City of Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 285-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: April 14, 2016

Subject: **1023 Hillcrest Road**
View Restoration Permit
Request for a View Restoration Permit by the View Owner at 1023 Hillcrest Road for the trimming and continued maintenance of nine trees located on a neighbor's property at 1017 Hillcrest Road (Foliage Owner) to a maximum height of 15'. Pursuant to the provisions set forth in the California Environmental Quality Act, the Planning Commission will also consider adoption of a Categorical Exemption for this project. *Continued item from March 24, 2016 Planning Commission Hearing.*

Project Applicant: Branden and Rayni Williams

Recommendation: That the Planning Commission:
1. Conduct a public hearing and receive testimony on the project; and
2. Adopt the attached resolution conditionally approving the requested View Restoration Permit.

REPORT SUMMARY

The Planning Commission conducted a public hearing on January 28, 2016 for a View Restoration Permit for the trimming and continued maintenance of six trees located on a neighbor's property at 1017 Hillcrest Road (foliage owner) to a maximum height of 15'. Please refer to Attachment A, January 28, 2016 Planning Commission Staff Report for more information. The public hearing was called to recess, and a site visit was conducted at the view owner's property at 1023 Hillcrest Road and the foliage owner's property at 1017 Hillcrest Road to aid the Commission in evaluating the request.

During the public hearing, the Planning Commission discussed the view owner's protectable view, identified the applicable viewing area locations on the view owner's property, and evaluated the level of disruption caused by foliage on the foliage owner's property. As a result of the discussion, the Commission found three additional trees subject to restorative action under the View Restoration Ordinance. The following aerial image and table denote the location of the nine trees identified by the Planning Commission as subject to restorative action:

Attachment(s):
A. January 28, 2016 Planning Commission Staff Report
B. Draft Approval Resolution

Report Author and Contact Information:
Cynthia de la Torre, Assistant Planner
(310) 285-1195
cdelatorre@beverlyhills.org

Number in the Image	Foliage
1	1 Ficus tree (located by the entryway of 1017 Hillcrest Road)
2	3 Brazilian pepper trees (southeast corner)
3	2 Chinese elm (south side of 1017 Hillcrest Road)
4	Canopy formed by 2 Pear trees and 1 Ficus tree (3 trees in this location)

The Planning Commission directed staff to revise the resolution in order to reflect the additional trees subject to restorative action and continued the item to the scheduled February 25, 2016 meeting.

Prior to the February 25, 2016 meeting, staff received a request from the view owner's representative to continue the item to the scheduled March 24, 2016 Planning Commission hearing, if needed. At that time, the view and foliage owners were exploring alternatives to the View Restoration Permit.

Prior to the March 24, 2016 meeting, the view owner's representative confirmed the need for the item to be reviewed by the Planning Commission, and requested that the item be continued to the scheduled April 14, 2016 meeting.

Based on the Planning Commission's direction from the January 28 meeting, the resolution conditionally approving a View Restoration Permit has been amended to reflect the incorporation of the three trees in addition to the six trees requested by the applicant. The resolution has also been amended to include the following conditions:

- Site access for City inspection to ensure compliance with the View Restoration Permit must be granted by the foliage owner at 1017 Hillcrest Road within 15 days of reasonable request by the City of Beverly Hills.
- Full cost of any City enforcement action related to this View Restoration Permit, including City Attorney fees, shall be borne by the foliage owner at 1017 Hillcrest Road.

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution conditionally approving the View Restoration Permit.

Report Reviewed By:

Masa Aikire, AICP, Principal Planner

Attachment A
January 28, 2016
Planning Commission Staff Report

City of Beverly Hills
Planning Division
455 N. Rexford Drive Beverly Hills, CA 90210
TEL. (310) 285-1141 FAX. (310) 858-5966

Planning Commission Report

Meeting Date: January 28, 2016

Subject: **1023 Hillcrest Road**
View Restoration Permit
Request for a View Restoration Permit by the View Owner at 1023 Hillcrest Road for the trimming and continued maintenance of six trees located on a neighbor's property at 1017 Hillcrest Road (Foliage Owner) to a maximum height of 15'. Pursuant to the provisions set forth in the California Environmental Quality Act, the Planning Commission will also consider adoption of a Categorical Exemption for this project.

Project Applicant: Branden and Rayni Williams

Recommendation: That the Planning Commission:
1. Conduct a public hearing and receive testimony on the project; and
2. Adopt the attached resolution conditionally approving the requested View Restoration Permit.

REPORT SUMMARY

The Trousdale View Restoration Ordinance was adopted by the City Council on December 6, 2011. The intent of the ordinance is to encourage Trousdale neighbors to reach early resolution when addressing restoration of views that have been substantially disrupted by foliage growth on neighboring properties by outlining a process that provides a framework for property owners in Trousdale Estates to work together. However, if a solution cannot be reached after the exhaustion of the View Restoration steps outlined in the ordinance, a property owner may apply for a View Restoration Permit. This case is the first View Restoration Permit application since the adoption of the View Restoration Ordinance in 2011.

