



Agenda Item # \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Rob Osborne, Management Analyst

**DATE:** September 19, 2006

**SUBJECT:** Consideration of a View Obstruction Appeal for 3201 Bayview Drive

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### **RECOMMENDATION:**

Staff recommends that the Council pass a motion to approve the view obstruction appeal for 3201 Bayview Drive, therefore not requiring removal of trees from the public right of way. The Parking and Public Improvements Commission was not able to reach a consensus and therefore did not make a recommendation.

### **FISCAL IMPLICATION:**

There are no fiscal implications associated with Staff's recommendation.

### **BACKGROUND:**

The City recently received a complaint regarding several trees located in the public right of way adjacent to 3201 Bayview Drive. The owner of 3200 Crest Drive feels the trees obstruct the view from his property. The Municipal Code states the following relative to view obstructions caused by vegetation in the public right of way on walkstreets:

*If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to 42-inches maximum. The owner of the property who receives such notice to trim may appeal the decision pursuant to Section 7.36.070 of this chapter.*

When these issues are reviewed at the administrative level, staff takes a conservative approach and applies a strict interpretation of the Municipal Code. Code Enforcement staff inspected the trees and concluded that they present a violation. The owner was asked to remove the trees or trim them to comply with the 42-inch height limit. The owner feels the trees are an asset to the neighborhood and should be allowed to remain in their present condition. She filed an appeal of staff's decision. The appeal was reviewed by the Parking and Public Improvements Commission at their meeting on July 27, 2006.

Attached are photos of the trees taken from the complainant's property and from close proximity.

**DISCUSSION**

The code section described above governs the administrative process followed by staff when view obstruction complaints are received. As this issue is now at the appeal level, the Council can use its best judgment in making a decision. The basic question presented is whether or not the trees represent an appropriate use of the public right of way. More specifically, do they present a significant view obstruction that warrants their removal?

As described in the attached report, in evaluating the traffic from a subjective standpoint staff does not believe there is justification for removing them. The complainant's property is approximately 350 feet to the east of the subject property. There is no recent precedent for a view complaint being made against a tree located such a substantial distance away from the complainant's property. While the trees are located within a small portion of the view corridor from 3200 Crest Drive, the obstruction is not felt to be significant.

At the PPIC meeting testimony was provided by the complainant, the appellant's representative and one area resident. The Commission was not able to reach a consensus. Commissioner Osterhout and Chairperson Lang feel the view obstruction is significant and that the trees should be removed from the public right of way. Commissioners Donahue and Seville-Jones believe the issue can be mitigated through consistent trimming of the trees and that there is not justification for removing them. Commissioner Paralusz was absent.

Notices were sent to all properties within 300 feet of 3201 Bayview Drive.

**ALTERNATIVES:**

1. **APPROVE** the Staff recommendation to approve the appeal.
2. **DENY** the appeal and require removal of all landscaping in excess of 42 inches in height.

- Attachments:
- A. Recent photos
  - B. Area map
  - C. Excerpt from PPIC minutes of 7/27/06
  - D. PPIC report dated 7/27/06, with attachments
  - E. Petition from complainant
  - F. Meeting notice, 9/6/06



View from 3200 Crest Drive





Subject Trees After Recent Trimming





07/18/2006



**View Obstruction  
Complaint  
~ 3201 Bayview Dr ~**



**CITY OF MANHATTAN BEACH  
PARKING AND PUBLIC IMPROVEMENTS COMMISSION  
MINUTES OF REGULAR MEETING  
JULY 27, 2006**

**A. GENERAL**

**1. View Obstruction Appeal – 3201 Bayview Drive**

Management Analyst Osborne presented staff's report and recommended approval of the view obstruction appeal for 3201 Bayview Drive, therefore not requiring trimming or removal of the trees in the public right of way.

**Audience Participation**

**Shirin Drost, 3201 Bayview Drive**, stated that she is here on behalf of Ms. Hodges who had a medical emergency and is unable to attend tonight's meeting. She conveyed that Ms. Hodges has taken all the necessary steps to address this matter and asks that this matter be continued until she is able to be present.

Management Analyst Osborne noted that this item was continued from the June meeting due to Ms. Hodges' absence as well. If the Commission believes they have all the necessary information they can proceed on the matter.

Chairman Lang stated that the Commission can hear testimony on the issue and then decide whether action should be taken or postponed.

Noting the violation of the Encroachment Code's 42 inch height limit, Commissioner Osterhout stated his concern that there is not an Encroachment Permit application or adequate findings contained in staff's report. He talked of similar issues that have come before the Commission and the City Council, stating that he will look to how those issues were resolved as a guide.

