence to determine whether the foliage has been maintained in a manner that is consistent with the approved View Restoration Permit (VRP). If foliage which is the subject of an approved VRP exceeds the height limits prescribed in the approved VRP, the City shall order that the foliage owner bring the foliage into compliance within 30 days. If the foliage owner does not comply within the specified time, the City will impose a fine (established by Council Resolution) and the matter will be forwarded to the City Attorney's office. Alternatively, if the foliage does not exceed the height limits prescribed in the approved VRP, the City will impose a fine (established by Council resolution) against the applicant. If City Staff determines that the foliage is in compliance with the VRP, no further action will be taken in response to the complaint. Unless specified in a Commission approved long-term maintenance schedule, a property owner shall be limited to filing a complaint about foliage subject to an approved VRP, without payment of a fee a maximum of once every twelve (12) months. If a property owner wishes to file a complaint more frequently than once every twelve (12) months, the property owner may do so upon payment of a fee established by City Council Resolution.

2. If foliage not subject to the View Restoration Permit subsequently grows into the VRP applicant's documented view, said new foliage shall be considered significant view impairing foliage only if the new foliage exceeds the lesser of the ridge line of the primary structure on the property or sixteen (16) feet. Upon notification from a property owner that the new foliage has grown into the documented view, Staff will visit the VRP applicant's property to verify that the new view-impairing foliage is not in compliance with the foliage conditions shown in the documented photo. If such a situation is found, then Staff shall issue a written notice to the foliage owner informing him/her that Staff has verified that the documented view is significantly impaired by foliage on the property. Such notice shall require that the foliage owner trim or remove

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the offending foliage to the condition shown in the documented view photograph on file with the City, within 30 days of receiving such notice and maintain such foliage on a schedule equivalent to the minimum trimming maintenance cycle imposed by the Commission or Council for the foliage that is subject to the associated View Restoration Permit.

3. If the maintenance trimming described in Sections VIII-A2 and A3 is not completed by the foliage owner as specified by City Staff, within the stipulated time periods, then the City of Rancho Palos Verdes will utilize the City's code enforcement process to authorize a bonded tree service to perform the work at the subject property at the foliage owner's expense. In the event that the City is required to perform the work, the foliage owner will be billed for all City expenses incurred in enforcing the View Restoration permit. If the foliage owner does not pay the invoice, a lien or assessment may be recorded against the foliage owner's property, pursuant to Title 8, Chapter 24 of the Rancho Palos Verdes Municipal Code.

B. View Preservation in Absence of a View Restoration Permit

1. An owner of foliage is responsible for protecting any right he or she has to exceed the foliage height limitations that went into effect on November 17, 1989, by submitting the appropriate documentation, which can include photographs.

2. The property owner wishing to protect his/her existing view is responsible for submitting: 1.) documentation of the view, as it existed on or after the effective date of the Ordinance; and/or 2.) documentation of the view impairing foliage as it existed on November 17, 1989. Documentation shall consist of the submittal of a "Documentation of Existing View or Foliage" Form (attached) accompanied by color or black and white photographs, which clearly provide evidence that accurately depicts the view and/or foliage as it existed from the property owner's viewing area on the date the photograph was taken. The submitted documentation shall be verified by City Staff with a visit to the view impaired site. If Staff is able to verify that the photographs accurately depict the view from the property owner's viewing area, as defined in these Guidelines, then the property owner's photographs will be incorporated into the City's files. If said photographs do not accurately depict the view from the "viewing area", then Staff will advise the property owner that the documentation has been rejected. Any verified photographs will be kept on file in the Department of Community Development and shall be used as a bench mark in future view preservation enforcement actions.

3. Once documentation of a view and/or foliage has been submitted to the City and verified by City Staff, a property owner may file a Notice of Intent to File a View Preservation Application requesting one of the following view preservation actions:

a. That foliage which exceeded the lesser of: a) the ridgeline of the primary structure on the property; or b) sixteen (16) feet, and significantly impaired the view from a viewing area of a lot on November 17, 1989 be trimmed to the height that existed on November 17, 1989, as shown in the submitted and verified documentation;

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b. That foliage which exceeds the lesser of: a) the ridgeline of the primary structure on the property; or b) sixteen (16) feet and has grown into a property owner's view, as documented and verified by City Staff on or after the effective date of the ordinance (November 17, 1989), and significantly impairs the view from a viewing area of the lot, be trimmed so as to eliminate the significant view impairment.

4. Upon receipt of a Notice of Intent to File a View Preservation Application, Staff will visit the applicant's property to verify if there is a significant impairment and to eliminate the need to proceed further in the process if there is no significant view impairment. If Staff determines that no significant view impairment exists from the viewing area, then Staff shall advise the applicant that there is no need to proceed with the Notice of Intent to File request. Notwithstanding Staff's initial field determination, the applicant still may formally apply for a View Preservation Permit seeking the Director's Final Determination on the permit request. If the Director's Final Determination in response to said application is that View Preservation action is not warranted, no further action by the foliage owner is necessary in response to the filed application. The Director's Final Determination is appealable to the Planning Commission.

