



Commission Agenda Report

To: Chair Riddick and Members of the Planning Commission

Prepared by: Coli Turner, MUP, Assistant Planner

Reviewed by: Didier Murillo, Principal Planner

Approved by: Yolanda Bundy, MS, PE, CBO, CFCO, Community Development Director and Tyler Eaton, Assistant Community Development Director

Date prepared: January 22, 2026 Meeting Date: February 2, 2026

Subject: View Preservation Permit No. 25-001 – An application requesting corrective action to restore the views recorded at 7132 Dume Drive under Primary View Determination No. 12-009 with regard to the foliage located at 29119 Cliffside Drive (Continued from December 16, 2025)

Claimant Name: Mark DiPaola, Managing Member of Napa Malibu LLC

Claimant Address: 7132 Dume Drive

Claimant APN: 4466-014-014

Foliage Owner Name: Nancy Alder Esq.

Foliage Owner Address: 29119 Cliffside Drive

Foliage Owner APN: 4466-014-008

RECOMMENDED ACTION: Either 1) adopt Planning Commission Resolution No. 26-08, determining the action is categorically exempt from the California Environmental Quality Act (CEQA), and approving View Preservation Permit (VPP) No. 25-001 to require alteration and maintenance of foliage at 29119 Cliffside Drive at the height of the horizon, as shown in Primary View Determination (PVD) No. 12-009, in order to restore the primary view documented in PVD No. 12-009; or 2) direct staff to return with a resolution consistent with the Planning Commission’s decision.

DISCUSSION: This agenda report provides an analysis of the action’s consistency with applicable provisions of the Malibu Municipal Code (MMC), and the environmental review pursuant to CEQA.

Background

In 2012, the City Council adopted Ordinance No. 361, which established MMC Chapter 17.45 (Citywide View Restoration Ordinance). In 2014, the ordinance was amended and the title of MMC Chapter 17.45 was changed to the Citywide View Preservation and Restoration Ordinance. MMC Chapter 17.45 allows a residence's private view within 1,000 feet to be preserved based on a PVD established on or after February 13, 2012. If the preserved view is then obstructed by new foliage or growth from existing foliage, the PVD holder, otherwise known as the claimant, can take the necessary steps to restore their view. In order to restore a view documented in a PVD, the claimant must do the following as required by MMC Section 17.45.060:

- Request informal discussion between the claimant and foliage owner with a registered or certified letter with return receipt requested;
- If informal discussion is unsuccessful, then the claimant is to request from the foliage owner mediation by a registered or certified letter with return receipt; and
- If mediation is then declined or unsuccessful after 60 days, the claimant is to request binding arbitration by a registered or certified letter with return receipt to settle the dispute.

If informal discussion, mediation, or binding arbitration settles the dispute, the agreement can be documented in a VPP approved by the Community Development Director. If the issue is not settled after 60 days of the binding arbitration attempt, the claimant can apply for a VPP to be determined by the Planning Commission. As will be described below, the claimant has attempted all the negotiation requirements of the VPP process unsuccessfully and is requesting the Planning Commission render a decision on the matter.

On December 16, 2025, the Planning Commission continued the item to the February 2, 2026 Regular Planning Commission meeting due to lack of time. The resolution number was updated to reflect the year of the new hearing date. Resolution No. 26-08 recitals and public hearing dates have also been updated to reflect the continuance but no substantive changes have been made to the staff report and resolution provided for December 16, 2025.

Claimant's View Restoration Process and Setting

On April 5, 2012, staff conducted a PVD for 7132 Dume Drive (Attachment 1). Staff documented the primary view from an outdoor deck about four feet in front of the primary living area, a location selected by the former property owner. As required by MMC Section 17.45.060, the claimant attempted to negotiate with the foliage owner at 29119 Cliffside Drive; however, these efforts were unsuccessful (Attachment 4). The claimant subsequently undertook the following actions:

- On July 2, 2024, the claimant requested, through certified mail, that the foliage owner maintain their trees to restore the view depicted in PVD No. 12-009. The letter also included the claimant's agreement to pay to trim and maintain the trees at 29119 Cliffside Drive. This offer remained until July 31, 2024, after that the responsibility would be on the foliage owner as stated in PVD No. 12-009.
- On September 9, 2024, the claimant requested, through certified mail, mediation between both parties. Mediation was never agreed to.
- On November 15, 2024, the claimant requested, through certified mail, binding arbitration between both parties. Binding arbitration was never agreed to.

On March 3, 2025, the claimant submitted an application for a VPP to request the foliage owner trim or remove foliage in order to restore the view conditions documented in PVD No. 12-009.

Both the claimant's and the current foliage owner's properties are located on the inland side of Dume Drive, south of Cliffside Drive, within the Point Dume neighborhood. As shown in Figure 1 below, the claimant's property at 7132 Dume Drive is situated inland and slightly north of 29119 Cliffside Drive. The Dume Drive property sits at a higher elevation, and from the primary view location, ocean views extend over the 29119 Cliffside Drive property, which is positioned closer to the coastal bluff.