Commissioner Donahue questioned if the Commission's decision on this matter is precedent setting. Management Analyst Osborne responded that future applicants can point to a previous decision however, the City's practice has been to judge each case separately.

Commissioner Seville-Jones believes the issue is whether someone's view is impaired, which is what the City Council focused on in past decisions.

**Audience Participation**

Sharing that she has lived in this neighborhood since 1976 and actually saw when these trees were planted, **Nancy Shroeder, 3116 Manhattan Avenue**, voiced her opposition to

**DRAFT**

removal of these trees. She submitted pictures taken from various vantage points, stating that a person can clearly see the ocean.

**Larry Smalley, 3200 Crest Drive**, submitted pictures showing how his view has been impaired by these trees. He has lived in this home for 30 years and his view has been obstructed for the last 15 years. The issue is not about whether one likes trees or not, it is about violation of City ordinances. The Manhattan Beach Encroachment Standards with regard to walk streets refer to maintaining vistas of the ocean and a sense of openness. Landscaping can be done nicely within the 42-inch height limit and he questions why some residents are held to City standards are others are not. He questioned why the staff report failed to notice that the trees obstructed horizon view and stated that their reference to no precedent is irrelevant, and the City tree on Highland Avenue does not apply to this issue. Mr. Smalley submitted a petition signed by 15 residents in the immediate area, and noted that the petitions of both sides are really not about the trees but rather about one's support of the person. The City's refusal to be proactive in enforcing the Code forces neighbors to be pitted against each other, or be silent in quiet resentment. He asked that the Commission enforce the Code and use common sense.

**Shirin Drost** shared that Ms. Hodges would be able to convey how much these trees are enjoyed by the neighborhood, especially the children. She employs a gardener and tree person, and has spent a great deal of money to properly maintain and trim the trees over the years. She had a bad last year and was out of town a lot, which is why the trees maybe were let go a little as far as growth. They have now been trimmed and do not obstruct the views.

### **Discussion**

The Commission decided to move forward with the item, noting that the facts and emotional issues have been presented and the ultimate decision will be made by the City Council, at which time, Ms. Hodges will have an opportunity to be heard.

The Commission held discussion on this matter with Management Analyst Osborne clarifying that prior landscaping is typically not grandfathered as it changes over time; that this complaint is one of three Mr. Smalley has submitted and that the other two were handled administratively and the trees were removed; that no other complaints have been received on this property; and that required trimming can be included in the City's action, however trimming trees below the 42-inch height limit is not feasible.

Commissioner Osterhout verified with Mr. Smalley that he is assessing the view impairment from his patio and the view he was able to see 15 years ago. Commissioner Osterhout shared that this decision proves difficult. The trees are not an appropriate use of the public right of way, however there are still views and trees are of value. He talked of a past instance involving his support of removing olive trees, noting that it was a clear impairment, unlike this situation. However, Mr. Smalley is in his right to make the complaint and it comes down to equity. Referring to City Council's past actions on these

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matters, Commission Osterhout stated that he is leaning toward retaining the trees with the condition of proper trimming.

Commissioner Seville-Jones stated that the critical question is impairment. She pointed out that Mr. Smalley's submitted pictures are from before the trees were trimmed and the palm trees removed. His home is two blocks away from the trees and his view consists of waves, and surf line. She stated that the City's Code talks of "scenic vistas", which has included trees in the past and it would be terrible if everything over 42-inches was removed. The City needs to exercise judgment on how it wants the City to look and must weigh the impact of Mr. Smalley's impairment against the impact to Mrs. Hodges if the trees are removed. She does not see sufficient justification to remove the trees as she believes the impairment has to be somewhat material, which isn't the case

Commissioner Donahue stated that although the trees are over the height restriction, he would prefer not to remove them, noting that Mr. Smalley still has a view.

Chairman Lang thanked the audience for their participation, sharing his respect for both the trees and ocean views. The focus needs to be on whether the view is impaired and he believes Mr. Smalley's view is in fact impaired. Trimming has helped but proper and continual trimming may not occur which will just create more animosity. He is very sensitive to the retention of trees; however, these trees are impacting Mr. Smalley's ocean view, are in violation of the Code, and should be removed.

Commissioner Seville-Jones stated that the trimming has been drastic and the Commission should consider what the present situation represents. She stated that Mr. Smalley is looking to attain a specific view, not a standard reasonable, and voiced her concern in setting a precedent where it is all about ocean view rather than scenic view.

