



STAFF REPORT
CITY OF BEVERLY HILLS

**For the Planning
Commission Meeting of
June 24, 2010**

TO: The Planning Commission

FROM: Michele McGrath, Senior Planner *mm*

THROUGH: Jonathan Lait, AICP, City Planner

SUBJECT: An ordinance of the City of Beverly Hills amending various sections of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to establish regulations regarding the restoration and maintenance of certain defined views from single-family residential property in Trousdale Estates

EXECUTIVE SUMMARY

Since the last Planning Commission meeting on view restoration on February 11, 2010, the appointed View Restoration Subcommittee of Planning Commissioners Cole and Corman has met on a regular basis to develop a draft framework for an ordinance regulating the restoration and maintenance of views in Trousdale Estates (see attached draft framework). The Subcommittee has proposed City goals with regard to view restoration and developed a process by which residential property owners in Trousdale may seek to restore and preserve certain views, with emphasis on early neighbor resolution of view restoration issues.

Staff is seeking direction from the Planning Commission to return with a draft ordinance for recommendation to the City Council.

BACKGROUND

In response to a request of the Board of Directors of the Trousdale Estates Homeowners Association, the City Council, on April 7, 2009, directed staff to consider regulations to protect views in the City's hillside areas that have been impaired by foliage. On May 28, 2009, the Planning Commission began a discussion of view preservation in the hillside areas including a bus tour at its June 25, 2009 meeting. The Planning Commission took up the issue again at its February 11, 2010 meeting where public testimony was heard and the Planning Commission discussed how different hillside areas of the City may require unique view preservation standards. As a result, the Commission decided to focus the view restoration discussion on Trousdale Estates as a pilot area to develop view restoration

standards. A subcommittee of Commissioners Cole and Corman was appointed at the February meeting to develop draft standards addressing view restoration and maintenance in Trousdale for discussion by the Planning Commission.

DISCUSSION

The main theme of the Planning Commission's previous meetings on this issue was balancing the City Council's direction to provide an avenue for residents to address view impairment with the City's limited resources for reviewing and enforcing view restoration regulations. The Planning Commission considered two different approaches to regulation of view restoration and maintenance: one approach, represented by the City of Rancho Palos Verdes, includes comprehensive guidelines administered by City staff; the other approach, represented by the City of Tiburon, establishes nonbinding guidelines for a voluntary process requiring little City staff time. The Planning Commission agreed that the Tiburon model did not provide enough assistance to residents but that a Beverly Hills ordinance should avoid some of the bureaucracy of the Rancho Palos Verdes model. The Commission directed the Subcommittee to develop draft ordinance standards creating a process for citizens to seek view restoration with emphasis on early neighbor resolution and identification of code-enforcement solutions that could address view impairment issues.

The Subcommittee originally focused on addressing as much of the problem as possible with clear and measurable standards that would require only code enforcement, much in the way hedge height standards would be enforced now. It is difficult to develop standards that would apply uniformly and fairly in a hillside area and such standards would address only a portion of view impairment cases. The framework proposes an additional landscape standard that would define "hedgerow" (a tree hedge) in the Zoning Code and would limit the height of hedgerows in Trousdale Estates to provide an additional code enforcement solution to some view impairment situations. The Subcommittee then developed view restoration review procedures, building into the process incentives for early resolution of view impairment issues by establishing a three-step procedure that would increase in cost with each step. If issues remain unresolved after all three steps have been completed, an application may be made to the Planning Commission. The Subcommittee concluded that if the City decides residents should have the ability to address view restoration issues through the City and the Planning Commission, it is difficult to avoid a process that requires substantial City resources. The Subcommittee has attempted to address this by including in the standards an exemption area within which foliage would not be subject to view restoration review, a cap on the number of applications to be reviewed annually by the Planning Commission and a recommendation that fees be assessed to cover all City costs.

ANALYSIS

Below is analysis of the key standards proposed for discussion by the Subcommittee in the order they appear in the attached draft standards.

Purpose Statement

Since the Codes, Covenants and Restrictions (CC&Rs) in Trousdale expired, there have been no regulations regarding the maintenance of views in Trousdale. Key Trousdale development standards were adopted by the City into the City's Zoning Code in the 1980s but view maintenance standards were not included. The result is that foliage has continued to grow in what many Trousdale residents perceive to be view areas but property owners have no guidelines on which to rely to address loss of views to foliage. In the "purpose statement" proposed in the draft ordinance standards, the City would recognize that many of the properties in Trousdale were intended to have views and that restoration and maintenance of views is a City goal that must be balanced with other City goals such as maintaining the garden quality of the City. It is noted that the term "view restoration" has been substituted for "view preservation" as it was discussed by the Commission that the purpose of this ordinance is not only to preserve and maintain but to restore certain views that have been diminished or eliminated due to foliage growth. The use of the term "restoration" also differentiates the proposed ordinance from "view preservation" which is a term currently in the Zoning Code in reference to view obstruction by new structures or additions in the Hillside area. "View restoration" would apply only to cases where foliage obstructs views.

Definitions

Key terms used in the standards are discussed below.

Protectable View

- "Protectable View" is intended to define areas that could potentially be considered view areas protected by the proposed standards.
- The definition focuses on a "view of the Los Angeles area basin" which is consistent with the View Preservation standard currently in the Zoning Code for the Hillside Area.

Proposed Definition:

"A protectable view may include any view of the Los Angeles area basin from the level pad that contains the primary residential structure on a property. The view of the Los

Angeles area basin may include but is not limited to city lights (Beverly Hills and other cities), ocean and horizon. The term "protectable view" does not mean an unobstructed panorama of all or any of the above. A protectable view shall not include vacant land that is developable under the City Code."

Issues:

The Subcommittee expressed concern that an ordinance not create unreasonable expectations as to the level of view restoration that may be afforded to any property owner. While "protectable view" is similar to terms commonly used in view ordinances, the Subcommittee was concerned that the term could mislead property owners into thinking that all potential views as defined in this section would, in fact, be protected. As a result, it was clarified in the definition that a protectable view shall not mean an unobstructed panorama. The Planning Commission may wish to discuss whether the list of landmarks used to define "view of the Los Angeles basin" sufficiently captures landmarks that may be in a viewing area. Other landmarks to be considered may include "Century City" or, "Palos Verdes Peninsula."

View Owner and Foliage Owner

- Terms used to define the parties involved with a view restoration issue;
- Sets the extent of the view restoration area (300 feet).

Proposed Definitions:

View Owner "Any owner of real property in Trousdale Estates that has a protectable view and who alleges that the growth of foliage located on a property within 300 feet of View Owner's property is causing substantial disruption of a protectable view. 'View Owner' shall reference one or more owners of the same property."

Foliage Owner "An owner of real property in Trousdale Estates upon which is located foliage that is subject to an action filed pursuant to this Section and which property is within 300 feet of a View Owner's property. 'Foliage Owner' shall reference one or more owners of the same property."

Issues:

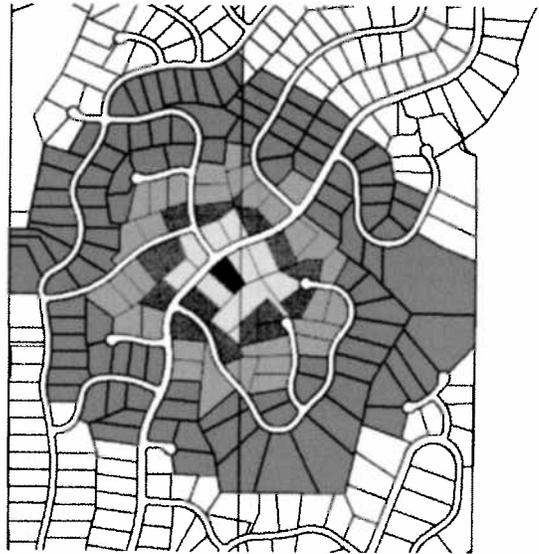
The Subcommittee discussed whether the view restoration area should extend to properties within 300 or 500 feet of a subject View Owner's property. The Commission noted some examples where trees on property more than 300 feet from a View Owner potentially impair

a view but ultimately decided that 300 feet would be consistent with the View Preservation section of the Hillside Area development standards and would be more manageable to enforce. The graphic below shows a property in Trousdale and properties within radii of 100, 300, 500 and 1,000 feet of the subject property so as to understand the number of properties included at varying distances from a View Owner's property.

Viewing Area

Definition:

- The Subcommittee agreed the view should be assessed only from the level pad/ground floor even if the residence has a legally nonconforming second story and should only be from the pad with the primary residence, not from an additional or alternate pad should a site have more than one pad.
- The view should potentially be from either a sitting position (36 inches above the level pad) up to a standing position (six feet above the level pad) as many homes were sited so as to allow occupants to take advantage of views while sitting in rooms facing the Los Angeles area basin.



"The area from which the view is assessed; this shall be from the level pad that contains the primary residential structure including the area within the interior of the primary residential structure at level finished grade or from any patio, deck or landscaped area at level finished grade so long as that area does not extend beyond the level pad. For the purposes of this section, a view from the level pad shall mean a view from a point thirty-six inches (36") (sitting position) up to a point six-feet (6') (standing position) above the finished grade of the level pad from all locations as described above. The viewing area may have one or more view points."

Issues:

The Subcommittee was in agreement that some flexibility should be allowed in determining the viewing area but there were differing points of view as to whether the definition above may be overbroad, allowing too large an area to be considered as the viewing area. The Subcommittee attempted to address this in the findings the Planning Commis-

sion would need to make to approve a View Restoration Permit (Finding #2 in attached draft standards, addressed later in this report).

Tree, Foliage, Hedge

Definitions:

- Definition of "tree" is from the City's Tree Preservation Ordinance
- Definition of "foliage" was added to better address the totality of trees and shrubs that the ordinance would regulate.
- The Subcommittee discussed the City's current definition of hedge which applies to all parts of the City and decided the definition should be maintained

Tree: A woody perennial plant, consisting usually of one trunk and many branches.

Foliage: The aggregate of leaves, branches and trunks of one or more plants. Trees are included in the definition of foliage.

Hedge: *[Current Code Definition]* A growth of vegetation, cultivated in such a manner as to produce a barrier to inhibit passage or to obscure view, which is more than twelve inches (12") in height. Where there are interruptions of growth by vertical space having a horizontal distance of more than twenty four inches (24") in every four feet (4'), such growth shall not be considered a hedge. This definition is not intended to include individual shrubs, plants, or trees.

Hedgerow

- Defines a tree hedge to provide the basis for an additional Code-Enforcement solution to some view impairment situations while preserving larger trees of a size protected in the City's existing Tree Preservation Ordinance.
- Language also intended to be consistent with current definition of hedge.

Definition:

A row of three or more shrubs, plants or trees where the growth of vegetation at a point six feet (6') in height or higher has been cultivated in such a manner as to obscure view. This definition is not intended to include a row of trees, as tree is defined in this section, where the primary trunk of each tree is a minimum horizontal distance of at least twenty-four inches (24") from any other primary trunk and two or more of the trees in the row have a circumference of twenty four inches (24") or more, measured at a height of four feet six inches (4'6") above natural grade.

Issues:

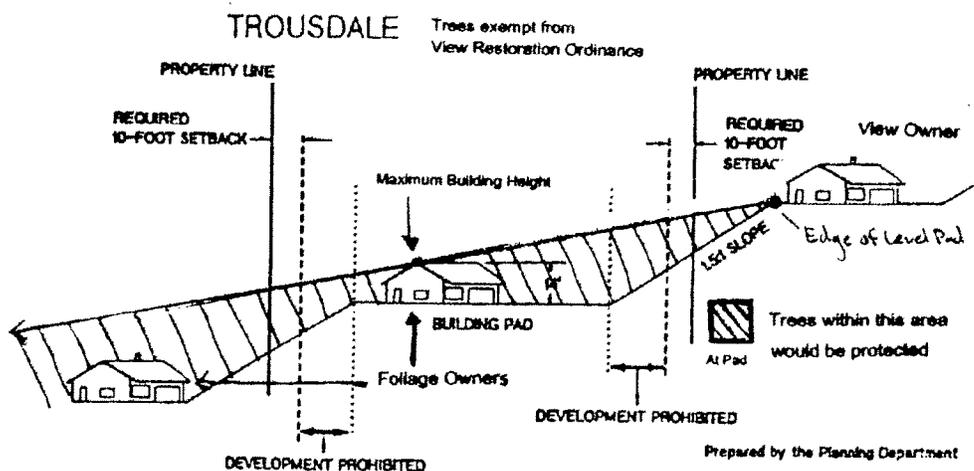
The existing hedge definition allows "individual shrubs, plants or trees" which means rows of trees can be planted with canopies that grow together so long as those canopies are above the maximum hedge height (six to eight feet, depending on location on the site). The purpose of the hedge restrictions has been to maintain a sense of openness in the City while allowing privacy and security. This definition works in the Central (relatively flat) Area of the City where there are not view issues. In the hillside areas, rows of tree canopies can act as giant hedges that block views. The purpose of adding a definition for hedgerow is that a measurable standard is created that can be more quickly and easily enforced by the City through code enforcement rather than a potentially lengthy view restoration process. This would be enforced on a complaint basis with an attached fee.

Development Standard

An additional standard would be added to the Trousdale Estates development standards in the Zoning Code regulating hedgerows as defined in this section. The maximum height of a hedgerow would be the maximum height of foliage exempted from the View Restoration ordinance as established in the Safe Harbor provision in this section (see below). This would be enforced as other Zoning Code standards are enforced through code enforcement.

Exemption (Safe Harbor Provision)

To avoid applications for view restoration where foliage could be clearly seen to be in a location that would not substantially interrupt views, the Subcommittee created an exemption from view restoration for foliage below a defined plane.



The exemption plane (or "safe harbor") would be measured from the edge of the level pad of a View Owner's property to a point on the adjacent downslope property representing the maximum height of a structure that could be built on that property. The Subcommittee reasoned that if a house could be built on a Foliage Owner's flat pad to a certain maximum height, foliage could occupy that area up to that same height without reasonably affecting the View Owner's view. Such foliage would not be subject to the view restoration provisions beyond hedges meeting the existing Zoning Code standards. This safe harbor is intended to provide residents with a guideline as to acceptable foliage height and to limit neighbors' ability to require other neighbors go through an unnecessary view restoration process.