Figure 1 – Aerial Photograph



Source: Malibu City GIS, 2025

Discussion

On May 19, 2025, staff conducted a site visit to the claimant’s property and re-took the photographs from PVD No. 12-009, as required by MMC Section 17.45.060(E)(2). Photographs from this site visit are included in Attachment 3. Only some of the subject foliage appeared to be present.

Comparing the photographs available in PVD No. 12-009 and the staff photos taken in May of 2025, staff determined that two main areas of overgrown foliage may qualify as an obstruction. Shown within the red circles in Figures 2(a) and 2(b) below; both areas demonstrate view obstructions of what is documented in PVD No. 12-009.

Figure 2(a): View from Primary View Looking Southwest

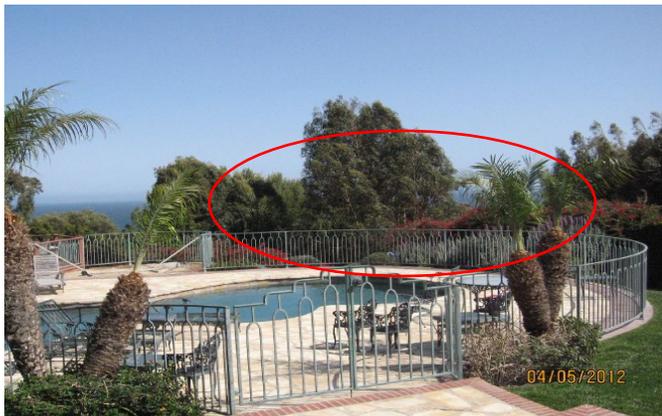


Source: PVD No. 12-009, April 2012



Source: VPP 25-001, Staff Site Visit, May 2025

Figure 2(b): View from Primary View Looking Southeast



Source: PVD No. 12-009, April 2012



Source: VPP 25-001, Staff Site Visit, May 2025

Figure 2(c): View from Primary View Looking Southeast



Source: PVD No. 12-009, Staff Site Visit, April 2012



Source: VPP 25-001, Staff Site Visit, May 2025

As shown in the photos above, foliage belonging to the foliage owner has been reduced within the documented view under PVD No. 12-009, resulting in some improvement. However, portions of the foliage remain within the primary view corridor. Staff is unable to

conclusively determine whether a violation exists, based on the information available. The primary view could be further restored if the vegetation in question is trimmed or removed to a height consistent with the guidelines in PVD No. 12-009, as shown in Figure 2(c).

Current Conditions

The claimant's property is under construction under Over-the-Counter (OC) No. 25-018 for an interior remodel. The frame of the primary living area was left intact to allow staff to re-take photographs from the original PVD 12-009 case.

Staff made several attempts to contact the foliage owner to assist in resolving the disputed view obstruction. On June 9, 2025, staff mailed and emailed a letter to the foliage owner (Attachment 5). On June 30, 2025, the foliage owner emailed staff to schedule a site visit. Staff followed up on multiple occasions following the owner's contact but did not receive a further response. As a result, staff were unable to conduct a site visit on the foliage owner's property.

Staff continued efforts to coordinate a resolution and contacted the foliage owner by email to inform them of the public hearing scheduled for December 16, 2025, in hopes of reaching an agreement prior to the hearing. These efforts were unsuccessful. On December 4, 2025, a Notice of Public Hearing was mailed to all interested parties, including the foliage owner.

VPP Findings

Pursuant to MMC Chapter 17.45.060(E)(4), the Planning Commission may issue a VPP to require removal or alteration and maintenance of foliage at the designated maximum height, including trimming, thinning, or reducing the height or width of foliage, on a foliage owner's property if it makes all five of the required findings.

Based on evidence in the record, staff has provided the following required findings for VPP No. 25-001 for the Planning Commission to consider and determine:

Finding 1. The claimant has provided evidence of attempt at informal discussion, mediation, and binding arbitration to resolve view dispute.

As discussed previously, the claimant has provided evidence of attempts at informal discussion, mediation, and binding arbitration. They waited 60 days between the mediation and binding arbitration letters and another 60 days with no agreement with the foliage owner as required by MMC Section 17.45.060.

Finding 2. The claimant has a primary view that has been significantly obstructed by foliage that is not exempt pursuant to MMC Section 17.45.140.

The foliage under dispute does not qualify as exempt per MMC Section 17.45.140.

According to MMC Section 17.45.040, the following criteria shall be considered in determining whether a significant obstruction has occurred in view preservation and view restoration disputes:

- A. The extent of the foliage obstructs a pre-existing view and/or primary view, both currently and at foliage maturity.
- B. The location of the obstruction within a view frame; foliage located within the center of a primary view is more likely to be found to create an obstruction than obstruction located on the outer edge of a primary view.
- C. The quality of the primary view being obstructed, including obstruction of landmarks, vistas, or other unique features.
- D. The extent to which the primary view has been diminished over time by factors other than tree growth, such as new additions or residences.
- E. The extent to which the primary view contributes to the economic value and/or enjoyment of the claimant's property.