Commissioner Osterhout commented that these issues have been going on for too long and that he would like some direction from City Council as to their stance on the issue. He shared that Commissioner Lang's comments are compelling and he is now leaning toward removing the trees... The City should also consider removal of the street tree on Highland Avenue, as removal of Ms. Hodges' trees will not make much benefit unless that tree is removed as well.

Commissioner Seville-Jones urged the Commission to retain the trees with the condition of trimming. The trees have minimal impact to ocean view and no impact to scenic views.

Commissioner Osterhout shared that in respect to Mr. Smalley's view, the trees are not really an impairment, but it is a badly worded ordinance and bad law makes bad decisions.

Commissioner Lang stated that the City tree is not relevant. This ordinance was established to preserve ocean views and property owners have that right.

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**Action**

A motion was MADE by Commissioner Osterhout to support staff's recommended approval of the view obstruction appeal for 3201 Bayview Drive, contingent upon proper trimming of said trees, and with the condition that this issue is returned to the Commission for further review if the City tree on Highland Avenue is removed.

The motion did not receive a second.

A motion was MADE and SECONDED (Seville-Jones/Donahue) to support staff's recommended approval of the view obstruction appeal for 3201 Bayview Drive, with the condition that the owner to trim and prune the trees accordingly.


AYES: Donahue, Seville-Jones  
NOES: Osterhout, Chairman Lang  
ABSENT: Paralusz  
ABSTAIN: None

The motion failed.

**DRAFT**

**CITY OF MANHATTAN BEACH  
DEPARTMENT OF COMMUNITY DEVELOPMENT**

**TO:** Parking and Public Improvements Commission

**FROM:** Richard Thompson, Director of Community Development  
Rob Osborne, Management Analyst 

**DATE:** July 27, 2006

**SUBJECT:** View Obstruction Appeal – 3201 Bayview Drive



**RECOMMENDATION**

That the Commission pass a motion to recommend approval of the view obstruction appeal for 3201 Bayview Drive, therefore not requiring trimming or removal of the trees in the public right of way.

**BACKGROUND**

The City recently received a complaint regarding several trees located in the public right of way adjacent to 3201 Bayview Drive. The owner of 3200 Crest Drive feels the trees obstruct the ocean view from his property. The Municipal Code states the following relative to view obstructions caused by vegetation in the public right of way on walkstreets:

*If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to 42-inches maximum. The owner of the property who receives such notice to trim may appeal the decision pursuant to Section 7.36.070 of this chapter.*

Code Enforcement staff inspected the trees and concluded that they do present a view obstruction and are in violation of the Encroachment Code. The owner was asked to remove the trees or trim them down to comply with the 42-inch height limit. The owner feels the trees are an asset to the neighborhood and should be allowed to remain in their present condition. She filed an appeal of staff's decision.

**DISCUSSION**

The code section described above governs the administrative process followed by staff when such complaints are received. As this issue is now at the appeal level, the Commission and Council can use their best judgment in making a decision. The general issue before the Commission is whether or not the trees represent an appropriate use of the public right of way. More specifically, do they present a problem that warrants either trimming them to 42 inches or removing them?

The attached photos illustrate various views of trees, including from the property at 3200 Crest Drive. The complainant's property is located approximately 350 feet to the east of the subject property.

There is no recent precedent for a view complaint being made against a tree located such a substantial distance away from the complainant's property. Complaints typically come from owners of properties directly adjacent to or within several lots of the offending vegetation. The code does not specifically address this issue of proximity. While the subject trees are technically located within a small portion of the view corridor from 3200 Crest Drive, the obstruction is not felt to be significant. A tree located in the parkway on Highland Avenue appears to present a much more significant obstruction. Street trees are not subject to any view preservation requirements. The appellant has submitted a petition signed by 15 residents in the immediate area stating that the trees are an asset to their community and should be preserved.

Staff does not feel there is sufficient justification for trimming or removing the trees at this time. It is therefore recommended that the Commission recommend approval of the appeal.

Meeting notices were sent to all properties within 300 feet of 3201 Bayview Drive.

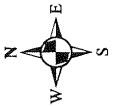
#### **ALTERNATIVES**

1. Recommend approval of the view obstruction appeal for 3201 Bayview Drive and do not require trimming or removal of the trees at this time.
2. Recommend denial of the appeal and require that the trees be removed or trimmed to 42 inches.