The Planning Commission may issue a View Restoration Permit to a view owner with a protectable view[1] where the protectable view from a viewing area is substantially disrupted by foliage. Through issuance of a View Restoration Permit, the Planning Commission may require

[1] PROTECTABLE VIEW: A protectable view may include any view of the Los Angeles area basin from a "viewing area" as defined [on page 9 of this report]. 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. For purposes of this section, a protectable view shall be determined from a point thirty six inches (36") above the finished grade of the viewing area.

Attachment(s):
A. View Restoration Ordinance
B. Required Findings
C. Draft Approval Resolution
D. Public Notice
E. Pre-Hearing Application Requirements
F. Arborist Report
G. Radius Map

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restorative action on the foliage owner's property. In this particular case, the view owner at 1023 Hillcrest requests the trimming and continued maintenance of six trees located on the property at 1017 Hillcrest Road (foliage owner) to a maximum height of 15'.

This report provides context on the view owner and foliage owner's properties, information on the required View Restoration procedures, while also providing an analysis on the level of disruption caused by the foliage owner's trees to the view owner at 1023 Hillcrest Road. Staff's analysis concludes that the view owner has a protectable view and has substantially complied with the View Restoration steps. Therefore, the recommendation in this report is for approval of the requested View Restoration Permit for the trimming of two Brazilian pepper trees in the southeast corner of the foliage owner's property, as well as for the trimming of the tree in the center of the residence close to the front door. The recommendation in this report also includes the denial of the request for the trimming of the trees located in the southwest corner of the foliage owner's property.

BACKGROUND

File Date	11/18/2015
Application Complete	12/21/2015
CEQA Determination	Class 4 Categorical Exemption for minor alterations in the condition of vegetation.
CEQA Deadline	60 days from CEQA Determination
Permit Streamlining	Take action on project within 60 days of CEQA determination
Applicant(s)	Branden and Rayni Williams
Owner(s)	Branden and Rayni Williams
Foliage Owner	Khashayar and Shayesteh Saketkhoo
Prior PC Action	None
Prior Council Action	None

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	1023 Hillcrest Road
APN	4391-031-025
Zoning District	R-1
General Plan	Single-Family Residential – Low Density
Existing Land Use(s)	Single-Family Residential
Lot Area	Approximately 20,440 SF per the LA County Assessor Map.
Year Built	Originally built in 1962; however, the existing residence is currently being remodeled by more than 50%.
Historic Resource	The subject property was not designed by a Master Architect.
Protected Trees/Grove	Subject trees are not listed in the City's official list of local native trees; however, information on the size of the trees on the foliage owner's property could not be obtained[2].

[2] Protected trees include the following:
Heritage Trees: trees with a circumference of 48 inches or more and located in the front or street side setback;

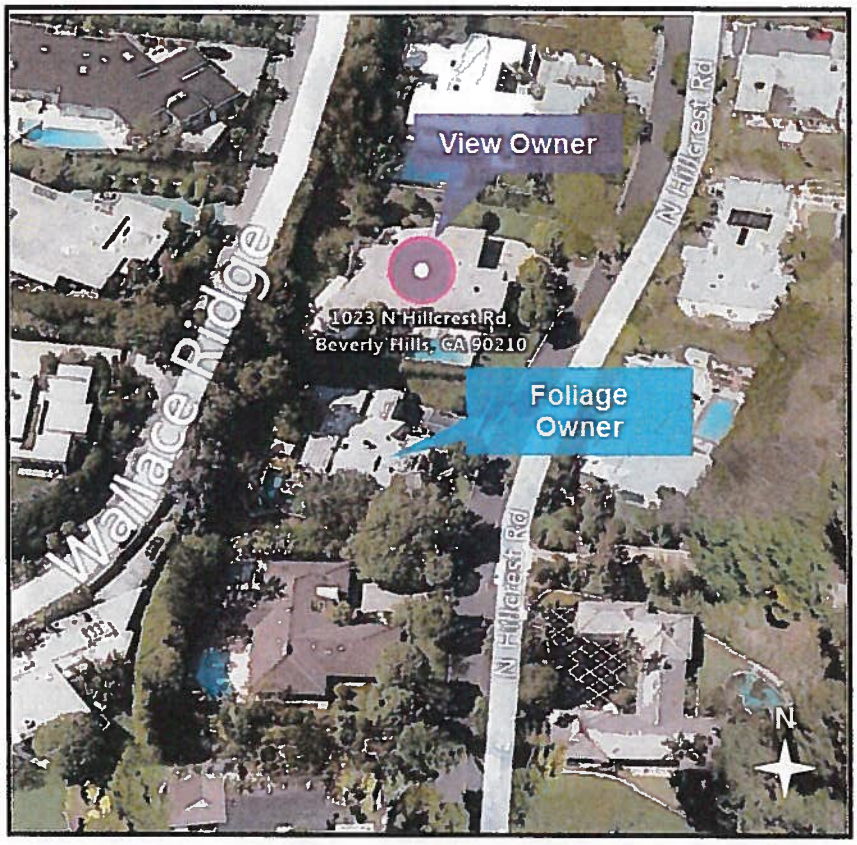
Adjacent Zoning and Land Uses

North	R-1 – Single-family residential
South	R-1 – Single-family residential
East	R-1 – Single-family residential
West	R-1 – Single-family residential

Circulation and Parking

Adjacent Street(s)	Hillcrest Road and Wallace Ridge (Property is a through lot)
Adjacent Alleys	None
Parkways & Sidewalks	5' parkway along Hillcrest Road
Parking Restrictions	Overnight parking is prohibited Hillcrest Road – No Daytime Parking Restriction North of Drury Lane
Nearest Intersection	Hillcrest Road and Drury Lane
Circulation Element	Hillcrest Road is a local street

Native Trees: trees on the City's official list of local natives with a circumference of 24 inches or more and located in the front or street side setback; and
Urban Groves: a group of 50 or more trees located anywhere on a single family property.