As discussed above, obstruction has occurred where foliage growth obstructs views of the Pacific Ocean previously documented in PVD No. 12-009.

The location of these obstructions is within the center-left (southeast) of the view looking towards the Pacific Ocean, which is documented in PVD No. 12-009. Should growth continue without mitigation, additional view obstruction of the ocean would likely occur.

Finding 3. Alteration or removal of the foliage will not have a substantial adverse impact on a hillside, drainage, or erosion control.

PVD No. 12-009 can be restored if the vegetation in question was trimmed and maintained to be no taller than the horizon as depicted in PVD No. 12-009. Removal of the trees would bring the site closer to compliance with the MMC, but removal is not required.

Finding 4. If the recommended restorative actions include removal, that all other restorative actions are ineffective in restoring the primary view while preserving the health of the foliage.

The claimant's requested restorative action includes removal or trimming. However, the trees in question appear to be present in the 2012 PVD documentation; therefore, removal is not required under the MMC. The foliage owner may choose to remove the vegetation at their discretion to avoid ongoing maintenance requirements. While removal of the trees may further improve the claimant's view and bring the foliage owner's property closer to compliance with the MMC, it is not mandated as a part of this determination.

Finding 5. The recommended restorative action is the minimum required to restore the claimant's primary view, unless restorative action will result in future stump growth in which case, more aggressive action is preferred.

The recommended restorative action includes trimming the foliage to the horizon as documented in PVD 12-009, which is the minimum necessary to restore the claimant's primary view. The foliage owner may also wish to remove the trees entirely. This would require less maintenance in the future and bring the property closer to compliance with the MMC.

CONCLUSION: The required VPP findings can be made in support of or in denial of the request. The Planning Commission may impose such restrictions or conditions, including restorative action, as deemed necessary or proper to restore a primary view; protect the foliage owner's privacy; protect the public health, safety, or welfare; or any combination thereof.

If this VPP is approved, the claimant shall be responsible for paying the cost of the restorative action required to return the view conditions to those documented by PVD No. 12-009, and the foliage owner shall be responsible for paying the costs of any subsequent maintenance of the subject foliage, unless otherwise agreed to by the parties or required pursuant to any final arbitration decision or court order.

The Planning Commission's decision regarding this VPP shall be binding on all current and future owners of the claimant's property and foliage owner's property, and such decision must be disclosed by each owner to subsequent owners of the properties.

Staff is unable to conclusively determine whether a violation exists, based on the information presented in this report. If, after reviewing all available evidence, the Planning Commission determines that a violation is present, it may approve the VPP subject to the conditions of approval outlined in Section 5 of Planning Commission Resolution No. 26-08.

Failure to abide by the adopted terms and conditions of Planning Commission Resolution No. 26-08 shall constitute a violation punishable in accordance with MMC Section 1.16.010. In addition to all penalties authorized by Section 1.16.010 or any other provision of law, violations of the VPP are subject to the administrative penalty provisions of MMC Chapter 1.10. Each day that a violation continues shall constitute a separate offense. To the extent any foliage is in violation of the terms of the VPP, it shall constitute a public nuisance. Should the VPP be approved, staff recommends that a 30-day grace period (10-day appeal period plus an additional 20 days) be allowed for the claimant and foliage owner to work out dates to cut the subject vegetation before citations can be issued.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Community Development Director has analyzed the proposed project, which includes the trimming of the foliage at 29119 Cliffside Drive. The Community Development Director found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the proposed project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines section 15301(h) – Maintenance of Existing Landscaping. The Community Development Director has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines section 15300.2).

CORRESPONDENCE: To date, staff has not received correspondence regarding this application, other than the documentation attached to this report.

PUBLIC NOTICE: On December 4, 2025 staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all interested parties, the claimant, the foliage owner, and the record owners and occupants of all properties on which the foliage at issue in the VPP application is located (Attachment 7).

ATTACHMENTS:

1. Planning Commission Resolution No. 26-08
2. Claimant Primary View Determination No. 12-009
3. Staff Photographs Recreating Primary View in May 2025
4. Letters Requesting Discussion, Mediation, and Arbitration and Receipts of Delivery
5. Staff Correspondence
6. View Preservation Process Flow Chart
7. Public Hearing Notice

All referenced City Council and Planning Commission records are available for review at <http://www.malibucity.org/onbase>.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 26-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE ACTION IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING VIEW PRESERVATION PERMIT NO. 25-001 TO REQUIRE ALTERATION AND MAINTENANCE OF FOLIAGE AT 29119 CLIFFSIDE DRIVE AT THE HEIGHT OF THE HORIZON, AS SHOWN IN PRIMARY VIEW DETERMINATION NO. 12-009, IN ORDER TO RESTORE THE PRIMARY VIEW DOCUMENTED IN PRIMARY VIEW DETERMINATION NO. 12-009

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On April 5, 2012, staff conducted Primary View Determination (PVD) No. 12-009 at 7132 Dume Drive.