Review Procedures

In crafting a process for resolution of view restoration issues, the Subcommittee focused on encouraging early resolution by making the process more costly as it progresses. Parties would have three opportunities to resolve their issues prior to a case reaching the Planning Commission: Step One, Initial Neighbor Outreach; Step Two, Mediation and Step Three, Non-Binding Arbitration. In the early steps all costs would be borne by the View Owner. As the case proceeds through the steps without resolution, some costs could be switched to the Foliage Owner depending on the parties' level of active participation in resolving the case. The goal is to have very few cases that require Planning Commission review. It is proposed that the number of applications that the Planning Commission review annually be capped at six. Planning Commission decisions may be appealed to the City Council. The procedures are more thoroughly detailed in the attached draft ordinance.

Step One: Initial Neighbor Outreach

This is a common first step in most view restoration ordinances. While it may seem that most parties would not be willing to reconcile at this point, it should be kept in mind that currently there are no regulations regarding view restoration so there is little impetus and no guidelines for neighbors to resolve their issues beyond goodwill. With City guidelines in place, there will be more incentive for parties to resolve issues before the expenditure of additional time and money to continue through the process as would be outlined in the Zoning Code. City staff would provide only information at this level with no fee. A View Owner may identify more than one property with foliage disrupting views. The View Owner would be required to send a notice to the Foliage Owner(s) with an offer to meet. The notification should clearly identify the remedy sought by View Owner, a good faith estimate of the cost of the remedy and an offer by View Owner to pay that cost. The cost of restorative actions that may be agreed to by the parties shall be borne by the View Owner unless otherwise agreed to by the Foliage Owner.

View Restoration Review Process: Cost Allocation Table

	Procedural/Fees: Responsible Party	Restorative Action: Responsible Party
Initial Neighbor Outreach Costs: Obtain Information; mail notice; agreement cost ¹	View Owner	View Owner ²
Mediation Costs: Application fee; mediation cost in excess of 3 hours; possible tree survey; agreement cost;	View Owner	View Owner
Non-Binding Arbitration Costs: Arbitration cost; tree survey; additional expert reports; agreement cost;	View Owner	View Owner/Foliage Owner View Owner and/or Foliage Owner as determined by Arbitrator
View Restoration Permit Review: Planning Commission (PC) Public Hearing Costs: Application fee; expert reports; recorded notice of decision	View Owner View Owner reimbursed by Foliage Owner if FO did not agree to restorative actions in Arbitrator's report and PC requires removal of the same or more foliage	View Owner/Foliage Owner View Owner and/or Foliage Owner as determined by the PC

¹ Some costs, such as additional expert reports, agreement cost and covenant, depend on the needs of the reviewer (mediator/arbitrator/PC) and on the parties reaching agreement and entering into a written agreement.

² Ongoing maintenance costs (tree trimming, etc.) would be borne by Foliage Owner unless otherwise agreed to by both parties.

Step Two: Mediation

The City currently offers three hours of free mediation and this has been incorporated into the proposed ordinance as an incentive for early resolution. Mediation is defined as a discussion among parties facilitated by a neutral third party. Reports and information such as a tree survey would be provided voluntarily at this level. It is proposed that a City application and fee be required at this level so the City can track the mediation hours and parties involved in these cases. The View Owner shall file one application for each Foliage Owner but all applications filed by a View Owner must be filed together. Any fees associated with administration of this process or to pay for additional mediation would be borne by the View Owner. The cost of restorative action agreed to by the parties involved shall be borne by the View Owner unless otherwise agreed to by the Foliage Owner.

Step Three: Non-Binding Arbitration

Non-binding arbitration is a process where a case is presented to an impartial professional arbitrator (often an ex-judge) who issues a non-binding written decision. This provides an additional avenue to resolve issues and is also a gatekeeping process before parties may present to the Planning Commission. The non-binding arbitration must be offered and can be refused; however, if refused the offering party may continue with the arbitration and receive a written decision from the arbitrator. The arbitrator's decision would be based on information presented by the party(ies) participating, as well as the arbitrator's own study, including a site visit. Should the parties still reach no agreement after this step, the case may proceed to the Planning Commission. The Planning Commission would be provided with the Arbitrator's report and information as to the participation of the parties in the case and this would be considered by the Planning Commission as part of its de novo review of a View Restoration application. The parties involved pay for this process; the offering party (assumed to be the View Owner) would bear the procedural costs unless otherwise agreed to by the Foliage Owner. Restorative actions would be apportioned by the Arbitrator.

View Restoration Permit

This is the public hearing process before the Planning Commission which would be anticipated to be similar to a Trousdale R-1 Permit process except the findings would relate to view impairment. The application for view restoration would require proof that the applicant has completed the three previous steps in the process.

Findings

A key finding to approve a View Restoration Permit is Finding #2 in the attached draft ordinance, regarding whether a View Owner's "protected view is substantially disrupted by

foliage on Foliage Owner's property..." The Subcommittee had a lengthy discussion as to appropriate criteria to determine "substantial disruption" of a view and agreed the following criteria shall be considered in determining "substantial disruption:"

- i) An assessment of all view points in the viewing area, individually and in combination. If a viewing area has multiple view points and some view points are found not to be substantially disrupted but other view points are found to be substantially disrupted, it may be found that the totality of the viewing area is not substantially disrupted.
- ii) Foliage Position within a View Point. Foliage located in the center of a view point is more likely to be found to substantially disrupt a view than foliage located on the edge of a view point.

The Subcommittee discussed more specific guidelines such as stating a percentage of the viewing area that is interrupted but ultimately agreed upon more flexible criteria.

Other key findings include:

- balancing the reasonable expectation of view restoration for the View Owner with the reasonable expectation of privacy and security for the Foliage Owner (Finding #4)
- finding that trimming, removal or removal with replacement of foliage will not have a substantial adverse impact on stability of a hillside, drainage of the property, erosion control, energy usage (loss of shade) or on biological resources. (Finding #5)
- Removal of a protected tree as defined in the City's current Tree Preservation Ordinance would be approved only pursuant to the findings in that ordinance which are restated as findings in the subject ordinance. (Finding #6)

Restorative Action

Should the Planning Commission make all of the findings for a View Restoration Permit, the Commission would need to determine restorative actions to include:

1. Trimming, culling, lacing, or reducing trees, foliage or hedges;
2. Requiring the complete removal of the foliage when the Commission finds that the trimming, culling, lacing, or reduction of the foliage is likely to kill the foliage, threaten the public health, safety or public welfare, or will destroy the aesthetic value of the foliage that is to be pruned or reduce;

3. Requiring replacement foliage when the Commission finds that removal without replacement will cause a significant adverse impact.

The Planning Commission may request any reports required to deliberate on the findings or to determine restorative actions including arborist reports, soils engineering reports, etc.

Other Considerations

The Subcommittee discussed whether the ordinance should include a date views are established such as the date the View Owner purchased the property. The Subcommittee concluded that many Trousdale Estates sites were developed as view properties, that views are important, and that the ordinance should establish criteria for determining views without reference to purchase date. View impairment should be determined without reference to when trees were planted.

The Subcommittee also discussed whether view restoration decisions by the Planning Commission should require a covenant. The advantage of the covenant is that it would run with the land providing early notice to future owners of the site. A covenant would be an appropriate vehicle to memorialize a private agreement between the View and Foliage Owners. In the event that there is not an agreement between the View and Foliage Owners and there is a decision of the Commission, a covenant may be complicated because a Foliage Owner may oppose recordation against its property and covenants need the owner's consent. While the City may be able to write into its ordinance a provision that requires a Foliage Owner to sign a covenant, a recalcitrant foliage owner could refuse and force the City into an enforcement action. An alternate approach the City is considering is to include in an ordinance that the City shall record a copy of its notice of decision against the View Owner property and Foliage Owner property (or properties).

ENVIRONMENTAL ANALYSIS

An Initial Environmental study (attached) was prepared for the proposed ordinance because the ordinance could result in the removal of some healthy, mature trees. This ordinance has been assessed in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City, and no significant unmitigated environmental impacts are anticipated; therefore, a negative declaration has been prepared, subject to review by the Planning Commission.

PUBLIC NOTICE AND COMMENTS

A public notice was published in *The Beverly Hills Courier* on Friday, June 11, 2010, and in *The Beverly Hills Weekly* on Thursday, June 17, 2010 and a notice was mailed to each property owner in Trousdale on June 11, 2020. As of this report, a number of letters and comment have been received and are attached.

RECOMMENDATION

It is recommended the Planning Commission direct staff to prepare an ordinance amending the Beverly Hills Municipal Code to address view restoration and maintenance for review at an upcoming Planning Commission meeting.

MICHELE MCGRATH

Attachments:

Draft framework for View Restoration regulations
February 11, 2010 Planning Commission Staff Report
Letters and Comments
Public Notice
Initial Study and Negative Declaration

Attachment

Draft Framework for View Restoration Regulations

1. PURPOSE STATEMENT

The intent of this ordinance is to restore and preserve certain views from substantial disruption by the growth of trees, vegetation, or a combination thereof while providing for residential privacy and security; maintaining the garden quality of the City; insuring the safety and stability of the hillsides; and, acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. It is the further intent to establish a process by which residential property owners in Trousdale Estates may seek to restore and preserve certain views, with an emphasis on early neighbor resolution of view restoration issues. It is not the intent of this ordinance to create an expectation that any particular view or views would be restored or preserved.

2. DEFINITIONS

Protectable View

A protectable view may include any view of the Los Angeles area basin from the level pad¹ that contains the primary residential structure on a property. The view of the Los Angeles area basin may include but is not limited to city lights (Beverly Hills and other cities), ocean and horizon. The term "protectable view" does not mean an unobstructed panorama of all or any of the above. A protectable view shall not include vacant land that is developable under the City Code.

View Owner

Any owner of real property in Trousdale Estates that has a protectable view and who alleges that the growth of foliage located on a property within 300 feet of View Owner's property is causing substantial disruption of a protectable view. "View Owner" shall reference one or more owners of the same property.

Foliage Owner

An owner of real property in Trousdale Estates upon which is located foliage that is subject to an action filed pursuant to this Section and which property is within 300 feet of a View Owner's property. "Foliage Owner" shall reference one or more owners of the same property.

View Point

A position from which a view is observed.

Viewing Area

The area from which the view is assessed; this shall be from the level pad that contains the primary residential structure including the area within the interior of the primary residential structure at level finished grade or from any patio, deck or landscaped area at level finished grade so long as that area does not extend beyond the level pad. For the purposes of this section, a view from the level pad shall mean a view from a point thirty-six inches (36") (sitting position) up to a

¹ Current Code definition of "Level Pad" would apply: "LEVEL PAD: That portion of a site containing level finished grade. No portion of a site with a slope that is greater than five percent (5%) shall be considered to be part of a level pad." Use of the term "level pad" is consistent with the View Preservation section of the Hillside development standards in the Code. It is noted that "primary residential structure" is not currently defined in the Code but is defined in this ordinance.

point six-feet (6') (standing position) above the finished grade of the level pad from all locations as described above. The viewing area may have one or more view points.

Primary Residential Structure

The main structure or building on a site zoned for residential use and used or occupied as a private one-family residence or small family daycare home.²

Protected View

A view from a designated view point that has been determined by the reviewing authority to merit restoration.

Tree

A woody perennial plant, consisting usually of one trunk and many branches.

Foliage

The aggregate of leaves, branches and trunks of one or more plants. Trees are included in the definition of foliage.

Hedge

[Current Code Definition] A growth of vegetation, cultivated in such a manner as to produce a barrier to inhibit passage or to obscure view, which is more than twelve inches (12") in height. Where there are interruptions of growth by vertical space having a horizontal distance of more than twenty four inches (24") in every four feet (4'), such growth shall not be considered a hedge. This definition is not intended to include individual shrubs, plants, or trees.

Hedgerow

A row of three or more shrubs, plants or trees where the growth of vegetation at a point six feet (6') in height or higher has been cultivated in such a manner as to obscure view. This definition is not intended to include a row of trees, as tree is defined in this section, where the primary trunk of each tree is a minimum horizontal distance of at least twenty-four inches (24") from any other primary trunk and two or more of the trees in the row have a circumference of twenty four inches (24") or more, measured at a height of four feet six inches (4'6") above natural grade.³

² Language from BHMC 10-3-402 regarding uses and buildings permitted in R-1 Zones as well language used to define accessory structure in the Code.

³ Definition uses language consistent with City's current definition of "hedge" and excludes trees that may fall under the City's definition of "Heritage Trees" (48" circumference") and "Native Trees" (trees on list of native trees and 24" circumference) regardless of location on the property (City's Tree Preservation ordinance generally only applies in the front yard or street side setback.) This means that action involving larger trees, even if in a row of trees disrupting a view, would have to be reviewed through the proposed view restoration process rather than

Draft Framework for View Restoration Regulations

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Arborist

1. An individual certified as an arborist by the International Society of Arboriculture (ISA), or 2) "Consulting" Arborist as currently listed as a member of the American Society of Consulting Arborists⁴.

Forester

An individual licensed in California as a Registered Professional Forester.

Landscape Architect

A landscape architect registered by the State of California.

Damage

Any action which may cause death or significant injury to a tree or which places the tree in a hazardous condition or an irreversible state of decline. Such action may be taken by, but is not limited to, cutting, topping, girdling, poisoning, trenching, grading or excavating within the drip line of the tree. *(language from City's tree preservation ordinance)*

Tree Survey

A tree survey includes the following information and is signed or stamped by a land surveyor and a registered Landscape Architect or Arborist or Forester as defined in this section:

- Species of each tree based on scientific name
- Tree identifying number and location recorded on a map
- Physical measurements of the tree such as height and diameter
- Age of the tree
- Report of overall health and structural condition of the tree
- Life expectancy; suitability for preservation
- Foliage management recommendations.

3. DEVELOPMENT STANDARD (potentially add to Trousdale Development Standards in Zoning Code)

(enforced by City through Code Enforcement Division with a fee)

Hedgerows

The maximum allowable height for a hedgerow shall be the height of foliage exempted from the View Restoration ordinance as established in the Safe Harbor provision in this section.