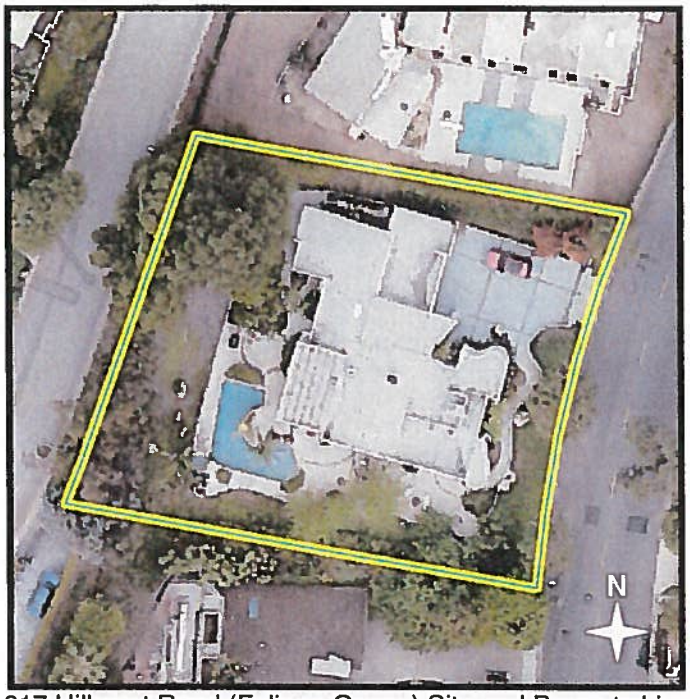
Project Site Looking North

Neighborhood Character

The subject property is located on Hillcrest Road, north of Sunset Boulevard, on the west side of Hillcrest Road, to the east of Wallace Ridge in Trousdale Estates. The City of Beverly Hills annexed Trousdale Estates' 596 single-family residential lots on July 26, 1955. Major grading, including removal of most existing foliage, and was completed to create flat building pads. View preservation standards were included in many, if not all, of the Codes, Covenants, and Restrictions documents (CC&Rs), placed on the Trousdale tracts beginning in 1955. Although the CC&Rs expired in 2000, much of their content and intent was incorporated by the City Council into the City's Zoning Code in 1985.

The lot at 1023 Hillcrest Road (view owner's property) has a site area of approximately 20,440 square feet, with frontage on two streets (Wallace Ridge and Hillcrest Road). While not located at the intersection of those streets, the subject property is considered a through lot. The site was originally developed with a single family residence and attached carport built in 1962. However, the site is currently undergoing a substantial remodel. Because more than 50% of the exterior walls and roof are being replaced or reconstructed, the single family residence currently under construction is considered a new building.

The site at 1017 Hillcrest Road (foliage owner's property) has an area of approximately 20,170 square feet, and is currently developed with a one-story single family residence that was built in 1958. Original building permits show that the residence was built with a height of 13'.



1017 Hillcrest Road (Foliage Owner) Site and Property Lines

View Restoration Process and Request

Before a view owner can seek remedies made available through a View Restoration Permit, the pre-application procedures below must be followed. Each step in the View Restoration process provides an opportunity for both the foliage owner and the view owner to reach resolution on the matter, but prerequisites must be met before advancing through the process.

1. Initial Neighbor Outreach (10-8-104B)	2. Mediation (10-8-104C) (proof of Initial Neighbor Outreach must have been submitted prior to Mediation stage)	3. View Restoration Permit (10-8-106)
-Written using the form provided by the City's View Restoration Guidelines;	-Offer to mediate sent to foliage owner using the form provided by the City's View Restoration Guidelines;	-After exhaustion of prehearing steps, and upon application by a view owner. The following must be included:
-Signed by view owner;	-Signed by view owner;	1. Proof of initial neighbor outreach and mediation;
-Signed statement from view owner offering to meet with	-Signed statement from view owner offering to meet with	2. Identification of the specific remedy sought by view owner

foliage owner;	foliage owner and a mediator;	and an estimate of cost;
-Identification of remedy sought by view owner;	-Identification of remedy sought by view owner;	3. A view restoration property survey; and
-Good faith estimate of cost and an offer to pay that amount;	-Good faith estimate of cost of the remedy;	4. A tree survey.
-30 days for foliage owner to respond, unless 10-day extension is requested.	-30 days for foliage owner to accept or reject mediation offer, unless 10-day extension is requested.	
Compliance with Requirement	Compliance with Requirement	Compliance with Requirement
Original letter was not retained, but a subsequent letter was sent certified mail on December 15, 2016.	Original mediation letter was not retained, but a mediation verification letter was provided by the mediator.	See Attachments E, F, and G.