#### **Attachments**

Area map  
Photos of trees  
Complaint submittal  
Letter from appellant  
Petition in support of appeal  
Code section 7.36.150  
Meeting notice, 7/13/06

07/18/2006



View Obstruction  
Complaint  
~ 320I Bayview Dr ~



3201 Bayview Drive





Looking West from Crest Drive



Looking West from Patio at 3200 Crest Drive

J. Larry Smalley  
3200 Crest Drive  
Manhattan Beach, Ca. 90266

Feb. 16, 2006

To Whom It May Concern:

Over the years a once unobstructed view of the beach and surf has been diminished by the unrestrained growth of bushes and bootleg trees on public property adjoining both residential property and the walk street (32nd Street, north side). Although I have complained about the problem to my family and close neighbors for years I really did not know what the rules, guidelines and standards were until a few years ago. It was at that time that I decided to make improvements to the set back and public property adjacent to my home and inquired through the City of Manhattan Beach what the requirements would be. As I moved through the project and completed the construction I became even more aware that the vegetation that was blocking my view of the beach and surf was not just the result a few inconsiderate home owners but a direct violation of city ordinances. In other words the problem was reversible.

However, I was given the impression by a city official that the removal of the trees would not be a "slam dunk". There was politics to consider and committee hearings and city council hearings and on and on for at least 6 months and probably longer. My own commitments caused me to delay what appeared to be a major launch. Well, I now have the time. So here we go!

After consulting with an attorney one important fact has become clear. The offending trees are on city property and do not require permission from a resident or an order from the court to be removed. Although there is little doubt that there will be hearings they are not required in this case because encroachment standards are published and are quite clear as to intent, requirements and remedies.

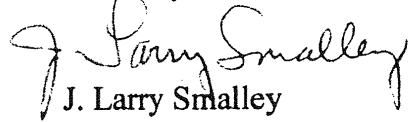
The following is taken from the city of Manhattan Beach Encroachment Standards with regard to walk streets:

"The intent of these standards is to encourage low profile construction on public property and maintain vistas of the ocean and a sense of openness along these pedestrian corridors. Encroachment standards for walk streets generally allow for walkways, patios and decks, low fences, walls and landscaping."

"Landscaping shall not project over or onto the public walkway and shall be limited to 42 inches above the adjacent public walkway. If it is determined that a residential view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to 42 inches maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner."

The attached drawing shows the worst of the obstructions ( trees and bushes ). I call upon the appropriate City of Manhattan Beach staff, starting with our Code Enforcement Officer, Ms. Jacqueline Harris, to review the forgoing material and visit the area of complaint. Upon completion, the City of Manhattan Beach should cause the obstructions to be removed or reduced to a height not to exceed 42 inches.

Sincerely,

A handwritten signature in cursive script that reads "J. Larry Smalley". The signature is written in black ink and is positioned above the printed name.

J. Larry Smalley  
Resident

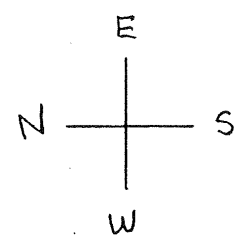


HIGHLAND AVE.

VIEW  
↓

3201  
HIGHLAND  
AVE

32<sup>ND</sup>  
WALK STREET



217  
32<sup>ND</sup> ST.

BAYVIEW DR.

3201  
BAYVIEW

OCEAN  
VIEW  
↓

MANHATTAN AVE.

# Jana P. Hodges

3201 Bayview Drive  
Manhattan Beach, CA 90266  
310-545-8961  
Fax: 310-545-3661

May 8, 2006

Mr. Robert Osborne  
Community Development  
City of Manhattan Beach, Ca. 90266

REGARDING: Property (specifically foliage) located at  
3201 Bayview Drive, Manhattan Beach, Ca.

Dear Mr. Osborne:

Last Friday, a Ms. Jacqueline Harris, a Code Enforcement Office for Manhattan Beach, made a trip out to my residence to walk through my property area and explain the procedural schedule as it unfolds when one disagrees with a local code, and/or protests same, thereby appealing same and requesting an administrative hearing.

I trust that I have reiterated her information correctly, as she was thoroughly professional and courteous and informed me of what my process would be since I disagree with the Department's findings that the "plantings" on South side of my house.

Please let this letter serve as my notice that I am appealing all rulings and/or findings as set forth in the letters dated March 23, 2006 and April 28, 2006.

Also, please send any forms that I need and if there is any written information on what I should be doing at this point in time would be most helpful. I can also be reached at the above telephone number. Thank you.

Sincerely,

  
Jana P. Hodges

COPY FAXED: \_5-9-2006

May 30, 2006

(310) 545-8961

Mr. Ron Osborne  
City of Manhattan Beach, Ca.  
Community development Department  
1400 Highland Avenue  
Manhattan Beach, Ca. 90266

Regarding: Property at 3201 Bayview Drive  
Manhattan Beach, Ca. 90266

Dear Mr. Osborne:

Enclosed please find signatures on separate documents indicating the support of the residents on the North and South side of 32rd Street, from Bayview Drive to Highland Avenue, and several of which do not strictly fit within that framework, but who nonetheless wanted to participate in this effort to retain "my" garden.