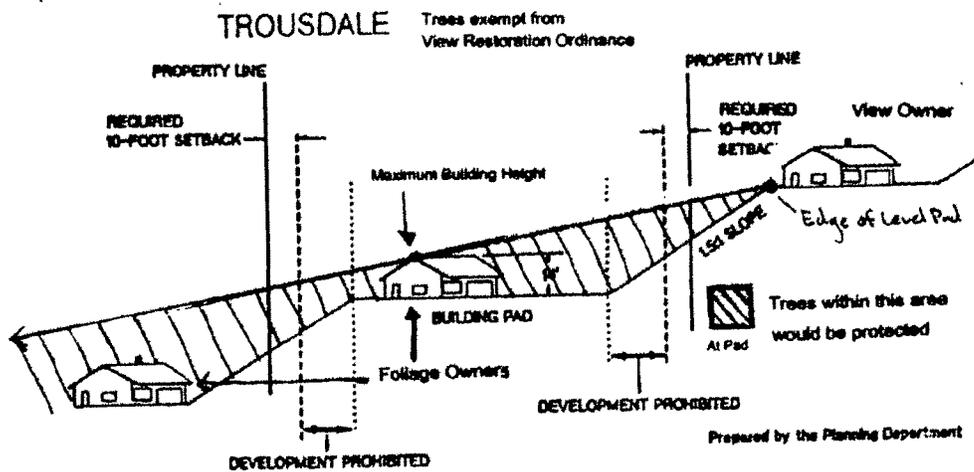
subject to a proposed new Code standard that would set a maximum height for a hedgerow (See Section 4 in this framework).

⁴The first part of this definition is consistent with the City's Tree Preservation Ordinance; the second part has been added in consultation with the City's Arborist as acceptable and allowing more flexibility to applicants. It is suggested the definition of "Arborist" in the Tree Preservation Ordinance should be revised to be consistent with this.

4. EXEMPTION (Safe Harbor Provision)

The provisions of this section shall not apply to the following:

Trees, foliage and hedges where the highest point of a tree, foliage or hedge falls below a line defined by a point at the edge of the View Owner's level pad to a point at the maximum building height of the principal building area of an adjacent downslope Foliage Owner's property. [see example below]. This line defines a plane below which foliage is exempted from view restoration review and applies to trees, foliage and hedges on properties within 300 feet of the View Owner. For the purposes of this section, "adjacent to" shall include a primary residence across a street from the View Owner. Trees, foliage and hedges, including trees and foliage exempted pursuant to this section, shall be maintained in accordance with all landscape maintenance standards in the Code.⁵



5. PROCEDURES

Violations of the Zoning Code (e.g. hedges that violate the height limits in the Code or foliage not maintained pursuant to a Planning Commission resolution) shall be addressed through the City's Code Enforcement Process. All other complaints received by the City regarding trees or foliage blocking views in Trousedale Estates shall be addressed through the procedures in this section.

A) Initial Neighbor Outreach

- 1) View Owner shall notify each Foliage Owner in writing of concerns regarding disruption of View Owner's view by trees, foliage or hedges on Foliage Owner's property. Said notice(s) shall be on

⁵ Just because foliage is exempt from this ordinance does not mean it is exempt from being maintained in accordance with the landscape maintenance, fire and other codes.

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a form provided by the City, shall be signed by the View Owner and shall include a signed statement from the View Owner that View Owner or View Owner's representative offers to meet with each potential Foliage Owner. The notification should clearly identify the remedy sought by View Owner, a good faith estimate of the cost of the remedy and an offer by View Owner to pay that cost. The notification should be followed by discussions between View Owner and each Foliage Owner to attempt to reach a mutually agreeable solution.

- 2) If View Owner and Foliage Owner are unable to resolve the matter, View Owner may proceed with a mediation process. To participate in the mediation process, View Owner shall submit to the City proof of Initial Neighbor Outreach in the form of a registered letter and return receipt to each Foliage Owner. . If a Foliage Owner did not respond to the notice or declined to discuss the matter, View Owner shall complete a signed affidavit to that effect.
- 3) If, pursuant to an agreement between View Owner and a Foliage Owner, View Owner or Foliage Owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of the BHMC on his/her property, a tree removal permit must first be obtained in accordance with the requirements of BHMC 10-3-2900.

B) Mediation

- 1) If the Initial Neighbor Outreach process is unsuccessful, View Owner shall propose Mediation by filing with the Community Development Department a View Restoration permit application on a form provided by the City.⁶ View Owner shall file one application for each Foliage Owner but all applications filed by a View Owner must be filed together⁷. A fee shall apply to each application. A copy of the registered letter(s) and return receipt to each Foliage Owner for the Initial Neighbor Outreach shall be attached as well as an affidavit(s) if required (See A2 above). The application shall clearly identify the remedy sought by View Owner, a good faith estimate of the cost of the remedy and an offer by View Owner to pay that cost.
- 2) Guidelines as to the information to be submitted by View Owner and each Foliage Owner to the mediator will be on file in the Community Development Department. This information may include, but is not limited to, a tree survey on each Foliage Owner's property.
- 3) The City offers a mediation process that the parties may use; or, parties may meet on their own or choose their own mediator. Acceptance of mediation by each Foliage Owner shall be voluntary, but each Foliage Owner shall have no more than 30 days from service of written

⁶ Staff has suggested initiating an application and fee at the mediation level rather than the Initial Neighbor Outreach level, which is intended to be a purely neighbor-to-neighbor process with the City providing only information and forms.

⁷ Staff is proposing that a View Owner may file only one set of applications within a five-year period.

Draft Framework for View Restoration Regulations

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request for mediation to accept or reject the offer of mediation, unless otherwise extended by View Owner. No response shall be considered rejection. Each mediation session may involve one View Owner and one or more Foliage Owners at the discretion of the parties involved.

- 4) The mediator shall not have the power to issue binding orders for restorative action but shall strive to enable the parties to resolve their dispute(s) at this stage. If an agreement is reached between the parties as a result of mediation, the mediator will encourage the participants to prepare and can assist in the preparation of a private agreement(s) for the parties to sign.
- 5) If, pursuant to an agreement between View Owner and Foliage Owner, View Owner or Foliage Owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of the BHMC on his/her property, a tree removal permit must first be obtained in accordance with the requirements of BHMC 10-3-2900.

C) Non-binding Arbitration

- 1) In those cases where the parties are unable to reach agreement through the Initial Neighbor Outreach process or through the Mediation process, View Owner shall offer by written notice to each Foliage Owner to submit the dispute to Non-Binding Arbitration. The notice shall be on a form provided by the City. Foliage Owner shall have thirty days from service of notice to accept or reject non-binding arbitration. If accepted, the parties shall agree on a specific arbitrator within twenty-one days, and shall indicate such agreement in writing, a copy to be provided to the Community Development Department. Arbitration may involve one View Owner and one or more Foliage Owners at the discretion of the parties involved. If non-binding arbitration is rejected by a Foliage Owner, the Arbitrator shall still proceed.
- 2) Guidelines as to the information to be submitted by View Owner and Foliage Owner to the arbitrator will be on file in the Community Development Department. This information shall include, but not be limited to a copy of View Owner's application and a tree survey.
- 3) The arbitrator shall use the provisions of this chapter to reach a fair resolution of the dispute in accordance with the Beverly Hills Municipal Code and shall submit a complete written report to View Owner and each Foliage Owner. This report shall include the arbitrator's conclusions with respect to the required findings in this section, a list of all mandated restorative actions, a schedule by which the mandates must be completed, and the allocation of the costs for foliage removal among the various parties. View Owner shall file copies of the arbitrator's report with the City Clerk and the Director of Community Development.
- 4) If, pursuant to an agreement between View Owner and Foliage Owner, View Owner or Foliage Owner may damage or remove, or cause to be damaged or removed, any protected tree as defined in Section 10-3-2900 of the BHMC on his/her property, a tree removal permit must first be obtained in accordance with the requirements of BHMC 10-3-2900.

6. VIEW RESTORATION PERMIT With Public Hearing⁸

A. View Restoration Permit:

Notwithstanding any other provision of this chapter, upon application by a property owner in a form satisfactory to the Director of Planning and Community Development, the reviewing authority may issue a View Restoration Permit to a View Owner with a protectable view as defined in this section where the protectable view is substantially disrupted from the viewing area by trees, foliage or hedges as defined in this section and the Planning Commission can make all of the findings as stated in this section. The number of View Restoration Permit requests that may be heard by the Planning Commission is six annually.

B. Reviewing Authority:

The reviewing authority for a View Restoration permit application shall be the Planning Commission.

C. Application:

Application for a View Restoration permit shall be in writing on a form prescribed by the director and shall include but not be limited to the following information:

- 1) Proof that View Owner has completed the following procedures as required in this section:

Initial Neighbor Reconciliation, and
Mediation, and
Non-Binding Arbitration;⁹
- 2) A copy of the Arbitrator's Report

⁸ Staff considered whether View Restoration could be handled as a Trousdale R-1 Permit but since View Restoration does not deal with development standards (as does the existing View Preservation standard in the Hillside Area) staff felt it was more appropriate to create a separate permit (could be BHMC 10-3-2610) that would be referenced in the Trousdale development standards. Staff has suggested the term "View Restoration" so as to distinguish foliage obstructing views from View Preservation (structures potentially obstructing views).

⁹ If the parties entered into an agreement at some point in this process but that agreement has been violated and the View Owner seeks remedy, the parties would begin the process again at the step above the step at which they were able to reach an agreement.

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- 3) Clearly identify the remedy sought by View Owner, a good faith estimate of the cost of the remedy and an offer by View Owner to pay that cost.
- 4) Tree Survey.

If an applicant does not submit the necessary information and the application remains incomplete for six (6) months, the director shall deny the application without prejudice, and shall provide notice to the applicant of that determination.

Once application has been received, City shall send a formal notice to Foliage Owner including a copy of the application, information about the process and an invitation to have staff and the reviewing authority visit the Foliage Owner's property with the Foliage Owner's approval.

D. Public Hearing Notice:

The reviewing authority shall hold a public hearing concerning each application for a View Restoration permit.

Notice of any hearing held pursuant to this section shall be mailed, at least thirty (30) days prior to such hearing, by United States mail, postage paid, to the applicant and all owners and residential occupants of property within three hundred feet (300') of the subject property, as shown on the latest equalized assessment roll.

E. Public Hearing

The reviewing authority may, at its discretion, require the review or additional review of any case by a qualified soils engineer, landscape architect, arborist or other appropriate professional with the costs to be borne by the View Owner.

F. Restrictions:

In approving a View Restoration Permit, the reviewing authority may impose such restrictions or conditions as it deems necessary or proper to enable the findings required for such permit to be made.

G. Effective Date:

Any decision of the reviewing authority made pursuant to this section takes effect fourteen (14) days from the notice of decision, unless an appeal is filed. If appealed, then the effective day is the date on which the City Council acts.

H. Appeals:

Any decision of the reviewing authority made pursuant to this section may be appealed to the City Council by the View Owner or the Foliage Owner pursuant to the provisions set forth in Title 1,

Chapter 4, Article 1 of this Code. The appeal period shall commence at the date of mailing of the Notice of Decision.

I. Time for Exercise of Rights:

The exercise of rights granted in such approval shall be completed within 60 days of a decision unless extended by written mutual agreement of the View Owner and Foliage Owner or unless restorative actions required pursuant to the decision should be postponed for the health of trees or foliage pursuant to the tree survey or an arborist's report.

J. Required Findings:

The Planning Commission may approve with conditions/restorative actions the issuance of a View Restoration Permit if it makes all of the following findings:

- 1) The View Owner has complied with the following procedures as required in this section: Initial Neighbor Reconciliation, Mediation and Non-Binding Arbitration.
- 2) View Owner's protectable view is substantially disrupted by foliage on Foliage Owner's property that is not exempted under Section #4. The following criteria shall be considered in determining "substantial disruption":
 - i) An assessment of all view points in the viewing area, individually and in combination. If a viewing area has multiple view points and some view points are found not to be substantially disrupted but other view points are found to be substantially disrupted, it may be found that the totality of the viewing area is not substantially disrupted.
 - ii) Foliage Position within a View Point. Foliage located in the center of a view point is more likely to be found to substantially disrupt a view than foliage located on the edge of a view point.

(possibly include diagrams as part of an ordinance).
- 3) Foliage to be removed is located on Foliage Owner's property, any part of which is within 300 feet of View Owner's property.
- 4) The proposed trimming, removal or removal with replacement of foliage will balance the reasonable expectation of view restoration for View Owner with the reasonable expectation of privacy and security of Foliage Owner (*R-1 Design Review Permit language*).
- 5) Trimming, removal or removal with replacement of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the property, erosion control, energy usage (loss of shade) or on biological resources

- 6) Removal of a protected tree as defined in 10-3-2900 will not:
- i) adversely affect the neighboring properties or the general welfare or safety of the surrounding area; and
 - ii) adversely affect the garden quality of the city. (*current tree preservation ordinance*)

K. Restorative Actions

Restorative actions may include, but are not limited to:

1. Trimming, culling, lacing, or reducing trees, foliage or hedges to a height or width to be determined by the reviewing authority.¹⁰
2. Requiring the complete removal of the foliage when the reviewing authority finds that the trimming, culling, lacing, or reduction of the foliage is likely to kill the foliage, threaten the public health, safety or public welfare, or will destroy the aesthetic value of the foliage that is to be pruned or reduced. Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings.
3. Requiring replacement foliage when the reviewing authority finds that removal without replacement will cause a significant adverse impact on a) the public health, safety and welfare, b) the privacy of the property owner, c) shade provided to the dwelling or property, d) the energy efficiency of the dwelling, e) the stability of the hillside, f) the health or viability of the remaining landscaping, or g) the integrity of the landscape plan.

NOTE: Staff adding language that would indemnify the City for any negative impacts resulting from restorative actions.

L. Notice of Decision:

A. Written Decision Required: The action taken by the reviewing authority shall be set forth in writing.¹¹

B. Notice of Decision: Within five (5) days after the issuance of a decision by the reviewing authority, the director shall cause a copy of the decision to be mailed, through the United States mail, postage prepaid, to each of the following persons:

¹⁰ Information about each of these practices along with graphic representations will be part of administrative guidelines prepared by staff.

¹¹ The Subcommittee discussed requiring a notice of decision that the City would record against each property involved (may be difficult to have a covenant recorded if one party is not in agreement).

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1. View Owner, using the mailing address set forth in the application;
2. Each Foliage Owner as listed on a current Tax Assessor's roll.

The failure of the person addressed to receive a copy of the decision shall not affect the validity or effectiveness of any decision.

7. APPORTIONMENT OF COSTS

Initial Neighbor Outreach

Procedural Costs

Any costs associated with obtaining information, mailing the required notice or preparing an agreement shall be borne by the View Owner.

Restorative Action

Cost of restorative actions agreed upon by the View Owner and Foliage Owner shall be borne by the View Owner unless otherwise agreed to by the Foliage Owner. All restorative actions must be performed by a licensed and bonded tree or landscape service unless mutually agreed upon by the View Owner and Foliage Owner. Cost of subsequent maintenance of trees, foliage, hedges on Foliage Owner's property shall be borne by Foliage Owner, unless otherwise agreed to by the View Owner.