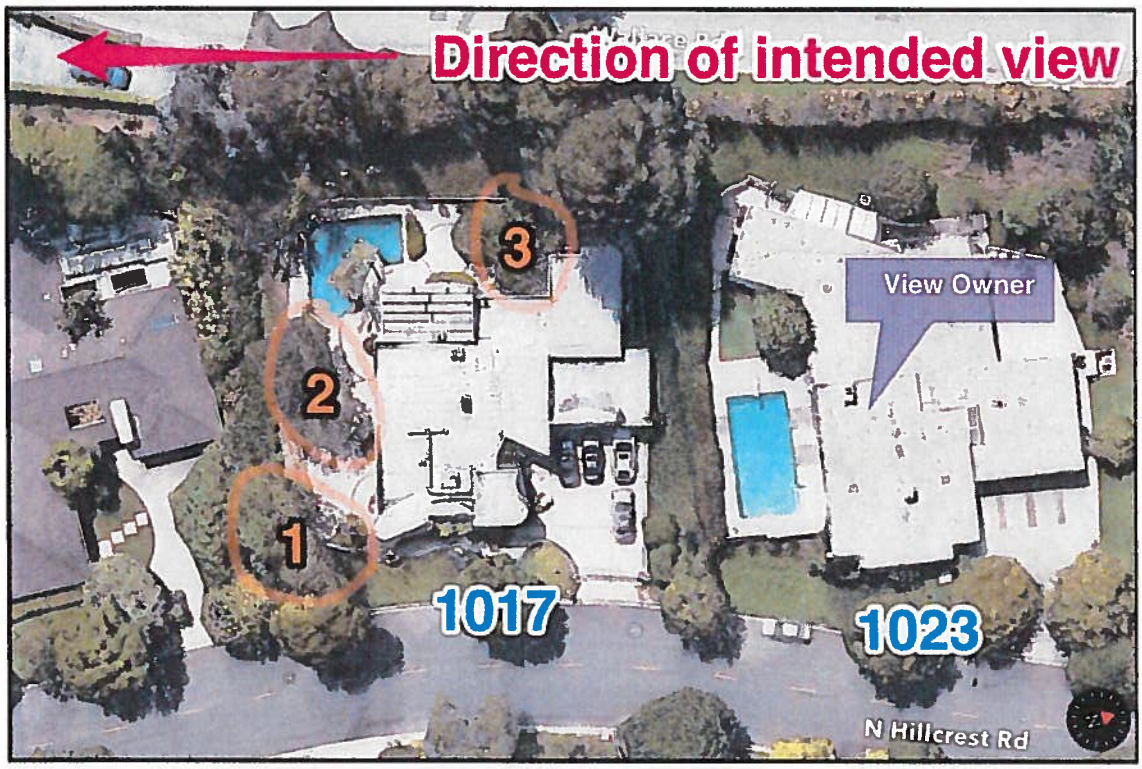
The foliage owner and view owner have attempted to reach an agreement since 2013. Both parties agreed to meet with the City-sponsored mediator to resolve the matter; however, the mediation was ultimately unsuccessful. While proof that both the foliage owner and view owner participated in mediation has been provided by the mediator (refer to Attachment E), proof of the Initial Neighbor Outreach letter that was originally sent to the foliage owner in 2013 was not retained. Therefore, in preparation for the January 28, 2016 hearing date, a follow-up letter prepared using the City's template was mailed again (also included in Attachment E). The applicant has met the requirements for filing a View Restoration application.

Requested Permit
The permit requested is as follows:

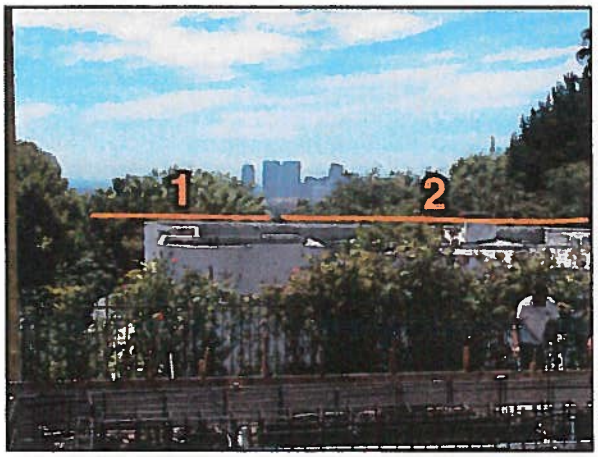
> **View Restoration Permit.**
> After exhaustion of the prehearing steps set forth in section 10-8-104 of this chapter, and upon application by a view owner in a form satisfactory to the director of planning and community development, the reviewing authority may issue a view restoration permit to a view owner with a protectable view as defined in this article where the protectable view from a viewing area is substantially disrupted by "foliage" as defined in this article and the reviewing authority makes all of the findings as set forth in this section.