If a significant view impairment is found, then Staff shall issue a written notice to the foliage owner informing him/her that Staff has verified that the documented view is significantly impaired by foliage on the property, and such notice shall request that the foliage owner trim or remove the offending foliage to the condition shown in the provided documented view photograph within 30 days of receiving such notice.

a. If the foliage owner voluntarily performs the necessary work within 30 days of receiving notice, then no further permit processing shall be required.

b. If no work is performed within 30 days of receiving the notice, then the applicant may file a formal application. Once a formal View Preservation Permit application has been submitted, a Notice of the Director's Determination shall be issued to the applicant and foliage owner(s) giving the foliage owner ninety (90) days to perform the necessary work.

c. The Director may require that a long-term foliage maintenance schedule be incorporated into the conditions of approval of an approved View Preservation Permit. The purpose of the maintenance schedule is to dictate the minimum frequency of future trimming (i.e. semi-annual, annual or biennial) based on the growth rates of the subject foliage so as to not significantly impair a view. Alternatively, the Director may specify the amount of allowable growth as measured with respect to a fixed point of reference that will not significantly encroach into the view, and require that when this point is reached, the foliage owner may be required to trim the foliage back to the height established by the Director. In establishing the maintenance schedule, the Director may take into account seasonal dormant periods of the subject foliage, when trimming is least harmful to the foliage.

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d. The Director's Determination may be appealed to the Planning Commission by the applicant, the foliage owner or any interested party by filing a written appeal and submitting the appropriate fee, as established by City Council resolution, to the City within fifteen (15) days of the receipt of the Director's Determination Notice. Prior to the public hearing, Commissioners shall conduct a site visit to the applicant's property pursuant to Section IV (E)(5). Commissioners will also visit the foliage owner's property if requested in writing to do so by the foliage owner(s). The decision of the Commission may be appealed to the City Council by the applicant, the foliage owner or any interested party by filing a written appeal and submitting the appropriate fee, as established by City Council resolution, to the City within fifteen (15) days of the Commission's decision.

5. Once the appeal process has been exhausted, the City's View Preservation Determination Decision shall be final. If the City's final determination is that view preservation action is warranted on a particular property, the foliage owner shall be responsible for trimming the foliage, at his/her expense, as so ordered by the City. If the required work as specified herein is not completed, as verified by Staff, within the stipulated time periods, then the City of Rancho Palos Verdes will utilize the City's code enforcement process to authorize a bonded tree service to perform the work at the subject property at the foliage owner's expense. In the event that the City is required to perform the work, the foliage owner will be billed for all City expenses incurred in enforcing the View Preservation permit. If the foliage owner does not pay the invoice, a lien or assessment may be recorded against the foliage owner's property, pursuant to Title 8, Chapter 24 of the Rancho Palos Verdes Municipal Code.

6. Once the initial work associated with a formal View Preservation decision is performed, Staff will document the applicant's view with photographs taken from the applicant's viewing area with a standard camera lens that will not alter the actual image that is being documented from the viewing area. The photographs will be kept on file with the City and copies shall be given to all involved parties to use for future trimming purposes.

7. The filing of an application by a property owner requesting a view preservation action without payment of a fee shall be limited to a maximum of once every twelve (12) months. If a property owner wishes to file an application more frequently than once every twelve (12) months, the property owner may do so upon payment of a fee established by City Council Resolution.

8. Upon receipt of a written complaint from a View Preservation Permit (VPP) applicant or the subsequent owner of an applicant's property, that foliage has exceeded the height limit imposed by a View Preservation Permit, City Staff shall visit the site and examine the photographic documentation on file or other evidence to determine whether the foliage has been maintained in a manner that is consistent with the approved View Preservation Permit (VPP). If foliage, which is the subject of an approved VPP, exceeds the height limits prescribed in the approved VPP, the City shall

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order that the foliage owner bring the foliage into compliance within 30 days. If the foliage owner does not comply within the specified time, the City will impose a fine (established by Council Resolution) and the matter will be forwarded to the City Attorney's office. Alternatively, if the foliage does not exceed the height limits prescribed in the approved VPP, the City will impose a fine (established by Council resolution) against the applicant. If City Staff determines that the foliage is in compliance with the VPP, no further action will be taken in response to the complaint.

C. Review Criteria for View Preservation Applications in the Absence of a View Restoration Permit

In order for a View Preservation Application to be approved, the Community Development Director must make the following five findings:

1. The applicant has complied with the early neighbor consultation process and has shown proof of cooperation on his/her part to resolve conflicts.

a. Each applicant must provide evidence of early neighbor consultation with each foliage owner, utilizing the process described below.

b. Evidence of adequate early neighbor consultation shall consist of each applicant filing a "Notice of Intent to File a View Preservation Application" with the City prior to the submittal of a formal View Preservation Application. Said notice shall be on a form provided by the City and shall be signed by the owner of the applicant's property. Each applicant shall indicate, by marking the appropriate box on the "Notice of Intent to File a View Preservation Permit Application" that the applicant has made an attempt to contact the foliage owner prior to submittal and shall submit written proof of that attempt in the form of a copy of a registered letter and the return receipt.