Mediation

Procedural Costs

The City Council may establish, by resolution, fees for the processing of View Restoration applications without public hearing. Fees associated with such applications shall be borne by the View Owner. The City will provide up to three hours of free mediation cost for each application.¹² The parties may elect to continue mediation beyond three hours with the cost borne by the View Owner unless otherwise agreed to by the Foliage Owner. If the parties elect to choose their own mediator, the cost shall be borne by the View Owner unless otherwise agreed to by the Foliage Owner. The View Owner shall pay for the cost of a tree survey of the Foliage Owner's property if such a survey is conducted and shall bear costs associated with preparation of a mediation agreement, unless otherwise agreed to by the Foliage Owner.

¹² Any proposed expenditure of City funds will need to be approved by City Council.

Restorative Action

Cost of restorative actions agreed upon by the View Owner and Foliage Owner shall be borne by the View Owner unless otherwise agreed to by the Foliage Owner. All restorative action must be performed by a licensed and bonded tree or landscape service unless mutually agreed upon by the View Owner and Foliage Owner. Cost of subsequent maintenance of trees, foliage, hedges on the Foliage Owner's property shall be borne by the Foliage Owner unless otherwise agreed to by the View Owner.

Non-Binding Arbitration

Procedural Costs

The cost of the arbitrator and preparation of the arbitrator's report shall be borne by the View Owner unless otherwise agreed to by the Foliage Owner. The View Owner shall pay for the cost of a tree survey of the Foliage Owner's property and shall bear costs associated with preparation of an agreement as a result of arbitration unless otherwise agreed to by the Foliage Owner.

Restorative Action

Cost of restorative actions in the Arbitrator's report or in an agreement resulting from arbitration shall be apportioned by the Arbitrator. If the Arbitrator determines both parties have participated in the process in good faith, the cost of restorative actions shall be borne all or in large part by the View Owner. If the Arbitrator determines one or both parties have not participated in the process in good faith, the Arbitrator shall apportion the costs accordingly.¹³ All restorative action must be performed by a licensed and bonded tree or landscape service unless mutually agreed upon by View Owner and Foliage Owner. Cost of subsequent maintenance of trees, foliage, hedges on Foliage Owner's property shall be borne by Foliage Owner unless otherwise agreed to by the View Owner.

¹³ It was recognized that there could be an unreasonable View Owner as well as an uncooperative Foliage Owner so apportionment of costs should be determined by the Arbitrator based on the facts of the case and the level of cooperation by the parties.

APPORTIONMENT OF COSTS for View Restoration permit with public hearing

View Restoration Permit with Public Hearing

Procedural Costs

View Owner shall bear the up-front cost of application fees including the tree survey and the cost of any other information requested by the reviewing authority. Foliage Owner shall reimburse View Owner if Foliage Owner did not agree to restorative actions in Arbitrator's report and reviewing authority requires removal of the same or more trees, foliage or hedges as indicated in Arbitrator's report. Foliage Owner shall not reimburse View Owner if Arbitrator's report and reviewing authority required no restorative action.

Restorative Action

Cost of restorative actions shall be borne by View Owner unless Foliage Owner did not agree to restorative actions in Arbitrator's report and reviewing authority requires removal of the same or more trees, foliage or hedges as indicated in Arbitrator's report in which case cost of restorative actions shall be borne by Foliage Owner. If Arbitrator's report determined that no restorative action needed to be taken and the reviewing authority determines some restorative action should be taken, cost of restorative action shall be borne by View Owner. All restorative actions must be performed by a licensed and bonded tree or landscape service unless mutually agreed upon by the View Owner and Foliage Owner. Cost of subsequent maintenance of trees, foliage or hedges on the Foliage Owner's property shall be borne by the Foliage Owner unless otherwise agreed to by the View Owner.

Appeal to City Council

Procedural Costs

Appellant shall bear the costs of the appeal application including the appeal fee, public notice cost and any other application costs.¹⁴

Restorative Action

Cost of restorative actions resulting from an appeal to the City Council shall be apportioned in the same way as cost of restorative actions pursuant to a decision by the reviewing authority (Planning Commission).

END

¹⁴ Appellant could be either party so it is recommended appellant pays the procedural costs.

Attachment
Planning Commission Staff Report
February 11, 2010



STAFF REPORT
CITY OF BEVERLY HILLS

For the Planning
Commission Meeting of
February 11, 2010

TO: The Planning Commission

FROM: Michele McGrath, Senior Planner *MM*

SUBJECT: View Preservation in Trousdale Estates and the Hillside Area: Continued discussions on potential view preservation standards within the Hillside and Trousdale areas of the City.

SUMMARY

In response to a request of the Board of Directors of the Trousdale Estates Homeowners Association, the City Council, on April 7, 2009, directed staff to consider regulations to protect views in the Trousdale Estates and Hillside Area that have been impaired by foliage. On May 28, 2009, the Planning Commission began a discussion of view preservation in these areas of the City. The Planning Commission and interested members of the public took a bus tour of the City's Hillside and Trousdale Estates Areas on June 25, 2009 with subsequent discussion of the issue (meeting minutes attached).

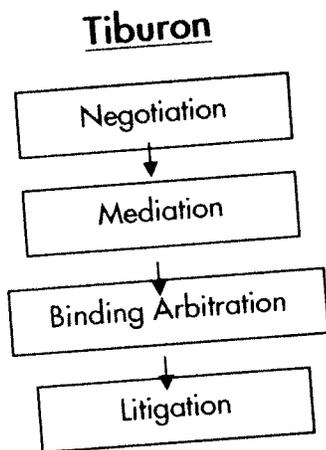
At the June, 2009 meeting (staff report attached), the Planning Commission noted this is a complicated issue involving different hillside areas of the City that have been developed in different ways and may require unique view preservation standards. In the interest of moving forward with an ordinance that could be completed more quickly to address residents' immediate concerns, the Planning Commission suggested starting with smaller steps rather than tackling all of the City's view preservation issues at once. If this is the Planning Commission's goal, staff suggests the Commission consider developing general policy language (intent/purpose), a simple review process and as much specificity with regard to issues such as the definition of "view," acceptable tree heights, and remedies for view impairment as the Planning Commission thinks are necessary at this time to accomplish this goal. In addition, The Planning Commission could discuss revisions to the City's landscape review requirements in the hillside areas to prevent inappropriate plantings thereby avoiding future view impacts while maintaining the safety and garden quality of the hillside areas.

This report responds to questions and comments from the two Planning Commission meetings, and provides a framework for the Planning Commission to proceed with regulations protecting views.

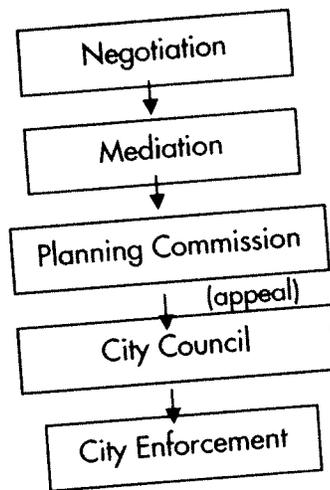
ISSUES

Review Process

The Planning Commission requested additional information regarding the two approaches to view preservation regulation summarized by staff in the May 28, 2009 staff report (attached). One approach is represented by the City of Rancho Palos Verdes (population 47,000) and is a more stringent ordinance with extensive City staff involvement. The other is represented by the Town of Tiburon (population 9,000) and is a guideline for a voluntary process requiring little City staff time. The Rancho Palos Verdes ordinance has been in effect since 1989, enacted by voter initiative. The town of Tiburon, in Marin County, enacted its ordinance in 1991. These two ordinances have a long history and have been unsuccessfully challenged repeatedly in court. They are also often cited by other cities in discussion of view preservation ordinances as representing the two ends of the spectrum; accordingly, they provide a helpful framework in which to evaluate view protection in Beverly Hills.



Rancho Palos Verdes



Both processes, like most view preservation review processes staff has reviewed, have as a first step a requirement that the complainant contact the owner of the encroaching foliage to attempt to negotiate a resolution. Should that prove unsuccessful, the second step common to these and most view preservation ordinances is mediation. The mediation can be conducted by City staff or a professional mediator. Rancho Palos Verdes contracts with a professional mediator and its ordinance compels neighbors to participate in a mediation

process by making such participation a required finding for the Planning Commission to approve a view preservation application if the mediation is unsuccessful. Rancho Palos Verdes staff estimates approximately a 90% success rate for its mediation process. The City had previously used volunteer mediators, but it was determined that their lower success rate warranted hiring a paid professional.

The Town of Tiburon requires that the parties mutually agree upon a mediator if mediation is accepted (it is voluntary) and the ordinance notes the County of Marin provides professional mediation services at a nominal cost. In cases where the initial reconciliation process has failed and where mediation was declined or has failed, the complainant must offer in writing to submit the dispute to binding arbitration, the arbitrator to be chosen by the parties to the dispute. A copy of the arbitrator's report is filed with the City Attorney upon completion. The final remedy in the Tiburon process would be litigation.

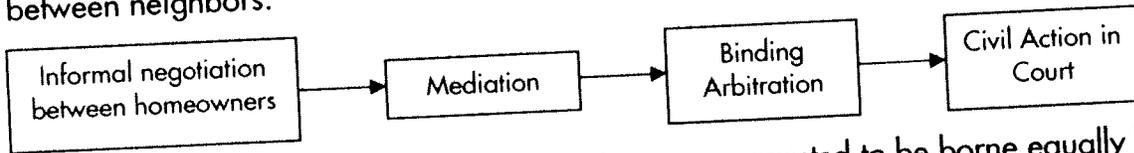
In response to the Planning Commission's request, staff had additional discussions with Rancho Palos Verdes and Tiburon staff to gain a better understanding of the view preservation review processes and the differences are striking. The City of Rancho Palos Verdes employs two full-time planners, a Senior Planner and an Associate Planner, who do nothing but handle view preservation cases pursuant to that City's 29-page view preservation guidelines. Rancho Palos Verdes determined this issue to be a priority and has allocated resources accordingly. While it is true that over time more view preservation cases in Rancho Palos Verdes have been handled through the mediation process thereby reducing the number of cases referred to the Planning Commission for review, the amount of work associated with maintaining views of property owners who have already been through the process has greatly expanded as more cases have been reviewed.

By contrast, the Town of Tiburon's view preservation guidelines, "View and Sunlight Obstruction From Trees," establish the City's policy with regard to view preservation and set out a process citizens may follow using private mediation services as selected by the parties involved; planners' only role is to provide the code section to those who inquire and to answer questions. This is a big difference from the past when in 1970 Tiburon was an early adopter of a view preservation ordinance that put the City in the middle of the review process. In 1991, overwhelmed by lawsuits and the staff time and money being spent, city officials replaced stringent rules with nonbinding guidelines that stress mediation. The Community Development Director stated that there are probably mixed feelings about the ordinance in the community but he gets few actual complaints and most disputes are resolved through the negotiation and mediation processes.

The Tiburon ordinance comes closer to the proposal made by the members of the Trousdale Homeowner's Association in that it relies entirely on civil actions between private parties to

carry out the requirements of the ordinance. In requesting that the City consider a view preservation ordinance, the Board of the Trousdale Homeowners Association had provided a general proposal to address its view preservation issues. The main points of the proposal include:

- Trees and other vegetation are not to obstruct the view of any other homeowner;
- The process is largely through progressive (i.e. escalating levels) of civil proceedings between neighbors:



- Costs of the proceedings and corrective actions are suggested to be borne equally by the parties, with maintenance being the responsibility of the owner of the landscaping;
- Landscaping on new development should be reviewed for height (no higher than neighbor's pad) and appropriateness of plant material.

City's Current Mediation Process

Some Planning Commissioners expressed concern that the Tiburon model may not be as friendly to residents as the Rancho Palos Verdes model because of the lack of City involvement in the process. If the Planning Commission is interested in pursuing the Tiburon model as a first step, the process could be made a little friendlier by using the City's existing mediation process. For approximately four years the City has offered a mediation service to City residents and businesses for complaints that are not regulated by the City's Codes but that, nonetheless, can impact the City and its citizens. These complaints include tenant-landlord issues, disputes between neighbors including trees and views, and resident or business complaints against the City. This is a voluntary conflict resolution process that is offered by the City to allow citizens a less onerous and more cost-effective way to resolve complaints short of binding arbitration or lawsuits.

The City contracts with Dispute Resolution Services (DRS), affiliated with the LA County Bar Association and composed of professional mediators. The service is currently free for the first few hours of mediation and a fee is charged for additional time with the cost to each party determined by the mediator. The Planning Commission also requested information about the success of mediation processes. Above is information about the Rancho Palos Verdes experience and following is information about the Beverly Hills experience.

Between January, 2008 and December, 2009, a period of two years, 54 cases were referred by the City to DRS, including cases involving views and trees. Once both parties agree to mediation, DRS has a high success rate, with 14 mediated cases resolved as compared with two mediated cases unresolved. According to the DRS mediators and City staff, the main problem with mediation, or any type of negotiation to resolve citizen complaints, is convincing the party against whom the complaint has been made to participate in the process. Of the 54 cases referred to DRS, 19 were closed due to an unwillingness of parties to participate in the mediation process. Three cases were resolved by the parties without DRS involvement, four cases involved the complainant changing his/her mind about moving forward with the complaint, six cases involved non-responsive parties and in one case the neighbor moved. For those parties who may be willing to negotiate, a big stumbling block can be difficulty in locating accurate contact information for the neighbor or a simple reluctance on the part of the complainant to contact the neighbor directly. In these cases, DRS can be particularly helpful by using its sources to locate neighbor contact information and initiating contact as a neutral third party. DRS staff stated that most Beverly Hills case related to trees have been resolved by telephone conference although not all such cases have been resolved as noted by a member of the public at a previous meeting. DRS does not provide binding arbitration services to Beverly Hills residents but such proceedings may be sought privately by citizens in accordance with State law.

It has been suggested by a number of the public speakers at the Planning Commission meetings, particularly with regard to Trousdale Estates, that one reason for the difficulty in convincing parties to negotiate is that the Codes, Covenants & Restrictions (CC&Rs) for Trousdale have expired. With no clear policy or guidance adopted by the City, citizens may not feel as compelled to negotiate with neighbors.

Proposed Standards

The May 28, 2009 staff report reviewed the various aspects of view preservation and this report will provide additional information pursuant to comments and questions at the two previous Planning Commission meetings.