This includes a "post-em" note which was put under my door without signature, and appears to establish age and rarity of the Australian christmas tree in the front yard.

There are three residences which are unoccupied on this street, one at approximately 223-32nd as well as two unoccupied apartments which face the opposite directions in any case, but the front owners have signed for themselves.

In any case, I would state that all relevant occupants who would conceivably have any standing to weigh in on this matter are included.

I explained to the neighbors in short notes that the City wants to enforce a Code which apparently limits plantings to a height of 42 inches and if that I do not comply, or obtain support, the City is going to assist me with this.

The complaint could not have been originated from any household surrounding my home and further up, because they were all behind keeping the "status quo" 100% (see the two editorials that two of the neighbors added to their signature page.

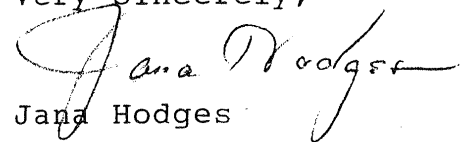
I have lived in this home for a little over 19 years and the front "yard" has come to be a refuge, play-yard (there is an old tree house in the Australian tree) and hundreds of people have told me that they walk by to enjoy the roses.

My "front yard" apparently means a lot to the people around here - some of whom go blocks out of their way while walking dogs or going down to the Strand, who stop and comment on my trumpet vines, rose bushes, green lawn, and so forth.

Immediately after receiving your first notice concerning my several trees - I had them pruned - the largest severely - as much as it could take without losing it. It was deeply "feathered" or "laced" so that it can be seen through. It is a rather rare Australian Christmas tree, which has huge red and yellow flowers in season; but I did trim it before season and it has appeared to be stabilized. To take the tree out any further would be killing it, I have been told by several people who know about botony;

My garden and few trees do no harm. They give only pleasure to the neighborhood, which has been expressed to me time and again.

Very Sincerely,

  
Jana Hodges

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5-24-06

*Jana Hodges*  
Sign name(s)

YOUR ADDRESS:

216-3200 St.

TERRY & JOHAN TUCK  
Print names

MANHATTAN BEACH  
CA, 90266

CITY: PLEASE DON'T DESTROY  
THE LITTLE AMOUNT OF  
GREENERY WE HAVE LEFT  
IN THIS CITY!

*Johan Tuck*

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5/25/06

YOUR ADDRESS:

220 32nd St  
Upper  
Manhattan Beach  
CA  
90266

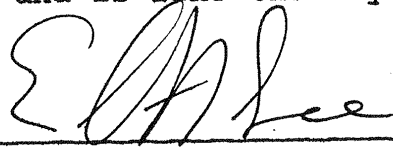
Nicole T. Berry  
Sign name(s) NICOLE T. BERRY

David Berry  
Print names DAVID C. BERRY

In fact, further pruning will harm our view & we are already upset the Queen Palms were removed from Highland + 32nd.

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5-24-06



Sign name(s)

YOUR ADDRESS:

3119 Bayview Dr.  
MAN. BECH, CA  
90266

ELIZABETH Lee  
Print names

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5-25-06

Judith Hansen  
Sign name(s)

ADDRESS:

3201 Highland

Judith Hansen  
Print names


\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED \_\_\_\_\_  
YOUR ADDRESS: ✓

3111 Highland Ave  
Manhattan Beach, CA

  
\_\_\_\_\_  
Sign name(s)

M. G. L. S. ✓  
\_\_\_\_\_  
Print names

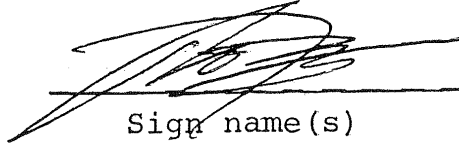
I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5.29.06

YOUR ADDRESS:

217 32<sup>ND</sup> ST

MB CA

  
\_\_\_\_\_  
Sign name(s)

ROB TRENT  
\_\_\_\_\_  
Print names

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5-25-06

Edren M. Helvey  
Sign name(s)

YOUR ADDRESS:

223 32nd St.

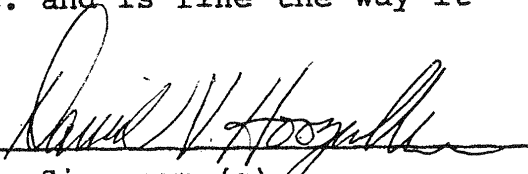
Manhattan Bch.