(1). Upon receipt of a signed and complete Notice from an applicant, the Community Development Director shall provide written notification to each foliage owner listed in the Notice, via certified mail, of the pending application. The City's notification letter shall also request that each foliage owner trim or remove the offending foliage to the height and condition shown in the provided documented view photograph within 30 days of receiving such notice.

(2). Once an applicant submits a "Notice of Intent to File a View Preservation Permit Application", and the City provides notification to a foliage owner of the pending application, the early neighbor consultation process shall be deemed to be terminated and the applicant(s) may immediately file a formal View Preservation Application with the City if the foliage owner fails to voluntarily perform the work within 30 days of receiving written notice from the City.

(3). If an appeal hearing is necessary, the applicant may be asked to explain his/her specific efforts to comply with the ordinance requirement for attempting to resolve conflict.

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2. Foliage exceeding sixteen (16) feet or the ridge line of the primary structure, whichever is lower, significantly impairs a view from the applicant's viewing area, whether such foliage is located totally on one property, or when combined with foliage located on more than one property.

a. After the location of the "viewing area" on the applicant's property is determined, the Director must find whether foliage, which exceeds the lower of sixteen feet or the ridge line of the primary structure, significantly impairs a view from the "viewing area".

b. To determine which of the two measurements referenced in the paragraph above is the lowest, the sixteen (16) foot height measurement shall be measured from the base of the plant or tree (where it emerges from the ground).

c. For structures with multiple roofline heights that would block the view if the foliage were not present, foliage on the property shall be lowered to the roofline of that portion of the structure that otherwise would block the view. Where a structure with multiple roofline heights does not otherwise block a view, foliage on the property shall be trimmed to the applicable height limit set forth in this paragraph 2.

d. Section 17.76.030 of the City's Development Code limits the height of hedges. A "hedge" is defined by the Code as "shrubby or trees planted and maintained in such a manner as to create a physical barrier." A hedge can be included in a View Preservation Permit application, if the top of the hedge exceeds sixteen feet in height or the ridge line of the primary structure, whichever measurement is lower. In such cases, the Director may require a hedge to be trimmed to the lesser of sixteen (16) feet or the ridge line of the primary structure, if necessary to restore the view. However, if the top of the hedge is below sixteen feet or the ridge line of the primary structure, whichever measurement is lower, these cases shall be referred to the City's Code Enforcement Division for resolution. Foliage which is determined by the Los Angeles County Fire Department to be a fire hazard also shall be referred to the City's Code Enforcement Division for immediate resolution.

e. The Director shall only take action on foliage which significantly impairs a view from the applicant's viewing area. Foliage which does not significantly impair a view may remain in the applicant's view frame. The following criteria may be used to help determine whether a view is being "significantly" impaired by foliage:

(1). Foliage Position Within the View Frame. Foliage that is located in the center of a view frame is more likely to be found to create a significant view impairment than foliage located on the outer edge of a view frame.

(2). Single-component View vs. Multi-component View. Some view frames contain a combination of different view components, such as a view of the ocean, harbor and City lights (multi-component view); while some view frames consist

View Restoration and Preservation Permit Guidelines and Procedures
July 20, 2010

entirely of one component, such as only a view of the ocean (single-component view). Foliage that entirely obscures one of the components of a "multi-component" view is more likely to be found to create a significant view impairment than foliage that impairs the same degree of view of a "single-component" view (see attached diagram).

(3). **Prominent Landmarks.** Greater weight should be given to prominent landmarks or other significant features in the view frame such as the Vincent Thomas Bridge, harbor, shoreline, distant mountain areas, city skylines, and Channel Islands. As a result, foliage which impairs a view of any of these landmarks is more likely to be found to create a significant view impairment.

3. "The foliage to be removed is located on property, any part of which is less than one thousand (1,000) feet from the applicant's property line."

Staff from the Department of Community Development will determine the distance from the applicant's property line to the nearest property line of the site containing the foliage under consideration.

4. The foliage significantly impairing the view did not exist as view impairing vegetation in November 1989 or thereafter.

5. Removal or trimming of the foliage will not cause an unreasonable infringement of the privacy of the occupants of the property upon which the foliage is located."

a. The burden of proving an "unreasonable infringement of indoor and/or outdoor privacy" shall be on the foliage owner. The Director will make a determination on a case-by-case basis.

b. Given the variety and number of options which are available to preserve indoor privacy, greater weight generally will be given to protecting outdoor privacy than to protecting indoor privacy.