Intent/Purpose

The Planning Commission may wish to discuss including an intent/purpose statement in a view preservation ordinance. A number of examples have been provided in other cities' ordinances included as attachments. Perhaps the most fundamental issue in a view preservation ordinance is defining "view" and developing standards to objectively evaluate potential view impacts. Is the ordinance intended to restore views back to a certain date? Is it intended to create or maintain unobstructed views? The definition of view is often included as part of the purpose statement as in several of the ordinances excerpted below:

City of Tiburon:

"Establish the right of persons to preserve views or sunlight which existed at any time since they purchased or occupied a property from unreasonable obstruction by the growth of trees."

City of Laguna Beach:

"Recognize that property owners are entitled to a process to resolve disputes related to view and sunlight access obstruction by trees or vegetation located within 500 feet of their property."

Ranch Palos Verdes:

"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."

Expired Trousdale CC&Rs:

"No hedge or hedgerow, or wall or fence or other structure shall be planted, erected, located or maintained upon any lot in such location or in such height as to unreasonably obstruct the view from any other lot or lots in said Tract."

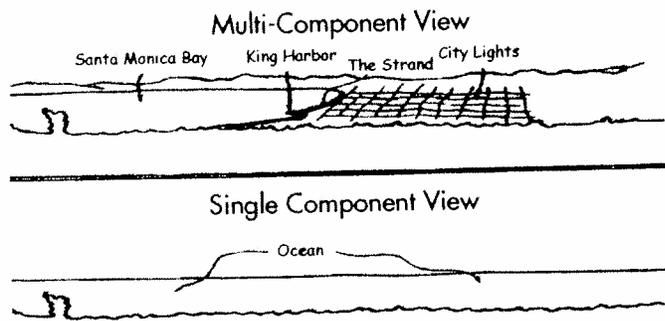
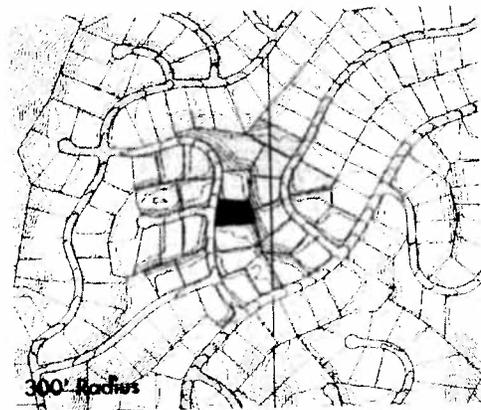
View Timeline

A big issue with many of the existing and contemplated ordinances is the date the views are established. Some ordinances use the date the home was purchased, some use the date the view ordinance was established. As vegetation changes over time, view restoration ordinances typically include a baseline point of reference which defines an entitled view. Rancho Palos Verdes, for example, sets this point at 1989, when the ordinance was enacted. In essence, the view that a residence had in 1989 is the view that residence is entitled to, and any corrective action on foliage does not have to provide any greater vista than that baseline. For Tiburon, the baseline is when a residence (the one with the view) was purchased. In order to establish an entitled view, photo documentation is usually required which includes some proof of when the photographs were taken. It gets more complicated. What if there is no physical evidence of a pre-existing view? Can a newly created lot create

a view? What if a property owner had a view, but wants to improve it? What if a property owner has physical evidence of a pre-existing view and wants it restored? Restored to what and when? Should the view be restored to when the lot was created, the property purchased, the effective date of the ordinance or the date the city was incorporated?

Defining "View"

As discussed in the May, 2009 report, in much of the Hillside Area (and some parts of Trousdale), the views afforded the residents are of the neighborhood and the local setting. If it is the distant, panoramic views that are intended to be protected, it is suggested that a distinction between "near views" and "far views" be made, wherein the regulations can then focus on the distant views. Alternatively, the Commission could define a radius of proximity to the view site. Beverly Hills' view preservation regulations, which only apply to structures, utilize a 300-foot radius. The mediator for Rancho Palos Verdes suggests a 300 to 500 foot radius, though some cases included distances as great as 1,000 feet.



From Rancho Palos Verdes Guidelines & Procedures

Defining "view" also involves defining a "view area", the area from where a person observes the view. Examples of where a view is protected could include living rooms, bedrooms, and other primary living areas (as opposed to closets, bathrooms, garages, hallways, etc.), and balconies, patios, and yards outside of the residence.

Addressing an Impaired View

Most view preservation ordinances have similar remedies for addressing an impaired view as there are only so many ways to safely and effectively remove or trim trees. Besides the removal of trees or shrubs impairing a view, a number of other techniques for reducing the impediments are commonly employed. These include: culling, lacing, windowing, trimming and topping although this latter method can have deleterious effects on a tree's health, appearance, and maintenance and removal/replacement can be a preferable alternative.

Standard for Tree Height in Trousdale

Rather than try to define the view for each lot, it has been suggested that the Commission at this time could look at a variety of thresholds to determine maximum allowed foliage height. Representatives of the Trousdale Homeowners Association included in their view preservation proposal a maximum tree height for Trousdale consistent with the height of the nearest upslope pad. This is a standard that is simple and fairly easy to understand and apply. Other members of the public have expressed strong views that the maximum tree height standard should not be based on the nearest upslope pad but trees should be measured from the level pad on the same site and should not exceed the maximum structure height of 14 feet. In further conversation with residents expressing this view, staff understands that the immediate concern is about trees planted on slopes near common property lines such that encroachment of tree limbs and branches onto the neighbor's property is a problem. (The City currently has regulations addressing this issue.) The other concern appears to be the potential for trees and vegetation on slopes to eventually impede views if appropriate species are not planted and the plantings are improperly maintained.

Landscape Review

On the bus tour the Commission expressed concern about fire and slope stability issues resulting from planting certain trees and vegetation in hillside areas, particularly on slopes. This relates to view preservation in that it addresses vegetation in the hillsides but it may also be part of a broader issue as to how the City should regulate landscaping on private property to maximize positive impacts and minimize negative impacts related to water conservation, fire safety, slope stability and sustainability (greenhouse gas emissions).

The City has a number of code sections that address landscaping. In the Zoning Code, landscape plans are reviewed for new single family home development in Trousdale and the Hillside Area (Code sections attached). This does not include landscaping on a single-family site that is remodeling less than 50 percent of the main residence.

The City's recent water conservation and landscape ordinance requires the review of landscape plans except for the following which are exempted:

- A. Projects which involve alterations or additions to, or retrofits of, existing residential, commercial or public structures or facilities, unless the Landscape Area is altered as defined in Section 9-4-403.
- B. Projects with a Landscaped Area of less than two thousand five hundred (2,500) square feet.
- C. Landscaping that is part of a property listed on any applicable local, state or national register of historic places.
- D. Plant collections as part of gardens and arboretums open to the public.

This would exempt many if not most single family residential landscape projects. As stated in a previous staff report, the City regulates certain large trees or groves of trees on private property. Finally, the Fire Code requires brush clearance and the proper management of certain trees that could be a fire hazard pursuant to the section below:

Vegetation Management.

13. Maintain all landscape vegetation, including, but not limited to, conifers (e.g., cedar, cypress, fir, juniper, and pine), eucalyptus, acacia, palm and pampas grass in such a condition as not to provide an available fuel supply to augment the spread or intensity of a fire.

The Commission may wish to discuss whether the City's Codes regarding landscaping should be reviewed to allow for at least staff-level review of all trees planted in hillside areas or to require the submittal of a landscape plan for landscape remodels above a certain square footage. Some cities, such as Corte Madera, have prohibited the planting of certain trees deemed to be nuisances or fire hazard such as those below:

Potential Nuisance Trees:

Eucalyptus, Monterey cypress, juniper, acacia and Lombardy poplar.

Attachments:

June 25, 2009 Planning Commission Meeting Minutes
June 25, 2009 Planning Commission Staff Report
May 28, 2009 Planning Commission Staff Report
Letter from Charles and Andrew Flack, June 3, 2009

Staff Report
View Preservation
For the Planning Commission Meeting of February 11, 2010

View Preservation Proposal, Trousdale Homeowners Association
Rancho Palos Verdes Ordinance
Tiburon Ordinance

Attachment
Letters and Comments from Public

E-mail submitted for June 24, 2010 Planning Commission Meeting

From: Phyllis Parvin
Sent: Friday, June 11, 2010 4:19 PM
To: Michele McGrath
Subject: View Preservation

As a resident of Trousdale, I approve of the tree-trimming ordinance and hope it is passed asap.

Preserving our views is really important to our hillside residents.

Very truly yours,

Phyllis Parvin
412 Drury Lane
BH. CA, 90210

E-mail submitted for June 24, 2010 Planning Commission Meeting

Sent: Thursday, June 10, 2010 2:05 PM
To: Michele McGrath
Subject: Re: proposed Trousdale View Preservation Ordinance

Hi-

Could you PLEASE do everything in your power to enact the proposed Trousdale View Preservation Ordinance ASAP? I treasure the views from my home, and they are now partially obstructed by trees owned by non-cooperative neighbors. HELP!!!

Thank you VERY much!

Randy Simon

1113 N. Hillcrest Rd.

Beverly Hills CA 90210

Attachment

Public Notice



NOTICE OF PUBLIC HEARING
and
INTENT TO ADOPT A NEGATIVE DECLARATION

DATE: Thursday, June 24, 2010

TIME: 1:30 p.m., or as soon thereafter as the matter may be heard

LOCATION: Commission Meeting Room 280 A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its regular meeting on Thursday, June 24, 2010, will hold a public hearing beginning at 1:30 p.m. or as soon thereafter as the matter may be heard, to consider:

An ordinance of the City of Beverly Hills amending various sections of Chapter 3 of Title 10 of the Beverly Hills Municipal Code to establish regulations regarding the restoration and maintenance of certain defined views from single-family residential property in the Trousdale Estates area of the City substantially impaired by certain foliage maintained on other private property. Trousdale Estates is defined in the Zoning Code as all property located north of Doheny Road and east of Schuyler Road, except that land zoned R-1.X, and that portion of Lot A of the Doheny Ranch tract northwesterly of tract numbers 24485 and 24486, commonly referred to as the Greystone Mansion property.

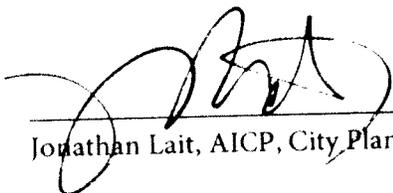
This is a first step in a process to review view restoration in Trousdale Estates and the Hillside Area of the City. The Planning Commission, at a future meeting, will separately consider the appropriateness of similar regulations for the Hillside Area of the City. Any Planning Commission recommendation regarding a draft ordinance would be forwarded to the City Council for its consideration at a duly noticed public hearing.

This project has been assessed in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City, and no significant unmitigated environmental impacts are anticipated; therefore, a negative declaration is being prepared, subject to review by the Planning Commission.

Copies of the staff report, Negative Declaration, and all documents referenced in the Negative Declaration will be available in the Planning Division on Friday, June 18, 2010 and can be reviewed by any interested person at 455 N. Rexford Drive, Suite 100, Beverly Hills, CA 90210. Copies of the documents will also be available on the same date for review in the Beverly Hills Public Library Reference section. Any interested person may attend the meeting and be heard or present written comments to the Commission. **Comments on the proposed Negative Declaration may be submitted in writing to the Planning Division of the Community Development Department for a period of 20 days from June 18, 2010 until July 8, 2010**, and written or oral comments will be accepted at the Planning Commission meeting at the date and time noted above.

If you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact Michele McGrath in the Community Development Department at 310.285.1135 or at mmcgrath@beverlyhills.org.


Jonathan Lait, AICP, City Planner

Mailed & Published: June 11, 2010

Attachment

Initial Study and Negative Declaration



City of Beverly Hills
Environmental Initial Study
View Restoration Ordinance

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1. **Project Title:** View Restoration Ordinance in Trousdale Estates
2. **Lead Agency Name and Address:** City of Beverly Hills, 455 North Rexford Drive, Beverly Hills, CA 90210
3. **Contact Person and Phone Number:** Michele McGrath, Senior Planner, (310) 285-1135
4. **Project Location:** Trousdale Estates area of the City of Beverly Hills, County of Los Angeles, 34° 4' 23" N / 118 ° 23' 58" W. Trousdale Estates is defined in the Zoning Code as all property located north of Doheny Road and east of Schuyler Road, except that land zoned R-1.X, and that portion of Lot A of the Doheny Ranch tract northwesterly of tract numbers 24485 and 24486, commonly referred to as the Greystone Mansion property. A map of the area is attached.
5. **Project Sponsor's Name and Address:** City of Beverly Hills, 455 North Rexford Drive, Beverly Hills, CA 90210
6. **General Plan Designation:** Low Density Single Family Residential
7. **Zoning:** R-1 (Single Family Residential).
8. **Project Description:** An ordinance of the City of Beverly Hills amending various sections of the Beverly Hills Municipal Code to establish regulations regarding the restoration and maintenance of certain defined views from single-family residential property in the Trousdale Estates area of the City substantially impaired by certain foliage maintained on other private property. The proposed standards articulate the City's goal to restore and maintain certain views while providing for residential privacy and security, maintaining the garden quality of the City, insuring the safety and stability of the hillsides, and acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. The ordinance establishes a process by which residential property owners in Trousdale may seek to restore and preserve certain views with an emphasis on neighbors resolving issues prior to application to the Planning Commission for resolution. Although this ordinance involves no development, an initial study has been prepared because adoption of this ordinance may result in some mature, healthy landscape trees on private property being trimmed, topped or cut down to restore or maintain views for single family residential property owners. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. The proposed ordinance does not apply to the City's street trees which are regulated by a Street Tree Master Plan in accordance with the City's General Plan.
9. **Surrounding Land Uses and Setting:**

The City of Beverly Hills is located in Los Angeles County, approximately ten (10) miles west of downtown Los Angeles and six (6) miles east of the Pacific Ocean, as shown in Figure 1 (Regional Location). The City extends into the southern foothills of the Santa Monica Mountains, which form the City's northern boundary. Surrounding communities in the City of Los Angeles include Bel Air and Westwood to the west, Hollywood and the Fairfax district to the east, West Los Angeles and Century City to the southwest and south. The City of West Hollywood is located adjacent to the northeast. Beverly Hills currently is a built-out urban community with a central commercial core, civic center, established residential neighborhoods, parks, schools and other community serving facilities and a well developed public service and utility infrastructure. Opportunities for additional growth and development are limited and primarily confined to the redevelopment and recycling of



existing developed properties. The project area, Trousdale Estates, is in a hillside area at the northeast corner of the City, famous for its upscale residences which were built to take advantage of views of the Los Angeles area basin. Directly adjacent to Trousdale Estates on all sides are other upscale single family residential areas in Beverly Hills, Los Angeles and West Hollywood. At the southwest corner of the subject area but outside of it is the Greystone Mansion property which is owned by the City and operated as a public park. The City is located within the South Coast Basin which enjoys a Mediterranean climate with mild winters and warm summers. The basin suffers from various natural and man-made hazards, including generally poor air quality, unpredictable earthquake activity, wildfires, high winds, flooding, and periods of drought.