B. On July 2, 2024, a letter requesting informal discussions between the claimant and owner of the property located at 29119 Cliffside Drive (foliage owner) was sent by the property owner of 7132 Dume Drive via certified mail.

C. On September 9, 2024, a letter requesting mediation between the claimant and the foliage owner was sent by representatives of the claimant to the foliage owner via certified mail.

D. On November 15, 2024, a letter requesting binding arbitration between the claimant and the foliage owner was sent by representatives of the claimant to the foliage owner via certified mail.

E. On March 3, 2025, the claimant submitted an application for View Preservation Permit (VPP) No. 25-001.

F. On May 19, 2025, staff conducted a site visit to document the existing view conditions from the primary view location at 7132 Dume Drive.

G. On June 9, 2025, staff sent a letter to the foliage owner notifying them of the application and requesting a site visit via email and standard mail.

H. On September 17, 2025, staff called and sent an email to the foliage owner explaining the public hearing to be held on December 16, 2025, and to attempt a site visit before the hearing.

I. On December 4, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed the notice to all interested parties, the claimant, the foliage owner, and the record owners and occupants of all properties on which the foliage at issue in the view preservation permit application is located.

J. On December 16, 2025, the Planning Commission continued the item to the February 2, 2026 Regular Planning Commission meeting.

K. On February 2, 2026, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines section 15301(h) - Existing Facilities - Maintenance of Existing Landscaping. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines section 15300.2).

SECTION 3. View Preservation Permit Findings.

Based on all the evidence contained within the record and testimony and deliberations at the December 16, 2025, Planning Commission meeting, and pursuant to the Malibu Municipal Code (MMC), including MMC Chapter 17.45, the Planning Commission adopts the findings of fact below, and approves VPP No. 25-001 to require alteration and maintenance of foliage at 29119 Cliffside Drive at the height of the foliage in order to restore the documented primary view documented in PVD No. 12-009.

1. The claimant has provided evidence of attempts at informal discussion, mediation and binding arbitration. They waited 60 days between the mediation and binding arbitration letters and another 60 days with no agreement with the foliage owner as required by MMC Section 17.45.060.

2. The foliage under dispute does not qualify as exempt per MMC Section 17.45.140. Foliage growth obstructs views of the Pacific Ocean which were documented in PVD No. 12-009. The location of these obstructions is within the center-left (southeast) of the view looking towards the Pacific Ocean, which is documented in the PVD. The new obstructions block views of the ocean.

3. PVD No. 12-009 can be restored if the vegetation in question was trimmed and maintained to be no taller than the horizon as depicted in PVD No. 12-009. The proposed modification of the foliage is not expected to have an adverse impact on the vegetation.

4. The recommended restorative action does not include removal.

5. The recommended restorative action includes trimming the foliage to line, which is the minimum necessary to restore the claimant's primary view, as documented in PVD No. 12-009.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves VPP No. 25-001, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The claimant, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. The foliage located at 29119 Cliffside Drive blocks ocean views documented in PVD No. 12-009 must be trimmed and maintained to be no taller than the horizon line, as shown in PVD No. 12-009.
3. The claimant shall be responsible for paying the cost of the restorative action required to return the view conditions to those documented by PVD No. 12-009, and the foliage owner shall be responsible for paying the costs of any subsequent maintenance of the subject foliage unless otherwise agreed to by the parties or required pursuant to any final arbitration decision or court order.
4. A 20-day grace period, after the 10-day appeal period, shall be allowed for the claimant and foliage owner to agree in good faith to dates to cut the subject vegetation before the citations can be issued.
5. The claimant and foliage owner must sign and notarize an affidavit of acceptance of conditions of approval prior to commencement of any restorative actions.
6. The Planning Commission's decisions regarding view preservation shall be binding on all current and future owners of the claimant's property and foliage owner's property, and such decisions must be disclosed by each owner to subsequent owners of the property.
7. Any decision of the Planning Commission made pursuant to MMC Section 17.45.060 takes effect ten (10) calendar days from the date of adoption of a resolution unless an appeal is filed. If appealed, the effective date is the date on which final action is taken by the city council.
8. The City shall not be liable for any damages, injuries, costs or expenses which are the result of a decision issued by a city employee or official or any agreements or determinations resulting from mediation, arbitration or litigation concerning view restoration claims or claimant's assertions pertaining to views granted or conferred herein. Nor shall the City have any liability because a particular neighborhood or overlay district is granted or denied an exemption pursuant to MMC Section 17.45.140.