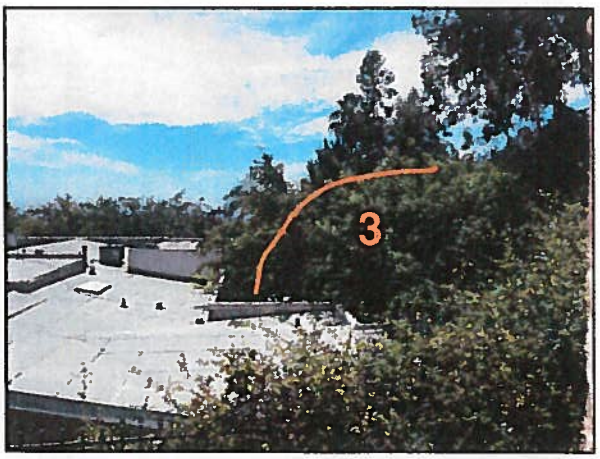
The view owner is requesting the following six trees to be trimmed and maintained at a maximum height of 15'[3]:

[3] According to the arborist report prepared in June 2015. Refer to Attachment F.



1. Three Brazilian pepper trees on the southeast side of the foliage owner's property;
   - Height: 20-30 feet tall
2. Chinese elm on the south side of the foliage owner's property; and
   - Could be two or more trees located next to each other
   - Height: Approximately 25 feet tall
3. One canopy that includes Ficus and Pear trees next to one another on the west side of the foliage owner's property.
   - Height: 15 feet over the roof line





GENERAL PLAN[4] POLICIES

The General Plan includes goals and policies intended to help guide development in the City. Some of the goals and polices applicable to the proposed project are provided below to help guide the Planning Commission in its deliberations.

- **Policy LU 5.1 Neighborhood Conservation.** Maintain the uses, densities, character, amenities, character, and quality of the City's residential neighborhoods, recognizing their contribution to the City's, identity, economic value and quality of life.

- **Policy LU 6.1 Neighborhood Identity.** Maintain the characteristics that distinguish the City's single-family neighborhoods from one another in such terms as topography, lot size, housing scale and form, and public streetscapes.

- **Policy OS 6 Visual Resource Preservation.** Maintenance and protection of significant visual resources and aesthetics that define the City.

ENVIRONMENTAL ASSESSMENT

The project has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines. The project qualifies for a Class 4 Categorical Exemption pursuant to Section 15304 (Minor Alterations to Land) of the Guidelines. Specifically, the request involves minor private alterations in the condition of vegetation. Therefore, the proposed project is exempt from further review under the provisions of CEQA.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice (agenda)	N/A	N/A	1/22/2016	7 Days
Newspaper Notice	N/A	N/A	N/A	N/A
Mailed Notice (Owners & Residents - 500' Radius)	10 Days	1/18/2016 (MLK Day)	1/15/2016	13 Days
Property Posting	10 Days	1/18/2016 (MLK Day)	1/15/2016	13 Days
Website	N/A	N/A	1/22/2016	7 Days
Public Hearing Notice[5]	30 Days Prior to Hearing	12/29/2015	12/29/2015	30 Days

[4] Available online at http://www.beverlyhills.org/business/constructionlanduse/generalplan/
[5] Sent by the City to the Foliage Owner. This requirement is unique to View Restoration applications.

Public Comment
As of the writing of this report, the City received one call from a neighbor on Loma Vista Drive who voiced her support for the View Restoration permit request. As a view owner herself, the neighbor empathized with the View Owner at 1023 Hillcrest Road.

ANALYSIS[6]
Project approval, conditional approval, or denial is based upon specific findings for each discretionary application requested by the applicant. The specific findings that must be made in order to approve the project are included with this report in Attachment B (Required Findings), and may be used to guide the Planning Commission's deliberation of the subject project. Key issues related to the requested entitlements are discussed as follows:

Analysis of Protectable View and Disruption. The View Restoration ordinance provides the following definitions to aid in the issuance of a View Restoration Permit:

- PROTECTABLE VIEW: A protectable view may include any view of the Los Angeles area basin from a "viewing area" as defined [below]. 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. For purposes of this section, a protectable view shall be determined from a point thirty six inches (36") above the finished grade of the viewing area.

- VIEWING AREA: An area from which a protectable view is assessed, located on the level pad that contains the primary residential structure. A viewing area shall be a room of the primary residential structure (excluding hallways, laundry rooms, closets and garages), or a patio, deck or landscaped area adjacent to the primary residential structure that does not extend beyond the level pad. There may be one or more viewing areas on a property. The reviewing authority shall establish the viewing area or areas as part of its finding that the view owner has a protectable view. The reviewing authority may designate a location as a viewing area if, in the opinion of the reviewing authority, an average resident would often observe a protectable view from that area.

Additionally, the View Restoration ordinance provides the following criteria for determining whether or not a protectable view is substantially disrupted:

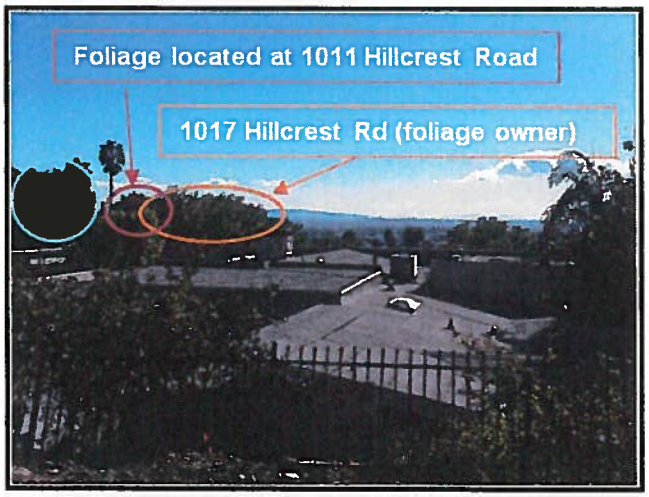
- Foliage Position Within A Protectable View: Foliage located in the center of a protectable view is more likely to be found to substantially disrupt a view than foliage located on the protectable view's periphery.

