

View Preservation and View Restoration

Definitions

The following definitions are established in Malibu Municipal Code Chapter 17.45, as relating to View Preservation and View Restoration:

Arbitration means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.

Arbitrator means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.

Certified arborist means an individual certified as an arborist by the International Society of Arboriculture (ISA).

Claimant means a property owner who alleges that foliage is causing a significant obstruction of a primary view.

Foliage means a woody plant with the potential to obstruct primary views. "Foliage" includes without limitation trees, shrubs, hedges and bushes.

Foliage owner means a person owning property containing foliage that a claimant alleges is causing a significant obstruction of a protected view.

Hedge means any plant material, trees, stump growth, or shrubbery planted or grown in a dense continuous line, so as to form a thicket, barrier or the substantial equivalent of a living fence.

Main viewing area means the ground floor of a commercial, institutional or principal residential structure unless the ground floor of a commercial structure consists of garages, parking areas and storage and unless the primary living area of a principal residential structure is not located on the ground floor. If the ground floor of a commercial structure consists of garages, parking areas and storage, the "main viewing area" means the first habitable floor. If the primary living area of a principal residence is not located on the ground floor, the main viewing area means the primary living area of the principal residence. The "main viewing area" may be an abutting outdoor deck or patio area located at relatively the same elevation as the ground floor of a commercial or institutional structure or a primary living area of a residence, whichever has the superior view corridor. Bedrooms, master bedroom retreats, offices, hallways, closets, laundry rooms, mechanical rooms, bathrooms and garages shall not be considered main viewing areas. Application of a primary view corridor requires an established "main viewing area."

Mediation means a process of using a neutral third person to facilitate a mutually satisfactory solution to a view dispute.

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Mediator means a neutral third person that assists the claimant and foliage owner in finding a mutually satisfactory solution to a view dispute.

Pre-existing view means a primary view within the structure's assessed primary view corridor that existed on the date of acquisition of the property or city incorporation, whichever is more recent. If the property was acquired without a developed, legally-habitable structure, a pre-existing view shall mean a primary view that existed as of issuance of a certificate of occupancy or city incorporation, whichever is more recent. The pre-existing view cannot be a result of a natural disaster or a result of illegal activities.

Primary living area means the living room, family room, dining room, kitchen or a combination thereof.

Primary view means visually impressive scenes of the Pacific Ocean, offshore islands, the Santa Monica Mountains, canyons, valleys, or ravines, within a primary view corridor.

Primary view corridor means a one hundred eighty (180) degree view assessed by the planning director or designee from a single fixed location and direction within the main viewing area, at an elevation of five feet as measured from the room floor or on an abutting outdoor deck or patio at any one point within ten (10) feet of the nearest outside wall of the structure as selected by the affected property owner and the city.

Primary view determination means a process by which the planning director or designee documents the location of a claimant's primary view corridor.

Principal residence and **principal residential structure** mean the primary residential structure located on a lot. Guest houses, granny flats and second units are not principal residences or principal residential structures.

Protected tree as defined in Section 5.2 of the Malibu Local Coastal Program Local Implementation Plan.

Removal means the destruction or displacement of foliage by cutting or other mechanical method that result in physical transportation of the foliage from its site and/or death of the foliage.

Restorative action means measures undertaken to eliminate a significant obstruction of a primary view.

Stump growth means new growth from the remaining portion of a tree trunk, the main portion of which has been cut off.

View preservation permit means a permit issued by the city, requiring restorative actions on foliage located on a foliage owner's property in order to preserve a claimant's primary view.