10. Other public agencies whose review/approval is required: (e.g., permits, financing approval, or participation agreement).

Approving Agency: The City of Beverly Hills is the approving agency. No other agency approvals are required. The City of Beverly Hills is responsible for all permits and approvals. An amendment to the Zoning Code requires a public hearing before the Planning Commission and a public hearing before the City Council which would adopt the change to the Municipal Code.

Reviewing Agencies: The following agencies will be sent a copy of this document at the commencement of the review period as a courtesy in the event that members would like to provide comments: Department of Fish and Game, Region 5.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

X Aesthetics	X Greenhouse Gas Emissions	Population/Housing
Agriculture Resources	Hazards & Hazardous Materials	Public Services
Air Quality	X Hydrology/Water Quality	Recreation
X Biological Resources	Land Use/Planning	Transportation/Traffic
X Cultural Resources	Mineral Resources	Utilities/Service Systems
X Geology/Soils	X Noise	Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency).

On the basis of this initial evaluation:

X	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation



measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

June 18, 2010

Date

Michele McGrath
Senior Planner

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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1. AESTHETICS. Would the project:

a) Have a substantial adverse effect on a scenic vista?				X
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There are no officially designated scenic vistas in the City including in the Trousdale Estates area where the ordinance would be implemented; however, topographic and natural resources, such as hillsides and ridgelines, are visible from various properties and neighborhoods. The ordinance proposes restoring and maintaining views for individual property owners and this may include views of hillsides and ridges. Specific policies to protect aesthetic resources are included in the City's General Plan. In particular, Policy OS 6.1 states that the City "seek to protect scenic views and vistas from public places". Specific view restoration permit requests would be reviewed in accordance with the ordinance.

Therefore, the ordinance would result in *no impact*.

b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	

The proposed ordinance may involve the removal of trees on private property in the Trousdale Estates area. The City's General Plan includes policies that maintain and enhance the City's urban forest (OS 2 "Urban Forest") and minimize the removal of existing resources (OS 6 "Visual Resource Preservation"). The ordinance stresses the importance of balancing the desire for views with the maintenance of trees. It includes the following statement, "Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings." The City has a tree preservation ordinance that protects trees of certain size or species in the front or street side yards of private residential property. The intent of that ordinance is to protect trees that can be seen



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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from the public right of way and therefore contribute to the City's aesthetic environment. It is anticipated that trees designated as "protected" pursuant to the Tree Preservation ordinance will continue to be subject to that ordinance, even if found to be obstructing a view. It is also anticipated that only a small number of trees would require removal as a result of the ordinance and that such limited removal would not substantially degrade the existing visual character or quality of the area. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance. There are currently no designated State scenic highways in the City of Beverly Hills.

Therefore, any impacts would be *less than significant*.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
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Implementation of the ordinance would involve no development and would not create a new source of substantial light and glare that would adversely affect day or nighttime views.

Therefore, the ordinance would result in *no impact*.

e) Create a new source of shade or shadow that would adversely affect shade/shadow sensitive structure or uses?			X	
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The creation of shadows and the resultant shading of nearby land and buildings are not formally regulated in the City of Beverly Hills. The Beverly Hills Zoning Code addresses visual effects in sections that set standards for building construction, height, setback, landscaping, lighting, and signage, although the Code does not directly address shadow creation or shading. Implementation of the ordinance would involve no development and, rather than creating shade, would more likely reduce shade if trees are trimmed or removed to restore a view. The only caveat is if, pursuant to the ordinance, a tree is relocated, replaced in a different location or replaced by a different species with a larger canopy, it is possible additional shade could result. It is anticipated that only a small number of trees would require relocation or replacement as a result of the ordinance. A particular application that may result in reduction of shade would be regulated by State laws addressing energy consumption. Any impacts associated with specific view restoration permit applications would be assessed when such permits are reviewed.

Therefore, any impacts would be *less than significant*.

2. AGRICULTURE AND FOREST RESOURCES. Would the project:
(In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the State's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board.)



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X

There is no farmland of Statewide importance in the City of Beverly Hills.

There would be *no impact*.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
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There is no zoning for agricultural use in the City of Beverly Hills.

There would be *no impact*.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526)?				X
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There is no zoning for forest land or timberland in the City of Beverly Hills.

There would be *no impact*.

d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
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There is no forest land in the City of Beverly Hills.

There would be *no impact*.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X
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There is no farmland in the City of Beverly Hills.

There would be *no impact*.

3. AIR QUALITY. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?				X
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The South Coast Air Quality Management District (SCAQMD) is the agency principally responsible for comprehensive air pollution control in the Los Angeles Basin. SCAQMD, a regional agency, works directly with the South Coast Association of Governments (SCAG), county transportation commissions, local governments, and cooperates actively with all federal and State government agencies. SCAQMD develops rules and regulations,



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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establishes permitting requirements, inspects emissions sources, and enforces such measures through educational programs or fines, when necessary. SCAQMD is directly responsible for reducing emissions from stationary (area and point), mobile, and natural sources. It has responded to this requirement by preparing a series of Air Quality Management Plans (AQMPs).

The 2007 Air Quality Management Plan (AQMP) was prepared to reduce the high pollutant levels within areas under the jurisdiction of SCAQMD, comply with the federal and State Clean Air Acts and amendments, meet federal and State ambient air quality standards associated with regional growth, and minimize the fiscal impact that pollution control measures have on the local economy. Projects that are considered to be consistent with the AQMP would not interfere with attainment because this growth is included in the projections used during the preparation of the AQMP. The ordinance involves no development and so is consistent with the AQMP.

Therefore, there would be *no impact*.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
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The ordinance involves no development; therefore implementation would not result in additional emissions being generated.

Therefore, there would be *no impact*.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in a State of non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
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The Los Angeles basin is currently in a State of non-attainment for ozone, CO, PM₁₀, and PM_{2.5}, however, this ordinance includes no changes in land use, allowable development envelopes or intensity of use and proposes no development; therefore implementation would not result in additional emissions being generated.

Therefore, there would be *no impact*.

d) Expose sensitive receptors to substantial pollutant concentrations?				X
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Air Quality Management Plans maintained by SCAQMD and updated every three years identify control measures to reduce major sources of pollutants (AQMP, 2007). These planning efforts have substantially decreased the population's exposure to unhealthful levels of pollutants, even while substantial population growth has occurred within the Los Angeles basin, the total number of days on which the basin exceeded the federal 8-hour standard has decreased dramatically over the last two decades from about 150 days to less than 90, while basin station-days (number of days a station location exceeded the standards) decreased by approximately 80 percent (AQMP 2007).



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The ordinance does not include any development, changes in land use, allowable development envelopes or intensity of use; therefore implementation would not result in generation of additional emissions.

Therefore, there would be *no impact*

e) Create objectionable odors affecting a substantial number of people?				X
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The ordinance does not include any development, changes in land use, allowable development envelopes or intensity of use; therefore implementation would not result in objectionable odors.

Therefore, there would be *no impact*

4. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	

Lands in the City are largely urbanized and contain few significant biological resources. Areas that may provide habitat for special-status species are primarily located in the chaparral areas in the Santa Monica Mountains north of Sunset Boulevard. While the California Natural Diversity Database (California Department of Fish and Game, 2009) listed native plant communities that could be found within a five mile radius vicinity of the City, none of these vegetation communities are present within the City's boundaries (Figure 6).

There is marginal foraging habitat within the City for the Hoary bat, a State Species of Special Concern (California Department of Fish and Game, 2009). The level of historical disturbance in the City has resulted in a low prey - primarily moths - population levels. Marginal or better habitats exist in proximity to the City that are more likely to attract the bat's prey (e.g., coastal and mountain areas) and therefore would provide better foraging habitat (California Department of Fish and Game, 2009). No impacts to roosting individuals would be expected because the habitat the bats prefer (areas within dense foliage of woodlands and forests with medium to large size trees that have ground cover of low reflectivity) does not occur within the City limits.

It is anticipated that only a small number of trees would require removal as a result of the ordinance and no change in land use or allowable development envelopes is contemplated. The ordinance proposes to include the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the property, erosion control, energy usage (loss of shade) or on biological resources." No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance. Implementation of the ordinance would not result in adverse impacts either directly or indirectly through habitat modifications, to candidate, sensitive or special status plant and



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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wildlife species.

Therefore, any impacts would be *less than significant*.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
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There are no riparian or sensitive habitats that are known to occur in the City of Beverly Hills (Figure 6). Based on review of the California Natural Diversity Database (California Department of Fish and Game, 2009), sensitive terrestrial communities identified within 5 miles of the City include the following: 1) California Walnut Woodland, 2) Southern Coast Live Oak Riparian Forest, 3) Southern Cottonwood Willow Riparian Forest, and 4) Southern Sycamore Alder Riparian Woodland. The distribution of these sensitive vegetation communities are shown in Figure 6, and are found primarily within canyon park areas to the north and northeast of the City.

It is anticipated that only a small number of landscape trees on private property would require removal as a result of the ordinance and no change in land use or allowable development envelopes is contemplated. The ordinance includes the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the property, erosion control, energy usage (loss of shade) or on biological resources." No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance. Implementation of the ordinance would not result in substantial adverse effects on any identified riparian habitat or other sensitive natural community.

Therefore, the project will result in *no impact* to riparian or other sensitive natural communities.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
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No federally protected wetlands or blueline streams occur in the City. The ordinance includes no development and does not include changes in land use, allowable development envelopes or intensity of use.

Therefore, the project will result in *no impact*.

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites.			X	
e) Conflict with any local policies or ordinances protecting			X	



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
biological resources, such as a tree preservation policy or ordinance?				

Although some local movement of wildlife would be expected to occur throughout the City, the City of Beverly Hills is not recognized as an existing or proposed Significant Ecological Area that links migratory wildlife populations. The ordinance includes no new development and does not include changes in land use or allowable development envelopes.

The proposed ordinance may involve the removal of trees on private property in the Trousdale Estates area; however, the ordinance stresses the importance of balancing the desire for views with the maintenance of trees. It includes the following statement, "Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings." It is anticipated that only a small number of trees would require removal as a result of the ordinance.

Implementation of the ordinance would be subject to all applicable federal, State, regional and local policies and regulations related to the protection of important biological resources. Specifically, permits issued pursuant to the ordinance would be required to comply with the following policies and regulations:

- *Federal Endangered Species Act*
- *Federal Migratory Bird Treaty Act*
- *California Endangered Species Act*
- *California Fish and Game Code*
- *California Environmental Quality Act—Treatment of Listed Plant and Animal Species*
- *City of Beverly Hills Municipal Code—Regulations of Trees on Private Property.*

The City has a tree preservation ordinance that protects trees of certain size or species in the front or street side yards of private residential property. The intent of that ordinance is to protect trees that can be seen from the public right of way and therefore contribute to the City's aesthetic environment. It is anticipated that trees designated as "protected" pursuant to that ordinance will continue to be subject to the tree preservation ordinance, even if found to be obstructing a view. It is also anticipated that only a small number of trees would require removal as a result of the ordinance. The ordinance does not include changes in land use, allowable development envelopes or intensity of use. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, and other approved local, regional, or State habitat conservation plan?				X
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There is no Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plans that apply to the City and the number of trees that may require removal would be limited.



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Therefore, there would be no impact.

5. CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?			X	
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The City of Beverly Hills has seven sites listed as federal and/ or State resources (listed on the National Register of Historical Place or California Register of Historic Resources, or otherwise listed as historic or potentially historic in the California Historic Resources Information System (CHRIS) maintained by the State Office of Historic Preservation. These structures meet the definition of historical resources under Section 15064.5(a) of the CEQA Guidelines.

New General Plan policies call for establishment of a local historic register and historic preservation program (Policies CON 1.1 – 1.9, CON 2.1). This could involve landscape features such as trees. There is no site in Trousdale Estates or any tree that is currently included on a list of historic resources. The General Plan also has a goal of retaining trees of significance. Where removal of significant trees cannot be avoided, there should be replacement with appropriate species. (OS 2.1 "Trees of Significance"). The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and the potential removal of any mature, healthy trees is expected to be limited.

Therefore, any impacts would be *less than significant*.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d) Disturb any human remains, including those interred outside of formal cemeteries?			X	

No archaeological resources were identified during a records search conducted at the South Central Coastal Information Center (2009) and potential for the existence of archaeological or paleontological resources is low due to previous construction-related, ground disturbing activities. Human burials outside of formal cemeteries often occur in prehistoric archeological contexts, although the potential still exists for these resources to be present. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. Additionally, the General Plan includes Policies CON 1.8 and CON 1.9 which require all construction work to cease if a potential archeological or paleontological resource is discovered and only continue once the potential resource has been evaluated.

Therefore, any impacts would be *less than significant* in these regards.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
6. GEOLOGY AND SOILS. Would the project				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42)			X	
ii) Strong seismic ground shaking?			X	

The City of Beverly Hills is located in the Los Angeles basin, at the southern edge of the Transverse Range, in an area exposed to risk from multiple earthquake fault zones. The highest risks originate from the Hollywood fault zone, the Santa Monica fault zone, and the Newport-Inglewood fault zone, each with the potential to generate moderate to large earthquakes that could cause ground shaking in Beverly Hills and nearby communities. While it appears that at least a portion of the Santa Monica fault may run along the base of the Santa Monica Mountains within the City limits of Beverly Hills, the depth of the fault in this area makes it impossible to map with any accuracy, for which reason there are no Alquist-Priolo zones within the City of Beverly Hills (Dolan, 2000).