[6] The analysis provided in this section is based on draft findings prepared by the report author prior to the public hearing. The Planning Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to modify the findings. A change to the findings may result in a final action that is different from the staff recommended action in this report.

- Foliage Size And Density: Foliage that by virtue of its size and density obstructs a large portion of a protectable view is more likely to be found to substantially disrupt the view than is foliage that obstructs only a small portion of the protectable view. Trees located in close proximity to each other and maintained in such a way as to collectively form an uninterrupted "green barrier" are more likely to be found to substantially disrupt a view than are individual trees.
- View Diminished By Other Factors: The extent to which the view has been or is diminished by other factors such that removal of the foliage at issue will not substantially restore the protectable view. Other factors that may be considered include, but are not limited to, permitted structures, and foliage that is not on a private property within five hundred feet (500') of the view owner's property.

In evaluating the request, staff conducted a site visit at the view owner's property. Views of Century City and Beverly Hills were observed from the level pad on which the primary residential structure is being constructed.

Southeast Side of Foliage Owner's Property: Two of the three Brazilian pepper trees (circled in orange below) that have been identified in the arborist report do appear to block views of Los Angeles when looking east from the view owner's property. While there is a third Brazilian tree in that cluster, the tree appeared to have been trimmed and consequently, did not substantially disrupt the view from 1023 Hillcrest. Additionally, the view blockage caused by the two Brazilian pepper trees appears to be exacerbated by a tree located on the foliage owner's neighbor's property located further downslope from the view owner's property (circled in red below). There is also a City tree located in that general vicinity (circled in light blue) that appears to be contributing to the view blockage in the southeast corner of the foliage owner's property. Trimming the two trees on the foliage owner's property would restore a portion of the view corridor at this corner, but not completely unless an agreement is also worked out between the view owner at 1023 Hillcrest and the foliage owner at 1011 Hillcrest. The View Restoration Ordinance does not apply to City trees; therefore, a view disruption caused by a City tree cannot be remedied via the View Restoration Ordinance.



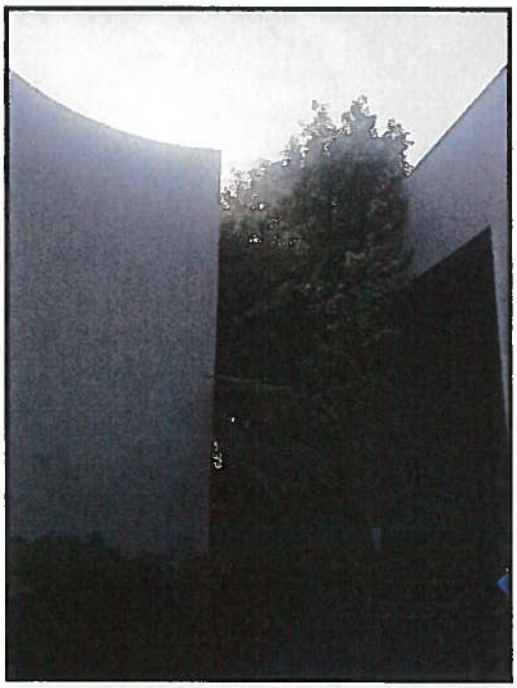
Southeast View from View Owner's Property

Street View Facing Trees in the Southeast Corner

South Side of Foliage Owner's Property: During the site visit, staff noticed that the Chinese elm identified in the arborist report appeared to have been trimmed to the height of the roofline on the foliage owner's property. Restorative action would not be required for this tree because the height of the tree is code-compliant, and the tree does not appear to disrupt the view of the view owner.

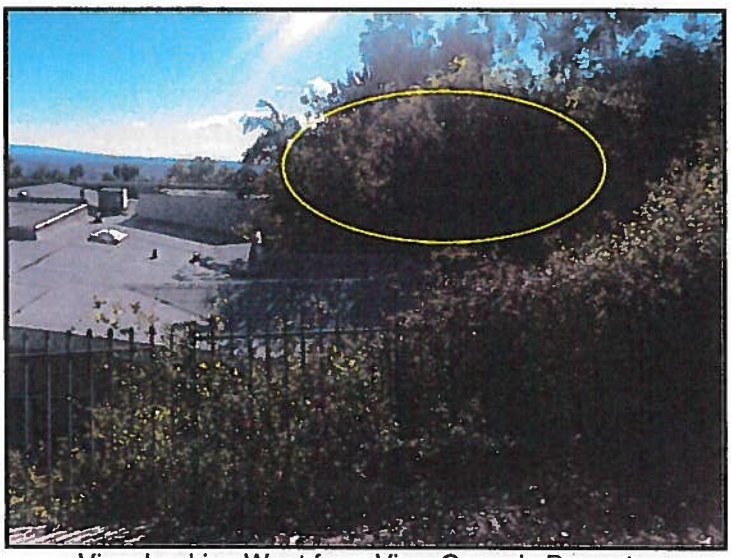
View Looking South from View Owner's Property

Center of Foliage Owner's Property: Staff observed a view disruption caused by a Ficus tree located in the center of the foliage owner's property (circled in green below). The tree appears to be several feet above the existing roofline. Because the tree is in the center of the protectable view, it is found to substantially disrupt a view more than foliage located on the periphery of the protectable view. Therefore, staff recommends that this tree be trimmed to a maximum height of 15'.