9. Under no circumstances shall the City have any responsibility or liability to enforce or seek any legal redress, civil or criminal, for any decision that any other person or entity makes concerning a VPP.
10. Nothing in this Resolution shall be construed as preventing a claimant or foliage owner from bringing a civil action to enforce the terms of a VPP.
11. Failure to abide by the terms and conditions of this VPP shall constitute a violation punishable in accordance with MMC Section 1.16.010.
12. In addition to all penalties authorized by MMC Section 1.16.010 or any other provision of law, violations of this VPP are subject to the administrative penalty provisions of MMC Chapter 1.10. Each day that a violation continues shall constitute a separate offense.
13. To the extent any foliage is in violation of the terms of this VPP, it shall constitute a public nuisance.

SECTION 6. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 2nd day of February 2026.

ELIZABETH RIDDICK, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

LOCAL APPEAL - Pursuant to Malibu Municipal Code Section 17.45.060(E)(7) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days of the planning commission's adoption of its resolution regarding the view preservation permit and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org, in person at City Hall, or by calling (310) 456-2489, extension 246.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 26-08 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 2nd day of February 2026 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

REBECCA EVANS, Recording Secretary



City of Malibu

23825 Stuart Ranch Rd, Malibu, California 90265-4861
(310) 456-2489 FAX (310) 456-7650 www.malibucity.org

PLANNING DEPARTMENT PRIMARY VIEW DETERMINATION

Primary View Determination: 7132 Dume Drive, Richard and Elizabeth Keller

On April 5, 2012, staff conducted a primary view determination at 7132 Dume Drive. Staff documented the primary view standing on an outdoor deck located approximately four feet in front of the family room, a location chosen by the property owner. The location is denoted by a red star in the aerial below.



On April 5, 2012, the view from this location on the property is as follows, from north to south:





Zoomed In Photographs:





ATTACHMENT 3

















NO TIRAR

TV

Handwritten graffiti in green and white, including a large '2' and some illegible scribbles.

Handwritten graffiti in red, possibly the letters 'AB'.

X



STONE CHIMNEY

YELLOW ELECTRICAL BOX

NO WOOD SHIPING

TV

NO TIRAR

[REDACTED]

July 2, 2024

Nancy Alder Esq.
Azipa Abedissian Esq.

Dear Nancy:

I hope this letter finds you well. I am writing you regarding the trees growing along the perimeter of your property at 29119 Cliffside Drive. These trees block our primary view of the Pacific Ocean and Point Dume, which is protected by our Primary View determination dated April 5, 2012, on file with the City of Malibu for 7132 Dume Drive.

Our arborist estimates these trees are 40' or more in height, well above the 6' guideline, and also present a significant fire and wind hazard.

Before writing this letter, I spoke to you on March 6, and it sounded like you were willing to work with me in good faith. However, subsequent texts and calls on March 11, 15, and 21st went without response.

We have subsequently emailed and I appreciate that you have other, more pressing priorities. However, now 4 months have passed with no progress.

You have said that the trees could not possibly have grown that much in 12 years, however the photo clearly shows it is the same tree (as evidenced by the unique tree on the left side). More importantly, whether they are the same trees or not is not relevant to our right to maintain our view. If there is a tree on your property blocking our documented view, you must lower it.

You also said you do not believe they are on your property. In response, I have sent detailed photographs depicting the trunks on your side of the fence. Your neighbor has also indicated their willingness to allow us to trim them if, perchance, the trees are on their property.

Your neighbors have been cooperative and helpful in lowering their trees to a mutually agreeable height which protects their privacy and opens up the view for us. I would like to work on a similar plan with you.

While the Primary View Determination directs that maintenance costs will be done at the foilage-owner's expense (yours), I have offered to trim *at my expense* because I would like to make this easy for you. However, this offer will expire on July 31, at which point you will bear the responsibility for compliance costs.

Please feel free to reach out to me by phone or email at your convenience for any clarifications, as well as advising me of your intentions in writing, return-receipt requested, no later than 60 days from the date you receive this letter. I truly hope we can work out mutually acceptable solution that preserves your privacy while opening up the views we are entitled to.

Sincerely,

Mark DiPaola
Managing Member of Napa Malibu LLC



Photo of your trees on file with City of Malibu with our Primary View Determination, dated April 5, 2012



Photo of same view in April 2024

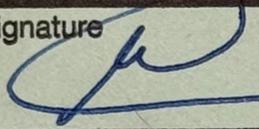
SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Nancy Alder Esq.
Azipa Abedissian Esq

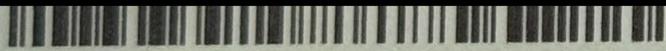
COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent Addressee

B. Received by (Printed Name) Erwin Cardouq C. Date of Delivery 07-05-24

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |



9590 9402 8703 3310 4793 48

2. Article Number (Transfer from service label)

9589 0710 5270 1819 6950 33

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

9589 0710 5270 1819 6950 33

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com®.