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may involve the removal of mature, healthy trees which removal could impact land stability if located on a hillside. The proposed ordinance includes the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside." This ordinance does not propose any projects and specific applications for view restoration would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

iii) Seismic-related ground failure, including liquefaction?				X
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Strong ground shaking occurring in areas with high ground water tables and poorly consolidated soils can result in liquefaction. Figure 9 identifies areas within the City limits which are believed to be susceptible to liquefaction during long-duration, strong seismic events (earthquake). The Trousdale Estates area is not included in the area subject to liquefaction.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property

Therefore, there would be *no impact*.

iv) Landslides?			X	
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Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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In addition to liquefaction, strong ground motions can worsen existing unstable slope conditions, particularly when coupled with saturated ground conditions. Seismically-induced landslides can overrun structures, people or property, sever utility lines, and block roads, and hinder rescue operations after an earthquake. Hillside areas in the northern reaches of the City are susceptible to landslides (refer to Figure 9). This includes a portion of the City approximately 2,000 feet north of Sunset Boulevard and includes portions of the Trousdale Estates area.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may involve the removal of mature, healthy trees which removal could impact land stability if located on a hillside. The proposed ordinance includes the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside." Specific applications for view restoration would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

b) Result in substantial soil erosion or the loss of topsoil?			X	
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Topsoil is the uppermost 6-8 inches of soil. It has the highest concentration of organic matter and microorganisms, and is where most biological soil activity occurs. Topsoil erosion is of concern when the topsoil layer is blown or washed away, which reduces biological content and soil productivity. Since most of the City of Beverly Hills is built out and there is no agricultural production within the City limits, topsoil erosion is of limited concern. The ordinance does not include changes in land use or allowable development envelopes. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may involve the removal of mature, healthy trees which removal could impact land stability if located on a hillside. The General Plan includes policies that reduce run-off from irrigation (CON 5.5), require grading plans to be designed to capture stormwater and allow for on-site dissipation (CON 8.2), and continue to implement the National Pollutant Discharge Elimination System's (NPDES) and the South Coast Air Quality Management District's (SCAQMD) regulations, including the use of best management practices (CON 10.3). Specific view restoration permit requests would be reviewed in accordance with the ordinance.

Therefore, any impacts would be *less than significant*.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
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As previously discussed, potential impacts due to landslides and liquefaction would be less than significant; therefore, this analysis addresses impacts related to unstable soils as a result of lateral spreading, subsidence, or collapse.



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Lateral spreading occurs as a result of liquefaction. As such, liquefaction-prone areas could also be susceptible to lateral spreading. Further, subsidence has been identified as a potential hazard in the area from groundwater withdrawal in excess of groundwater recharge.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. Any permits issues pursuant to the ordinance would be required to comply with the latest adopted Building Code.

Therefore, any impacts would be *less than significant*.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
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Alluvium, which generally consists of fine particles such as silt and clay along with larger particles like sand and gravel, is generally highly susceptible to ground shaking and is considered an expansive soil. Soils in the City are predominantly alluvium within the flat areas of the City and bedrock at the base of and on the side of the Santa Monica Mountains. The Trousdale Estates area is on the side of the Santa Monica Mountains and therefore, mostly bedrock. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
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The City of Beverly Hills is almost entirely built out with established utility services, including sewer systems. This ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

7. GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?			X	

The ordinance does not include changes in land use, allowable development envelope or intensity of use. Additionally, no project is proposed at this time. Currently, no State or regional regulatory agency has formally



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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adopted or widely agreed upon thresholds of significance for greenhouse gas emissions. CEQA Guidelines §15064.7 States that "each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects." This provides justification for lead agencies to determine their own climate change thresholds. The Association of Environmental Professionals (AEP) recommends that "If a Lead Agency chooses to address GCC [Global Climate Change] in a [CEQA] document, it should be addressed in the context of a cumulative (versus project-specific) impact." Additionally, the California Air Pollution Control Officers Association (CAPCOA) States, "To determine what emission reductions are required for new projects one would have to know accurately the 1990 budget and efficacy of other GHG promulgated regulations as a function of time. Since the California Air Resources Board (CARB) will probably not outline its regulation strategy for several more years, it is difficult to determine accurately what the new project reductions should be in the short term." Additional guidance was given by the legislature in 2007 under SB 97, amending CEQA to establish that GHG emissions and their impacts are appropriate subjects for CEQA analysis. But the law does not address the evaluation and determination of "significance." The law simply directs the state's Office of Planning and Research ("OPR") to develop draft CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions" and directs the state Resources Agency to certify and adopt the CEQA guidelines. Until that time, the OPR has issued a Technical Advisory ("Addressing Climate Change through CEQA Review") to help guide agencies through the process by providing suggested standards on calculating GHG emissions, determining potential significance, and implementing mitigation measures, if necessary and feasible.

The City has begun requiring reductions in greenhouse gas emissions through adoption of a green building ordinance in 2008 that requires new commercial and multi-family construction to exceed Title 24 energy efficiency requirements by 15-percent and requires the installation of photo-voltaic energy generation systems. Additionally, all future construction occurring in the City would be subject to evolving State green house gas emission regulations and specific impacts would be evaluated on a case-by-case basis assuring that as thresholds and regulations develop, new construction will be evaluated using the most up to date evaluation criteria and will be constructed consistent with the most current requirements.

The ordinance proposes no projects and involves no development beyond landscaping activities on private property but may result in the removal of some healthy, mature trees and healthy, mature trees help remove CO₂ from the atmosphere. It is anticipated that only a small number of trees would require removal as a result of the ordinance so the amount of CO₂ remaining in the atmosphere due to the removal of some trees would be negligible. The ordinance would not result in a project-level or cumulatively significant impact with respect to greenhouse gas emissions.

Therefore, any impacts would be *less than significant*.

c) Would the project require or result in the construction of new energy production or transmission facilities, or expansion of existing facilities the construction of which could cause a significant environmental impact?				X
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The State is currently experiencing constraints related to electrical energy supply and delivery. These constraints are



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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generally limited to peak demand days during the summer months. The current electrical and natural gas demand of the City of Beverly Hills is within the capacity limitations of the electrical and natural gas production and transmission facilities serving the City. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

d) Would the Proposed Project encourage the wasteful or inefficient use of energy?			X	
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The ordinance would not change land use or the allowable development envelopes and involves no development. Energy could be consumed during removal, planting or maintenance of trees and foliage, primarily in the form of petroleum fuels and electricity including hauling, but this level of activity is expected to be little different from the current level of activity. Fuel would be needed for vehicles and construction equipment for uses such as power tools. Fuel would also be consumed during the production and transport of materials and workers; however, construction would consist of temporary activities that would not result in long-term demand for energy. The California Air Resources Board recently passed amendments to Title 13 of the CCR which would require heavy diesel vehicles to restrict idling to five minutes or less. While this requirement was implemented to reduce pollutant emissions (see Section 4.2 [Air Quality]), the anti-idling amendments have the added benefit of reducing fuel consumption.

Therefore, any impacts would be *less than significant*.

8. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
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The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Therefore, there would be *no impact*.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
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The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
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The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
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The City of Beverly Hills is not within any airport land use plan or within two miles of a public use airport. The nearest public airport is Los Angeles International Airport, approximately 7 miles south of the City limits.

Therefore, the amendments would result in *no impact*.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
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There are no existing private airstrips within the City. Therefore, no safety hazard associated with location to near a private airstrip would occur.

Therefore, the amendments would result in *no impact*.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
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Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The Beverly Hills Office of Emergency Management published a Hazard Mitigation Plan in 2004. The Plan provides guidance for the City's response to emergency situations associated with natural and manmade disasters. The Plan concentrates on management concepts and response procedures relative to large-scale disasters. Such disasters could pose major threats to life, the environment and property, and can impact the well being of a large number of people. The ordinance would not change land use or the allowable development envelopes and would not increase the residential or daily working populations in the City beyond those contemplated by the existing general plan and Hazard Mitigation Plan.

Therefore, there would be *no impact*

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X	
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There are no "Wildland Areas" in the City, however the area of the City north of Elevado Avenue is considered a "Very High Fire Hazard Severity Zone" (Figure 12) and owner's of property located within this zone are subject to maintenance requirements in Section 51182 of the California Government Code (California Department of Forestry and Fire Protection, 2009). In addition, Policies S 1.2 and S 1.3 require property owners to maintain their property to reduce fire potential. The ordinance would not change land use or the allowable development envelopes and involves no development. Additionally, no individual development project is contemplated at this time. The ordinance does involve the removal, planting and maintenance of landscaping and this would need to be done in accordance with all applicable State and Local Codes.

Therefore, any impacts would be *less than significant*.

9. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?				X

The City of Beverly Hills is almost entirely built out with established utility services and discharges wastewater to the Los Angeles Hyperion Wastewater Treatment Plant (HTP), which provides secondary treatment to wastewater and dry-weather stormwater within its service area.

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				

The ordinance would not change land use or the allowable development envelopes and involves no development. Any new landscaping planted pursuant to the ordinance would be encouraged to be water-conserving landscaping that could result in a minor improvement in overall water quality.

Therefore, there would be *no impact*.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
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The ordinance would not change land use or the allowable development envelopes, and involves no development. The City of Beverly Hills does not discharge to a water body that would be susceptible to erosion and siltation caused by alteration of drainage properties. Additionally, drainage patterns in the City would not be substantially altered in a manner that could cause or contribute to increased erosion or siltation. The ordinance includes restrictions and findings designed to minimize erosion impacts from the removal or relocations of trees.

Therefore, any impacts would be *less than significant*.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
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The ordinance would not change land use or the allowable development envelopes and involves no development. General Plan policies and the Building Code would ensure adequate drainage with regard to landscape activities associated with the ordinance and would eliminate any illegal discharges that could contribute to capacity exceedances and localized flooding. Therefore, storm drain system capacity exceedances and associated flood impacts would be minimized.

Therefore, any impacts would be *less than significant*.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
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The City of Beverly Hills is almost entirely built out with established utility services and discharges stormwater to the Los Angeles Hyperion Wastewater Treatment Plant (HWTP), which provides secondary treatment to dry-weather stormwater within its service area. Since no development is contemplated as part of the ordinance and the ordinance would not change land use or development intensity, the ordinance would not exceed the effluent volume limitations. Additionally, several policies in the General Plan are designed to minimize runoff so that the stormwater system does not contribute to water quality contamination (CON 14.1 – CON 14.3). In accordance



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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with policies included in the General Plan, the City's storm drain system would continue to be maintained and upgraded, the amount of pervious surfaces that could infiltrate stormwater runoff would be increased and flood mitigation including flood hazard mitigation would continue to be addressed as part of the City's Hazard Mitigation Action Plan to minimize potential risks associated with flooding. Any permits issued pursuant to the ordinance would be subject to all applicable State laws.

Therefore, any impacts would be *less than significant*.

f) Otherwise substantially degrade water quality?				X
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Figure 14 provides the approximate boundaries and locations of the three ground water basins underlying the City. Common sources of groundwater contamination during construction include earth-disturbing activities, such as trenching for underground utilities and pile driving for foundations. Another source of ground water contamination is from spillage resulting from improper handling, or storage of hazardous materials used during construction, which, could contaminate surface water or percolate into the groundwater. Common sources of groundwater contamination following construction include leaking underground storage tanks, septic systems, oil fields, leaking sewer systems, use of recycled water, and general industrial land uses. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X

The City of Beverly Hills is not located within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map; however, the City's Building and Safety Division delineated two local flood zone areas within the City (Figure 15) as a result of repeated basement flooding events caused by exceedances of the storm drainage system during peak storm events. A 2009 stormwater study has demonstrated that recent storm drainage improvements in the two areas have adequately mitigated flooding issues; however the City has not had an opportunity to remove the local flood area designations. The ordinance would not change land use or the allowable development envelopes and involves no development and neither of the City-designated flood areas is in or near Trousdale Estates.

Therefore, there would be *no impact*.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of a levee or dam?				

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

j) Inundation by seiche, tsunami, or mudflow?			X	
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Development in Beverly Hills is subject to hazards associated with seiche, tsunami, and mudflow. The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

A seiche is wave generated on the surface of a landlocked body of water, such as a lake, reservoir or swimming pool (Merriam-Webster, 2009). A tsunami is a great sea wave produced by submarine earth movement or volcanic eruption (Merriam-Webster, 2009). Both seiches and tsunamis are known to occur following earthquakes. After a major earthquake it can be assumed that there may be minor flooding and damage caused by water sloshing out of swimming pools (resulting from a seiche); however this is not anticipated to be substantial. The City maintains 10 partially above ground storage reservoirs, including the Greystone Reservoir (City of Beverly Hills, pg. 151). If a seiche were to occur in one of the City's reservoirs there is a potential that residential properties near the structure could be damaged; however this also is not anticipated to be substantial (City of Beverly Hills, pg. 151). The City of Los Angeles maintains the Upper Franklin Reservoir which is located in the Santa Monica Mountains, above the Coldwater Canyon Park and Recreational Center in Coldwater Canyon. In addition to the summary on flooding due to failure of a dam above, there is a risk of flooding in the City resulting from water sloshing out of the reservoir after an earthquake. Escaping water would flow into the Higgins-Coldwater Channel, a below-ground concrete channel located on the easterly side of Coldwater Canyon Drive (City of Beverly Hills, pg. 152) and therefore resulting flooding would be minimized and would not be substantial. The City of Beverly Hills is located 6 miles east of the Pacific Ocean and at the lowest point is 120 feet above median sea-level along Olympic Boulevard (City of Beverly Hills, pg. 77). Due to the City's distance from the ocean and elevation, there would be little to no risk of flooding from a tsunami.

Mudflows are often triggered by periods of heavy rainfall. Earthquakes, subterranean water flow and excavation can also trigger mudflows (City of Beverly Hills, pg. 160). Factors contributing to rain-caused mudslides are barren earth, steep slopes and roads. Although landslides are natural processes, the incidence of mudslides and their impacts on people and structures can be exacerbated by human activities. Grading and construction can decrease the stability of a slope by adding weight to the top, removing support at the base, or increasing water content. Other activities that can increase the potential for mudslides include: excavation, improper drainage, ground water alteration, and vegetation removal – due to construction or wildfire. An estimated 20-percent



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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(approximately 600 parcels) of the City is located in areas where the existing slope grade exceeds a 2:1 ratio of horizontal to vertical distance, which is the measure used by the City's Building and Safety Division to identify potentially unstable slopes (City of Beverly Hills, pg. 163). The General Plan includes policies that reduce mudslides triggered by construction include Policy CON 12.6 which continues to implement existing flood mitigation strategies including storm drainage system cleaning and replacement of aging pipes and Policy OS 1.1 which encourages preservation of natural features in hillside areas. Landscape activities such as tree removal may affect hillside stability as discussed in the "Geology and Soils" section above; however, the level of landscape activity pursuant to the ordinance is anticipated to be very limited and would be regulated by applicable State and local codes regarding water conservation and drainage and irrigation which would limit the potential for mudslides.