CA. 90266

EDREN M. HELVEY  
Print names

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED MAY 25, 2006

  
Sign name(s)

YOUR ADDRESS:

220 32nd St.

MANHATTAN BEACH, CA.

90266

DAVID HOOGENAKKER  
Print names

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5/26/06

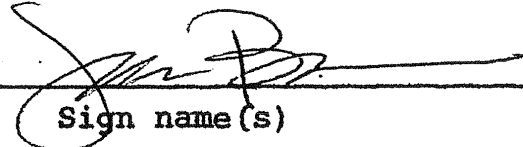
YOUR ADDRESS:  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Sign name(s)

[Signature]  
Print names

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED 5-25-2006

  
\_\_\_\_\_  
Sign name(s)

YOUR ADDRESS:

224 32nd Place

Jason M. Brown  
Print names

Manhattan Beach, CA

90266

I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED \_\_\_\_\_

YOUR ADDRESS: ✓

228 32nd St.

\_\_\_\_\_

*Pat* ✓

Sign name(s)

Patrick Ingles ✓

Print names

(I, WE) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Drive, Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED: 5-29-16

YOUR ADDRESS:

226 32<sup>nd</sup> PL, MB

90266

M. McManus  
Sign your name(s)

Maureen McManus  
Print your name



I, (we) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Dr., Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED July 24, 2006



Sign name(s)

YOUR ADDRESS: \_\_\_\_\_

3111 Highland Ave.

#B

Amalia Chevalier

Print names

Manhattan Beach,

CA 90266

(I, WE) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Drive, Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED: May 29, 2006

YOUR ADDRESS:

217-A 32 St.  
MB, CA 90266  
\_\_\_\_\_

Lynn Gahagan  
Sign your name (s)  
Lynn  
Print your name  
Lynn Gahagan  
Jack Westergaard

(I, WE) agree that the yard to the South of Jana Hodges' house at 3201 Bayview Drive, Manhattan Beach, does not need any further pruning, removals, etc. and is fine the way it is.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Sign your name(s)

YOUR ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Print your name

75-yr. old TREE  
Australian Christmas  
(probably only one in SoCal)  
Very rare - not a  
bottle-brush tree  
Originally house was built  
about 31 yrs ago to  
accommodate tree - which  
was included and, I believe,  
included a support in original plan

**7.36.150 Encroachment standards.**

**A. General Standards:**

1. Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.
2. Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to Chapter 7.32 of the Municipal Code. Artificial landscape materials are prohibited.
3. Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an Encroachment Permit.

5. All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.
6. Obstructions to neighboring resident's scenic views shall be avoided.
7. Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.  
Exception. One set of steps comprised of three (3) consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.
8. Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.
9. Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.

**B. Walk Street Standards:**

1. Fences and railings, including required safety handrails and guardrails, are permitted provided an open design is utilized. The maximum allowable height is forty-two inches (42") above the adjacent public walkway. To ensure pedestrian to vehicle visibility at corners, a thirty-six inch (36") maximum height (measured from adjacent curb level) is required within a distance of five feet (5') from the street corner.
2. Retaining walls (not including walkway risers), free-standing walls and closed design fences are permitted provided the maximum allowable height is thirty-two inches (32") above the adjacent public walkway. Conditions requiring guardrails that exceed the height permitted in subsection (1) above shall not be permitted.  
Exception. Retaining walls and related required safety railing that exceed the thirty-two inch (32") limit may be constructed at the side boundaries of an encroachment area if necessary to retain a neighbor's existing grade, provided all other encroachment improvements comply with applicable encroachment standards. If subsequently such over-height walls and/or safety rails are no longer necessary due to modification of the adjoining encroachment area, the property owner shall lower the over-height wall/safety rail to conform with applicable standards. This requirement shall be included as a permit condition in the Encroachment Permit Agreement.
3. Landscaping is permitted subject to approval of a landscape plan submitted with an Encroachment Permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42") as measured from the adjacent public walkway.  
Landscape plantings shall be maintained in substantial conformance with the approved plan. If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to forty-two inches (42") maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner. The owner of the property who receives such notice to trim may appeal the

- decision of the Director of Community Development pursuant to Section 7.36.070 of this chapter.
4. Usable surfaces (as defined herein). The intent of this standard is to ensure that the elevation of encroaching outdoor living areas located nearest the public walkway be consistent with the public walkway. Usable surfaces are permitted as follows:
    - a. Within the front half of the encroachment area (adjacent to the public walkway), limited to a maximum height of twelve inches (12") as measured above or below the adjacent public walkway.
    - b. Within the rear half of the encroachment area (adjacent to private property), limited to a maximum height of either: thirty-six inches (36") as measured above or below the adjacent public walkway, or twelve inches (12") as measured above or below the natural grade, as defined herein.
  5. The total combined height of fences, railings, retaining walls (including walkway risers) shall not exceed a height of forty-two inches (42") as measured from lowest adjacent finished grade.
  6. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards except as permitted by the Director of Public Works.