Subject Tree Close-Up as Viewed from the Foliage Owner's Property

West Side of Foliage Owner Property: The canopy formed by the Ficus and Pear trees on the west side of the foliage owner's property (circled in yellow below) do not appear to substantially disrupt a protectable view because the canopy formed by the trees screen a hillside, and not a view of the LA Basin.



View Looking West from View Owner's Property

NEXT STEPS

It is recommended that the Planning Commission conduct the public hearing and adopt the attached resolution conditionally approving the View Restoration Permit, which would require the trimming of two Brazilian pepper trees and one ficus tree.

Alternatively, the Planning Commission may consider the following actions:

1. Approve the request with modified findings or conditions of approval.
2. Deny the request, or portions of the request, based on revised findings.
3. Direct staff or applicant as appropriate and continue the hearing to a date (un)certain.

Report Reviewed By:

Ryan Gohlich, AICP, Assistant Director of Community Development / City Planner

Attachment B
Draft Approval Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS CONDITIONALLY APPROVING A VIEW RESTORATION PERMIT FOR THE TRIMMING AND CONTINUED MAINTENANCE OF NINE TREES ON A PROPERTY LOCATED AT 1017 HILLCREST ROAD (FOLIAGE OWNER) IN TROUSDALE ESTATES TO A MAXIMUM HEIGHT OF 15'.

The Planning Commission of the City of Beverly Hills hereby finds, resolves, and determines as follows:

Section 1. Branden and Rayni Williams, applicants and property owners of 1023 Hillcrest Road (the "Applicant" and "View Owner"), have submitted an application for a View Restoration Permit for the trimming and continued maintenance of six trees on a neighbor's property located at 1017 Hillcrest Road ("Foliage Owner") in Trousdale Estates to a maximum height of 15' (the "Request"). Subsequent to the filing of the application, the View Owner raised the issue of three additional trees located on the west side of the property. The Request requires a View Restoration Permit for the View Owner to restore a protectable view that has been substantially disrupted by foliage located on the Foliage Owner's property.

Section 2. The Applicant requested that the following trees be trimmed and maintained at a maximum height of 15':

1. Three Brazilian pepper trees on the southeast side of the Foliage Owner's property;

2. One Chinese elm on the south side of the Foliage Owner's property; and

3. One canopy that includes one Ficus tree and two Pear trees next to one another on the west side of the Foliage Owner's property.

Section 3. The request has been reviewed pursuant to the California Environmental Quality Act (CEQA), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines. The Planning Commission finds that the project is exempt from CEQA pursuant to Section 15304 of the CEQA Guidelines for minor alterations in the condition of vegetation.

Section 4. Notice of the Request and public hearing was mailed on January 15, 2016, to all property owners and residential occupants within a 500-foot radius of the property. On January 28, 2016, after conducting a duly noticed site visit to both the view owner's and foliage owner's properties, the Planning Commission considered the application at a duly noticed public hearing. Evidence, both written and oral, was presented at the meeting, and the Planning Commission gave direction to Staff to prepare a revised resolution, which was presented to the Planning Commission April 14, 2016.

Section 5. In reviewing the request for a View Restoration Permit, the Planning Commission considered whether it could make the following findings in support of the Request:

1. The view owner has a protectable view. The reviewing authority shall determine the viewing area or areas in order to make this finding;

2. The view owner has substantially complied with the initial neighbor outreach and mediation procedures of this article;

3. The view owner's protectable view is substantially disrupted by foliage on foliage owner's property that is not exempt under section 10-8-103 of this chapter. The following criteria shall be considered in determining whether or not a protectable view is substantially disrupted:

a. Foliage Position Within a Protectable View: Foliage located in the center of a protectable view is more likely to be found to substantially disrupt a view than foliage located on the protectable view's periphery;

b. Foliage Size and Density: Foliage that by virtue of its size and density obstructs a large portion of a protectable view is more likely to be found to substantially disrupt the view than is foliage that obstructs only a small portion of the protectable view. Trees located in close proximity to each other and maintained in such a way as to collectively form an uninterrupted "green barrier" are more likely to be found to be substantially disrupt a view than are individual trees.

c. View Diminished By Other Factors: The extent to which the view has been or is diminished by other factors such that removal of the foliage at issue will not substantially restore the protectable view. Other factors that may be considered include, but are not limited to, permitted structures, and foliage that is not on a private property within five hundred (500') of the view owner's property.

d. With respect to any tree protected pursuant to section 10-3-2902 of this title, removal of the tree will not:

i. Adversely affect the neighboring properties or the general welfare or safety of the surrounding area; or

ii. Adversely affect the garden quality of the city.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows with respect to the View Restoration Permit:

1. The View Owner has a protectable view of the Los Angeles Basin—specifically, of Century City, Beverly Hills, and the horizon—as viewed from the level pad on which the main residence and swimming pool are currently being constructed.