Therefore any impacts would be *less than significant*.

k) Would the proposed project require or result in the construction and/or expansion of new storm drain infrastructure that would cause significant environmental effects?			X	
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Areas of existing flooding occur within the City of Beverly Hills and the storm drain system is in continuing need of repairs. General Plan policies CON 12.1 and CON 12.2 establish policy that the City will upgrade the storm drain system as appropriate to protect lives and property and to ensure contamination is minimized. No development is contemplated pursuant to the proposed ordinance and any additional run-off from landscape activity pursuant to the proposed ordinance is anticipated to be minimal.

Therefore, any impacts would be *less than significant*.

10. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?				X

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
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Applicable regionally adopted plans, policies, and regulations include the 2007 Air Quality Management Plan (AQMP), the Regional Transportation Plan (RTP), and SCAG's Regional Comprehensive Plan and Guide (RCPG).



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The SCAG regional plans cover Los Angeles County, which includes the City of Beverly Hills, and five other counties within Southern California. The SCAG regional plans that require a consistency discussion in this section are the RCPG and the 2004 RTP, which is administered by SCAG. Applicable locally adopted plans would include the Beverly Hills General Plan and the Beverly Hills Street Tree Master Plan. Applicable local zoning and building ordinances include the City's Tree Preservation ordinance and the City's Green Building Ordinance.

The proposed ordinance would not change land use or the allowable development envelopes and involves no development. Implementation of the ordinance would be consistent with applicable adopted plans, regulations, or policies as discussed in various section of this document.

Therefore, any impacts would be *less than significant*.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
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The City does not have any habitat conservation or natural community conservation plans. Further, based on the California Natural Diversity Database, the City does not contain any significant habitat capable of supporting sensitive species and does not contain any significant ecological areas. A majority of the City has been developed, paved, or landscaped, and is either denuded of vegetation or contains mainly ornamental and non-native plant species. Suitable habitat for sensitive mammal, reptile, amphibian, or fish species occurring in the region does not occur within the City limits. No major regional wildlife migration corridors have been identified and there is no native riparian habitat, mapped blueline streams (Figure 4), or sensitive natural communities within the City (Figure 6).

Therefore, there would be *no impact*.

11. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Mineral resource zones underlying the City are provided in Figure 18. The State Mining and Geology Board (SMGB) classifies significance of mineral resources in accordance with the California Surface Mining and Reclamation Act of 1975 (SMARA) using a system that classifies land into one of four possible Mineral Resources Zones (MRZ) based on quality and significance of mineral resources (California Department of Conservation, Division of Mines and Geology, 1983). According to the State of California (Miller, 1994), the City of Beverly Hills is located in an area classified as MRZ-3, which is defined as "...areas of known or inferred mineral occurrence." The City of Beverly Hills is also located in a highly urbanized area and is almost completely built out and therefore any potential access to mineral resources, such as gravel and sand, is limited or does not exist.



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Oil Fields underlying the City are provided in Figure 19. Oil and gas deposits are not considered "minerals", however a summary of impacts to oil and gas production has been provided because the City is within a region underlain by oil deposits. The City is located on the San Vicente, East Beverly Hills and South Salt Lake Fields; these fields have produced over 100 million barrels of oil and 200 billion cubic feet of gas (City of Beverly Hills, 2005).

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

12. NOISE. Would the project result in:			
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X
b) Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?			X

Due to the existing character of the City, residential and commercial uses are located relatively close to one another and, in some instances, co-exist. Noise that would be experienced by sensitive uses is determined at the property lines and the nearest sensitive uses would vary at different locations in and around the City. Specific development is not contemplated pursuant to the proposed ordinance; however, there is the potential that future landscaping activities pursuant to the ordinance could be close to sensitive receptors (single- and multi-family residential, educational, and medical uses). It is anticipated that noise from such landscaping activities would be of a temporary nature. Policies in the General plan tend to limit noise generation and provide better protections to noise-sensitive receptors. For example, the amendments contain Goal N 1, which states, "Minimize land use conflicts between various noise sources and other human activities." and Goal N 3, stating, "Minimize non-transportation-related noise impacts on sensitive noise receptors." To achieve these goals the General Plan contains several policies intended to reduce the potential exposure of sensitive receptors to noise related impacts (N 1.1 - N 1.6, N 3.1 and N 3.2). Implementation of these policies, as well as compliance with the City of Beverly Hills Noise Ordinance would ensure that potential impacts to sensitive receptors due to exposure to noise levels that exceed the established local standards are minimized. Beverly Hills is subject to ground-borne vibration and noise levels associated with traffic and construction activities. Existing Roadway Noise Contours are provided in Figure 20. Policies included in the General Plan would tend to limit noise generation and provide better protections to noise-sensitive receptors (Policies N 1.1 - N 1.6, N 2.1 - N 2.3, N 3.1 - 3.2, and N 4.1). In addition to the new policies and programs the protective measures already required would remain in place (BHMC 5-1-104: General Standards Relative to Disturbance of the Peace).

Therefore, any impacts would be *less than significant*.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	

Noise created by activities pursuant to the proposed ordinance would be expected to be of a temporary nature related to planting, removal and maintenance of landscaping. It is possible that landscaping removed pursuant to the ordinance could result in an increase in noise if the landscaping removed was perceived as a noise screen. The ordinance includes no projects and view restoration permits approved pursuant to the ordinance would be subject to restrictions and findings in the ordinance.

Therefore, any impacts would be *less than significant*.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
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Noise created by activities pursuant to the proposed ordinance would be expected to be of a temporary nature related to planting, removal and maintenance of landscaping. It is possible that landscaping removed pursuant to the ordinance could result in an increase in noise if the landscaping removed was perceived as a noise screen. The ordinance includes no projects and view restoration permits approved pursuant to the ordinance would be subject to restrictions and findings in the ordinance.

Therefore, any impacts would be *less than significant*.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
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The City is not in the vicinity of any commercial airport nor does any area of the City fall within an airport land use plan.

Therefore the amendments would have *no impact*.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
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There are no private airstrips in the vicinity of the City.

Therefore the amendments would have *no impact*.

13. POPULATION AND HOUSING. Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?			X	

The City is fully developed with urban uses and this ordinance does not include changes in land use, allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

14. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Police protection?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

c) Schools?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

d) Parks?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Other public facilities?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

15. RECREATION. Would the project:				
a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

16. TRANSPORTATION/TRAFFIC. Would the project:				
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				X
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				X

The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

c) Result in a change in air traffic patterns, including either an increase in traffic levels, or a change in location, that result in substantial safety risks?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private



Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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property.

Therefore, there would be *no impact*.

d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e. g. farm equipment)?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

e) Result in inadequate emergency access?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

f) Conflict with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

g) Result in inadequate parking capacity?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

17. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X

Implementation of the ordinance is expected to have no impact on wastewater treatment requirements as the ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

b) Require or result in the construction of new water or				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				

The City of Beverly Hills is almost entirely built out and the ordinance would not change land use, the allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
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The City of Beverly Hills sends approximately 6 Million Gallons per Day (MGD) to the Los Angeles County Hyperion Treatment Plant. The plant has a dry weather capacity of 450 MGD for full secondary treatment and an 850 MGD wet weather capacity. Current flow is 340 MGD, well below the facility's design capacity (City of Los Angeles Regional Water Quality Control Board, 2008). The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that any run-off from landscape activities associated with the ordinance would be negligible, since the number of view restoration permits approved would be limited and larger landscape projects would be subject to the City's water conservation ordinance.

Therefore, any impacts would be *less than significant*.

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
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Goals and policies in the General Plan direct the City to continue to implement water conservation measures to limit water consumption and meet the current and projected future daily and peak water demands, which are designed to increase reliability. As a member of the California Urban Water Conservation Council, the City has a demonstrated commitment to efficient water use by integrating urban water conservation Best Management Practices into the planning and management of California's water resources. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that any water use associated with the ordinance would be consistent with or even less than current use, since the number of view restoration permits approved would be limited, larger landscape projects would be subject to the City's water conservation ordinance and as part of the proposed ordinance, the City is reviewing additional landscape guidelines that promote water conservation including the planting of appropriate water-conserving trees and plants.

Therefore, any impacts would be *less than significant*.

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the				X
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	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
provider's existing commitments?				

Implementation of the ordinance is expected to have no impact on wastewater treatment requirements as the ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

g) Comply with federal, State, and local statutes and regulations related to solid waste?				X
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The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
18. MANDATORY FINDINGS OF SIGNIFICANCE. Would the project:				
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X

Degrade the quality of the environment. As previously summarized under Item 9, in at the beginning of this document, - "Location, Plan Area and Regional Access", the City is 5.7 square miles, located in an urbanized area, and surrounded by the cities of West Hollywood to the east and Los Angeles to the south, west and north.

The proposed ordinance would include standards, restrictions and findings that articulate the City's goal to restore and maintain certain views while providing for residential privacy and security, maintaining the garden quality of



the City (aesthetics), insuring the safety and stability of the hillsides, and acknowledging the importance of trees and vegetation in the City as an integral part of a sustainable environment. Although this ordinance involves no development, an initial study has been prepared because adoption of this ordinance may result in some mature, healthy landscape trees on private property being trimmed, topped or cut down to restore or maintain views for single family residential property owners. No specific projects affecting mature, healthy trees are contemplated as part of this ordinance. Specific view restoration applications would have to be consistent with the General Plan and landscape activities consistent with the Building Code. The General Plan includes policies regarding aesthetics (Policy OS 6.1 States that the City "seek to protect scenic views and vistas from public places"). The ordinance stresses the importance of balancing the desire for views with the maintenance of trees. It includes the following statement, "Removal of a healthy tree not on a list of nuisance trees maintained by the City is to be avoided unless the reviewing authority determines such removal is necessary to restore a protected view in accordance with the findings." The City has a tree preservation ordinance that protects trees of certain size or species in the front or street side yards of private residential property. The intent of that ordinance is to protect trees that can be seen from the public right of way and therefore contribute to the City's aesthetic environment. It is anticipated that trees designated as "protected" pursuant to the Tree Preservation ordinance will continue to be subject to that ordinance, even if found to be obstructing a view. A particular application that may result in reduction of shade would be regulated by State laws addressing energy consumption. The proposed ordinance does not apply to the City's street trees which are regulated by a Street Tree Master Plan in accordance with the City's General Plan. General Plan policies adopted in 2010 will improve the quality of the environment by conserving water, requiring additional protections for stormwater quality and reducing greenhouse gas emissions. It is anticipated that only a small number of trees would require removal as a result of the ordinance and that such limited removal would not substantially degrade the existing visual character or quality of the area, affect hillside stability or, with regard to landscaping activities, would not result in additional water use, impact on the storm drain system or water quality, and would not impact greenhouse emissions.

Therefore, there would be *no impact*.

Substantially reduce the habitat of a fish or wildlife species. As summarized above and previously in Section 4 – "Biological Resources", lands in the City are largely urbanized and contains few to no significant biological resources. Areas that may provide habitat for special-status species are primarily located in the chaparral areas in the Santa Monica Mountains north of Sunset Boulevard. No native plant communities are present within the City's boundaries (Figure 6). Although there is marginal foraging habitat within the City for the Hoary bat, a State Species of Special Concern (California Department of Fish and Game, 2009), the level of historical disturbance in the City has most likely resulted in a low prey - primarily of moths- population level and it is assumed based on the California Natural Diversity Database that marginal or better habitats would exist in proximity to the City that are more likely to attract the bat's prey (e.g., coastal and mountain areas) and therefore would provide better foraging habitat. No impacts to roosting individuals would be expected because the habitat they prefer (areas within dense foliage of woodlands and forests with medium to large size trees that have ground cover of low reflectivity) does not occur within the City limits.

The ordinance does not change land uses, allowable development envelopes or intensity of use and implementation would not result in either a direct or an indirect loss of a plant or animal community. In addition the General Plan encourages encourage preservation of natural features in the hillside areas, (generally, all areas of the City above Sunset Boulevard, which is also the area of the City in the foothills of the Santa Monica Mountains), thereby conserving areas potentially suitable for native plants and animals (Policy OS 1.1). It is anticipated that only a small number of trees would require removal as a result of the ordinance. The ordinance proposes to include the following finding that must be made for approval of a view restoration permit, "Trimming or removal of foliage on Foliage Owner's property will not have a substantial adverse impact on stability of a hillside, drainage of the



property, erosion control, energy usage (loss of shade) or on biological resources." Implementation of the ordinance would not result in adverse impacts either directly or indirectly through habitat modifications, to candidate, sensitive or special status plant and wildlife species.

The ordinance proposes no projects and involves no development beyond limited landscaping activities on private property; implementation would not reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal.

Therefore, there would be *no impact*.

Eliminate important examples of the major periods of California history or prehistory. As summarized in Section 5 – "Cultural Resources", no archeological resources have been identified in the City and the potential existence of resources is low, due to previous construction-related, ground disturbing activities. No specific development is proposed and therefore the amendments would not affect any potentially existing paleontological or historical resources. Additionally, the amendments would conserve any potential archeological, paleontological or historical resources through Policies CON 1.8 and CON 1.9. There is no site in Trousdale Estates or any tree that is currently included on a list of historic resources. Additionally, the General Plan includes Policies CON 1.8 and CON 1.9 which require all construction work to cease if a potential archeological or paleontological resource is discovered and only continue once the potential resource has been evaluated. The ordinance proposes no projects and involves no development beyond landscaping activities on private property.

Therefore, there would be *no impact*.

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)				X

The City of Beverly Hills is almost entirely built out and the ordinance would not change land use, the allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that only a small number of trees would require removal as a result of the ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance and development regulations established in the municipal code. Considering these factors, it is unlikely that implementation of the ordinance would have physical impacts that are individually limited but cumulatively considerable.

Therefore, there would be *no impact*.

	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact



	Potentially Significant	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

The City of Beverly Hills is almost entirely built out and the ordinance would not change land use, the allowable development envelopes or intensity of use. The ordinance proposes no projects and involves no development beyond landscaping activities on private property. It is anticipated that only a small number of trees would require removal as a result of the ordinance. Specific view restoration permit requests would be reviewed in accordance with the ordinance and development regulations established in the municipal code. Considering these factors, it is unlikely that implementation of the ordinance would have physical impacts that are individually limited but cumulatively considerable.

Therefore, there would be *no impact*.



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