**C. El Porto Strand Standards:**

In addition to the encroachments permitted in (B) above, the following encroachments are permitted within The Strand right of way north of Rosecrans Avenue due to unusual slope and underground utility location and to provide an adequate buffer between the Strand walkway and adjoining private properties.

1. Usable surfaces are permitted within the rear half of the encroachment area at a maximum height of seventy-two inches (72") measured from the adjacent public walkway, provided they are accompanied by terraced landscape planters with evenly spaced retaining walls with a maximum height of thirty inches (30") each.
2. Fences and walls are permitted to be a maximum height of forty-two inches (42") above the adjacent public walkway except that planter walls required in subsection (1) above may have a maximum height of seventy-two inches (72").
3. Corner properties bordering a parking lot entrance or exit are allowed to have walls and fences on the vehicular street side to a maximum height of six feet (6') above adjacent curb level except that a maximum height of three feet (3') shall be permitted adjacent to driveway/roadway intersections.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards.

**D. Vehicular Street Standards:**

1. Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.
2. Fences and walls are permitted as follows:
  - a. Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of two feet (2') is required behind existing or required street improvements.
  - b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42")

maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.

3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.
4. Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.
5. Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.

(§ 1, Ord. 2039, eff. February 18, 2003)



City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 802-5000

FAX (310) 802-5001

July 13, 2006

\*\*\*\*\* PUBLIC MEETING NOTICE \*\*\*\*\*

Re: View Obstruction Appeal – 3201 Bayview Drive

Dear Resident/Property Owner:

The City recently received a complaint that trees in the public right of way adjacent to 3201 Bayview Drive obstruct the ocean view of a neighbor to the east. As the City's Encroachment Code prohibits landscaping on public property from creating view obstructions, the owner was asked to either trim or remove the trees to eliminate the obstruction. The owner would like to maintain the trees in their current condition and therefore filed an appeal. The issue has been referred to the Parking and Public Improvements Commission for consideration.

The Commission will review this appeal at their meeting on Thursday, July 27, 2006. The meeting will be held in the City Council Chamber, 1400 Highland Avenue, and will begin at 6:30 p.m. Interested parties are encouraged to attend the meeting and provide input. If you have any questions or would like any additional information, please call 802-5540 or E-mail [rosborne@citymb.info](mailto:rosborne@citymb.info)

Sincerely,

Rob Osborne  
Management Analyst  
Community Development Department



Dear neighbors,

July 23, 2006

For many months I have pursued the City of Manhattan Beach in an attempt to clear the trees and vegetation from public property adjacent to three homes that block the view of our ocean, surf and beach. The home at 3201 Highland Ave. has fully complied by removing two large palm trees and trimming bushes back to 42 inches. The home at 212 32<sup>nd</sup> St. has removed several tall trees and as of this day has not removed a palm tree that is in violation. However, the owner has indicated to our code enforcement officer that the tree will be removed shortly.


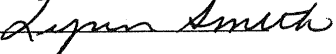
Unfortunately, the third home owner believes that the trees adjacent to her house are more important than either the encroachment standard of our city or the view we once had. I should note that this home has two balconies on its south west corner that allows the owner a view of what we are denied. It is also a fact that the homes west of this house have been considerate enough to protect her view by observing the same ordinances that she ignores.

It has been brought to my attention that some additional support by other residents would be helpful. So, if you feel that the removal of the trees is appropriate please sign this letter and I will see that it is presented or mailed to the members of the Parking and Public Improvement Commission for consideration.

Sincerely,

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

Signature

St. Address:

320 32<sup>nd</sup> St

Ms

GRANT SMITH

Print Name:

Lynn Smith

Dear neighbors,

July 23, 2006

For many months I have pursued the City of Manhattan Beach in an attempt to clear the trees and vegetation from public property adjacent to three homes that block the view of our ocean, surf and beach. The home at 3201 Highland Ave. has fully complied by removing two large palm trees and trimming bushes back to 42 inches. The home at 212 32<sup>nd</sup> St. has removed several tall trees and as of this day has not removed a palm tree that is in violation. However, the owner has indicated to our code enforcement officer that the tree will be removed shortly.

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Sincerely,

Signature Debra Castiglione

St. Address: 316 32<sup>nd</sup> St.