Los Angeles, CA 90064

OFFICIAL USE

Certified Mail Fee	\$4.40
Extra Services & Fees (check box, add fee as appropriate)	\$3.65
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$1.63

Total Postage and Fees \$9.68

Sent To

Nancy Alder Esq / Azipa Abedissian Esq



See reverse for Instructions

28884 Cliffside Dr.
Malibu, CA 90265

September 6, 2024

Nancy Alder
Azipa Abedissian



Dear Nancy:

Over 60 days have elapsed since my July 2nd letter, and I have not received a letter in response as required by the View Preservation Process.

Given that we have been unable to work this out formally (via the previous letter) or informally (via discussions over email and text), the next step in the prescribed View Preservation Process is Mediation.

I would like to use the American Arbitration Association (AAA). With your agreement, I will open an Arbitration proceeding with them, and I suggest we split the costs evenly. Please confirm your agreement by writing me within 60 days of the date of this letter.

Sincerely,

Mark DiPaola
Managing Member of Napa Malibu LLC

Santa Monica Mailbox & Shipping
406 Broadway
Santa Monica, CA 90401
Tel: (310)395-5177

USPS First Class Mail 9.69
Track #: 70151660000017353551

SUBTOTAL 9.69
TAX 0.00
TOTAL 9.69
TEND ATM 9.69

Total shipments: 0
Customer: None selected

09/09/2024
11:33 AM

Station: 0 - Master Workstation

7015 1660 0000 1735 3551

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

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Certified Mail Fee

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- Return Receipt (electronic) \$ _____
- Certified Mail Restricted Delivery \$ _____
- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postage

Total Postage and Fees

Sent To

[REDACTED]
Nancy Arnold

Postmark
Here

28884 Cliffside Dr.
Malibu, CA 90265

November 14, 2024

Nancy Alder
Azipa Abedissian



Dear Nancy:

Over 60 days have elapsed since my September 6 letter.

I received your letter dated October 25. In it, you state that that the “before” photo dated April 5, 2012 (“Exhibit A, pg 3 of 4”) “[has] been grossly distorted.” However, this photo is the photo the City took on 4/5/2012, appearing on page 4 of our granted Primary View Determination. Indeed, you included the very same photo that you dispute in the copy of the View Determination you attached as Exhibit D, pg 4 of 8.

I have merely cropped it to highlight the relevant area, with no change in zoom whatsoever. Further, as it is plainly evident from the unusual plant in the right foreground, the “before” and “after” photos are indeed the same angle and depict the same trees.

Your other points are simply not relevant to this issue. Our view of the water is protected by our View Determination, and the growth of your trees over the last ~12 years has obstructed that view.

To the extent it is helpful, I have never suggested that we trim your trees “down to a level equal to the height of [your] fence, which is 8 feet tall.” Rather, I have repeatedly emphasized the importance of maintaining your privacy by keeping the trees around your roofline, and maintaining their natural beauty, as I did with your neighbors’ trees. Now that

Fall's heavy winds have begun and we've already had our first fire nearby, I would hope you consider trimming these trees for your home's safety and your own benefit, not just ours.

Nonetheless, given that we have been unable to agree on Mediation, the next step in the prescribed View Preservation Process is Arbitration.

I would like to use the American Arbitration Association (AAA). With your agreement, I will open an Arbitration proceeding with them, and I suggest we split the costs evenly. Please confirm your agreement by writing me within 60 days of the date of this letter.

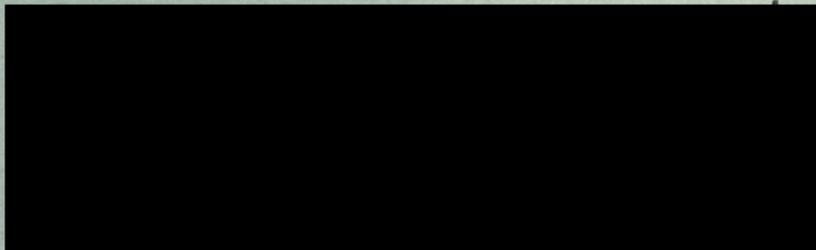
Sincerely,

Mark DiPaola
Managing Member of Napa Malibu LLC

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:



9590 9402 8703 3310 4788 77

2. Article Number (Transfer from service label)

9589 0710 5270 1819 7002 18

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

Irene O.

C. Date of Delivery

11/18/24

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Adult Signature
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- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

9589 0710 5270 1819 7002 18

PS Form 3800, January 2023 PSN 7530-02-000-9047

See Reverse for Instructions

Certified Mail Fee	\$4.85
Extra Services & Fees (check box, add fee as appropriate)	\$6.10
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.73
Total Postage and Fees	\$9.68



Los Angeles CA 90164 USE

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City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-7650 · www.malibucity.org

June 9, 2025

Nancy Alder Esq.
29119 Cliffside Drive
Malibu, CA 90265

Re: View Preservation Permit No. 25-001

To Nancy Alder Esq. (via standard mail and email):

On March 3, 2025, a View Preservation Permit application was submitted by Mark DiPaola of 7132 Dume Drive to the City of Malibu Planning Department for review.