2. The View Owner has substantially complied with the initial neighbor outreach and mediation procedures of the Trousdale Estates View Restoration Article. The View Owner sent the original initial neighbor outreach letter in 2013, but because a copy was not retained, and in preparation for the hearing, the View Owner sent a follow-up letter using the City's template on December 15, 2015. Both the Foliage Owner and the View Owner participated in mediation after the initial neighbor outreach letter was mailed in 2013. Proof of mediation in the form of a verification letter signed by the mediator has been provided and is in the City's file for this application.

3. Even though the foliage owner recently trimmed many of the trees and the View Owner initially applied for restorative action on 6 trees, based on the

evidence in the City's files, including Staff's prior inspections of the properties, the staff report, and the site visit to both properties on January 28, 2016, the Planning Commission found that foliage comprising a total of 9 trees substantially disrupts the View Owner's view when the trees have grown to a height greater than 15':

- 1 Ficus tree located by the entryway of the Foliage Owner's property, which is in the center of the view frame and substantially disrupted the view from the View Owner's property;
- 3 Brazilian pepper trees located in the southeast corner of the Foliage Owner's property, which by virtue of their density substantially disrupted the view from the View Owner's property;
- 2 Chinese elm trees located on the south side of the Foliage Owner's property, which are in the center of the view frame and substantially disrupted the view from the View Owner's property; and
- A canopy formed by 2 Pear trees and 1 Ficus tree located on the west side of the Foliage Owner's property, which block a view from the deck adjacent to the swimming pool.

Section 7. Based on the foregoing, the Planning Commission hereby grants the requested View Restoration Permit, subject to the following conditions:

1. This approval is for the trimming and continued maintenance of the following foliage to a maximum height of 15' (a total of 9 trees) ("Restorative Action"):

- 1 Ficus tree located by the entryway of the Foliage Owner's property;
- 3 Brazilian pepper trees located in the southeast corner of the Foliage Owner's property;
- 2 Chinese elm trees located on the south side of the Foliage Owner's property; and
- A canopy formed by 2 Pear trees and 1 Ficus tree located on the west side of the Foliage Owner's property.

Any minor changes to the Request, as determined by the Director of Community Development, shall be reviewed and approved by staff. Substantive changes, as determined by the Director of Community Development, shall be returned to the Planning Commission for review and approval.

2. The Foliage Owner at 1017 Hillcrest Road and the View Owner at 1023 Hillcrest Road shall each pay 50% of the cost of restorative action.

3. The Foliage Owner shall pay for subsequent maintenance of the foliage consistent with the View Restoration permit.

4. Site access for City inspections to ensure compliance with the View Restoration Permit must be granted by the Foliage Owner at 1017 Hillcrest Road within 15 days of a written request by the City of Beverly Hills.

5. Full cost of any City enforcement action related to this View Restoration Permit, including attorney's fees, shall be borne by the Foliage Owner at 1017 Hillcrest Road.

6. DECISION RUNS WITH LAND. Decisions regarding View Restoration applications shall be binding on all current and future owners of the View Owner's property and Foliage Owner's property, and such decisions must be disclosed by each owner to subsequent owners of the property.

7. APPEAL. Decisions of the Planning Commission may be appealed to the City Council within fourteen (14) days of the Planning Commission action by filing a written appeal with the City Clerk. Appeal forms are available in the City Clerk's office. An appeal fee is required.

8. RECORDATION. The resolution approving the View Restoration Permit shall be recorded against the Foliage Owner's property at 1017 Hillcrest Road along with a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of the resolution as an exhibit. The Foliage Owner shall deliver the executed covenant to the Department of Community Development **within 60 days** of the Planning Commission decision. After the the Foliage Owner delivers the covenant to the City, the View Owner shall provide the City with all fees necessary to record the document with the County Recorder. If the View Owner fails to deliver the fees within the required 60 days, this resolution approving the Project shall be **null and void** and of no further effect. Notwithstanding the foregoing, the Director of Community Development may, upon a request by the View Owner, grant a waiver

from the 60 day time limit if, at the time of the request, the Director determines that good cause has been demonstrated justifying the delay.

9. VIOLATION OF CONDITIONS AND VIEW RESTORATION PERMIT: The City of Beverly Hills shall take such action, as appropriate, to ensure initial compliance with the View Restoration permit. After an initial determination by the City that the Foliage Owner has complied with the View Restoration permit, any further dispute regarding the Foliage Owner's compliance with the View Restoration permit shall be resolved by a civil action initiated by the View Owner.

10. After a decision is rendered by the Planning Commission issuing a view restoration permit, at any time before or after an initial determination of compliance with a View Restoration permit is made by e City, the View Owner may sue in Los Angeles Superior Court to enjoin violation of, or compel compliance with, the View Restoration permit. The prevailing party in any such civil action between the View Owner and the Foliage Owner shall be entitled to recover its reasonable attorney fees and costs incurred in the litigation.

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11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: April 14, 2016

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Alan Robert Block
Chair of the Planning Commission of the City of Beverly Hills, California

Attest:

_____
Secretary

Approved as to form:

_____
David M. Snow
Assistant City Attorney

Approved as to content:

_____
Ryan Gohlich, AICP
City Planner / Assistant Community Director