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

Print Name: Debra Castiglione

Dear neighbors,

July 23, 2006

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Sincerely,

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

Signature Todd Henry

St. Address: 324 32<sup>nd</sup> St.

Print Name: TODD HENRY

Dear neighbors,

July 23, 2006

For many months I have pursued the City of Manhattan Beach in an attempt to clear the trees and vegetation from public property adjacent to three homes that block the view of our ocean, surf and beach. The home at 3201 Highland Ave. has fully complied by removing two large palm trees and trimming bushes back to 42 inches. The home at 212 32<sup>nd</sup> St. has removed several tall trees and as of this day has not removed a palm tree that is in violation. However, the owner has indicated to our code enforcement officer that the tree will be removed shortly.

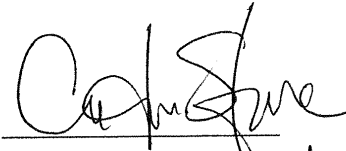
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Sincerely,

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

Signature



St. Address:

324 32nd St.

Manhattan Beach CA 90266

Print Name:

CHRISTINE STASZAK

Dear neighbors,

July 23, 2006

For many months I have pursued the City of Manhattan Beach in an attempt to clear the trees and vegetation from public property adjacent to three homes that block the view of our ocean, surf and beach. The home at 3201 Highland Ave. has fully complied by removing two large palm trees and trimming bushes back to 42 inches. The home at 212 32<sup>nd</sup> St. has removed several tall trees and as of this day has not removed a palm tree that is in violation. However, the owner has indicated to our code enforcement officer that the tree will be removed shortly.

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Sincerely,

Signature \_\_\_\_\_

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

St. Address: \_\_\_\_\_

*Norma A. Hesseman*

Print Name: 3120 ALMA

Dear neighbors,

July 23, 2006

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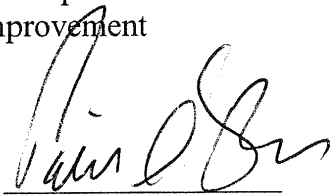
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Sincerely,

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

Signature



St. Address:

3200 Alana Ave

Print Name:

Patrick Stack

Dear neighbors,

July 23, 2006

For many months I have pursued the City of Manhattan Beach in an attempt to clear the trees and vegetation from public property adjacent to three homes that block the view of our ocean, surf and beach. The home at 3201 Highland Ave. has fully complied by removing two large palm trees and trimming bushes back to 42 inches. The home at 212 32<sup>nd</sup> St. has removed several tall trees and as of this day has not removed a palm tree that is in violation. However, the owner has indicated to our code enforcement officer that the tree will be removed shortly.

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Sincerely,

Signature



Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

St. Address:

3201 Alma Ave.

Print Name:

Eric Fitzgerald

Dear neighbors,

July 23, 2006

For many months I have pursued the City of Manhattan Beach in an attempt to clear the trees and vegetation from public property adjacent to three homes that block the view of our ocean, surf and beach. The home at 3201 Highland Ave. has fully complied by removing two large palm trees and trimming bushes back to 42 inches. The home at 212 32<sup>nd</sup> St. has removed several tall trees and as of this day has not removed a palm tree that is in violation. However, the owner has indicated to our code enforcement officer that the tree will be removed shortly.

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Sincerely,

Signature

*Larry & Linda Smalley*

St. Address:

3200 Crest

Larry and Linda Smalley  
3200 Crest Drive  
Manhattan Beach

Print Name:

LARRY & LINDA SMALLEY





City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 802-5000

FAX (310) 802-5001

September 6, 2006

\*\*\*\*\* PUBLIC MEETING NOTICE \*\*\*\*\*

Re: View Obstruction Appeal – 3201 Bayview Drive

Dear Resident/Property Owner:

On July 27, 2006, the Parking and Public Improvements Commission reviewed a view obstruction appeal for the property at 3201 Bayview Drive. The City received a complaint that trees in the public right of way adjacent to this property obstruct the ocean view of a neighbor to the east. The City's Encroachment Code prohibits landscaping on public property from creating view obstructions. The Commission was unable to reach a consensus and therefore did not make a recommendation regarding the appeal. City staff recommends that the appeal be approved and that the trees be allowed to remain on public property.

The City Council will review this matter at a public meeting on Tuesday, September 19, 2006. The meeting will be held in the City Council Chamber, 1400 Highland Avenue, and will begin at 6:30 p.m.

If you would like additional information, please call 802-5540 or E-mail [rosborne@citymb.info](mailto:rosborne@citymb.info)

Sincerely,

Rob Osborne  
Management Analyst  
Community Development Department