A View Preservation Permit is considered by the Planning Commission after a claimant (the property owner mentioned above) goes through a 5-step process (attached) in which they attempt to work with the foliage owner (you and any other legal property owner of 29119 Cliffside Drive) in order to preserve their documented primary view corridor that is obstructed by foliage located within 1,000 feet of the point of the main viewing area. The attached Primary View Determination conducted in 2012 shows the extent of the view that is documented with the city.

The View Preservation Permit and conditions outlining the restorative actions proposed to preserve the primary view of the claimant will be discussed and possibly issued by the Planning Commission at a scheduled Planning Commission public hearing.

For more information on this type of permit please visit the City's website here: <https://www.malibucity.org/775/View-Preservation-Permit-Planning-Commis> and see Chapter 17.45 of the Malibu Municipal Code.

Please email me with any questions or concerns at cturner@malibucity.org. **If you are available for and amendable to a site visit, please let me know dates and times that work best for you.**

Best Regards,

Coli Turner

Coli Turner
Planning Technician

Attachments:

1. View Preservation Permit Process Flowchart
2. Primary View Determination No. 12-009

ATTACHMENT 5

View Preservation Process

Step 1 – Primary View Determination

- The view owner can request a Primary View Determination from the City, which documents the primary view corridor from one main residence or building, per the Ordinance.
- This documented view will be the basis for all future view preservation issues.



Step 2 – Informal Discussion

- The view owner sends a letter to the foliage owner, asking to meet and work to restore the view.
- The letter should include a copy of the Primary View Determination and what the view owner would like to be done.
- Letter should be sent by registered or certified mail, with a return receipt, to the address registered with the LA County Assessor's Office.
- If no response to the letter has been received within 60 days of mailing or informal discussion does not resolve the matter, go to Step 3.



View Preservation Permit from the Planning Director

- If during this process the parties agree to a resolution, a View Preservation Permit can be obtained from the Planning Director.
- This permit will acknowledge and memorialize the private agreement between the parties.
- Approval of the permit by the Director will be based upon finding that the agreement is in compliance with the Ordinance.



Step 3 - Mediation

- The view owner sends a second letter to the foliage owner with an invitation to participate in mediation.
- Letter should be sent by registered or certified mail, with a return receipt.
- The parties must agree on which mediator to use, with the view owner paying for any associated costs, unless the parties agree otherwise.
- If there is no response within 60 days of mailing the letter, or mediation does not resolve the matter, go to Step 4.



Step 4 – Binding Arbitration

- The view owner sends a third letter to the foliage owner with a request to participate in binding arbitration.
- Letter should be sent by registered or certified mail, with a return receipt.
- The parties must agree on which arbitrator to use, with any associated costs paid by the view owner, unless the parties agree otherwise.
- If there is no response within 60 days of sending the letter, or the parties can't agree on an arbitrator, go to Step 5.



Step 5 - View Preservation Permit from the Planning Commission

- A view owner can submit an application for a View Preservation Permit (for preservation of a primary view corridor) to the Planning Commission.
- At a public hearing, the request for preservation of the documented view will be presented to the Planning Commission, who will issue a decision on the matter. A view preservation permit issued by the Planning Commission may include restrictions or conditions and require restorative action by the foliage owner.

For more information on any of the steps above, visit www.malibucity.org/view.



City of Malibu

23825 Stuart Ranch Rd, Malibu, California 90265-4861
(310) 456-2489 FAX (310) 456-7650 www.malibucity.org

PLANNING DEPARTMENT PRIMARY VIEW DETERMINATION

Primary View Determination: 7132 Dume Drive, Richard and Elizabeth Keller

On April 5, 2012, staff conducted a primary view determination at 7132 Dume Drive. Staff documented the primary view standing on an outdoor deck located approximately four feet in front of the family room, a location chosen by the property owner. The location is denoted by a red star in the aerial below.



On April 5, 2012, the view from this location on the property is as follows, from north to south:

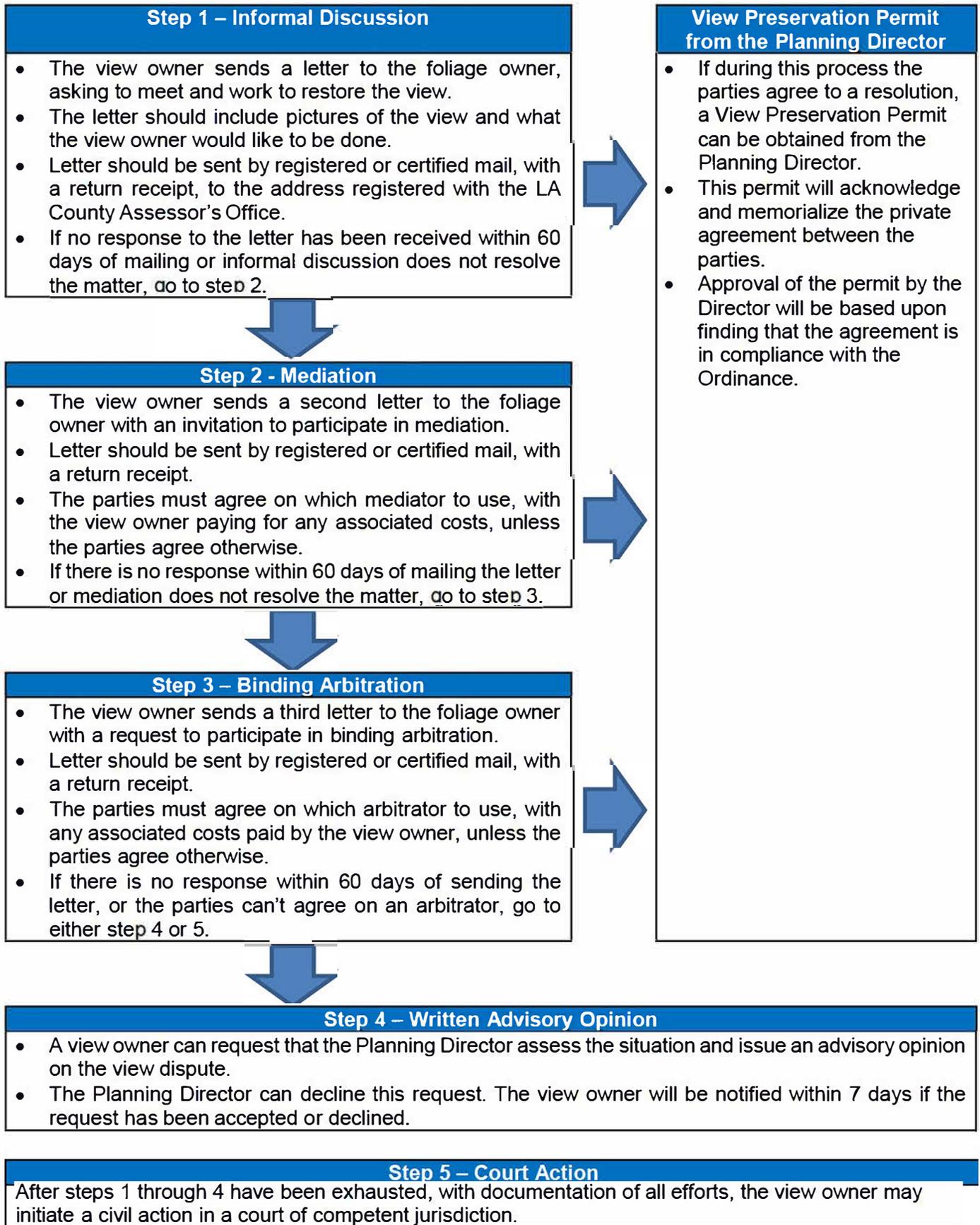




Zoomed In Photographs:



View Restoration Process



For more information on any of the steps above, visit www.malibucity.org/view.



City Of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Phone (310) 456-2489
www.malibucity.org

COMMUNITY DEVELOPMENT DEPARTMENT
NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu Planning Commission will hold a public hearing on **Tuesday, December 16, 2025, at 6:30 p.m.** in the Council Chambers, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below. Public comment can be submitted ahead of the public hearing to planningcommission@malibucity.org for inclusion in the public record. To participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

VIEW PRESERVATION PERMIT NO. 25-001 - An application requesting corrective action to restore the views recorded at 7132 Dume Drive under Primary View Determination No. 12-009 with regard to foliage located at 29119 Cliffside Drive.

CLAIMANT LOCATION:	7132 Dume Drive
CLAIMANT APN:	4466-014-014
CLAIMANT NAME:	Napa Malibu LLC
FOLIAGE LOCATION:	29119 Cliffside Drive
FOLIAGE APN:	4466-014-008
FOLIAGE OWNER:	Nancy F. Alder
ZONING:	Rural Residential-One Acre (RR-1)
APPEALABLE TO:	City Council
ENVIRONMENTAL REVIEW:	Categorical Exemption CEQA Guidelines Section 15301(h)
APPLICATION FILED:	March 3, 2025
CASE PLANNER:	Coli Turner, Planning Technician, cturner@malibucity.org (310) 456-2489, ext. 295

A written staff report will be available at or before the hearing for the projects. All persons wishing to address the Commission regarding these matters will be afforded an opportunity in accordance with the Commission's procedures. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within ten days following the date of action which the appeal is made and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at www.malibucity.org/planningforms or in person at City Hall, or by calling (310) 456-2489, extension 246.

IF YOU CHALLENGE THE CITY'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, AT OR PRIOR TO THE PUBLIC HEARING.

YOLANDA BUNDY, Community Development Director

Date: December 4, 2025