

PRIVATE VIEWS BACKGROUND

Visual Resource protection policies of the County's Comprehensive Plan, including the Summerland Community Plan, protect open space views as seen from public viewing points but do not provide protection for private views. The SunPAC had requested additional information and input from County Counsel regarding private view protection. Currently, the Summerland Community Plan contains the following view policy:

Policy VIS-S-3: Public views from Summerland to the ocean and from the Highway to the foothills shall be protected and enhanced. Where practical, private views shall also be protected.¹

This policy provides clear guidelines when protecting public views; however, it does not provide clear direction regarding private views. In addition, the adopted BAR guidelines included additional language for the South County Board of Architectural Review to consider when views become an issue. It further opens the "private view" door by the adoption of the following:

1. Requirements for Review

Where the County BAR finds that the project has the potential to create significant view or privacy impacts, the Board and applicant should consider the following as possible mitigation for view and privacy protection:

- a. Reduction of building height.
- b. Excavation of building into site.
- c. Hip roofs / direction of roof pitch / break up roof mass.
- d. Siting of new structure.
- e. Footprint of new structure.
- f. Reducing the mass of the second story and adding to the first story.
- g. Control of window, deck or balcony placement.
- h. View blockage of only "secondary" views (i.e. Bedroom instead of living room).

2. Mitigation of View and Privacy Impacts - Rural Projects

In rural areas, all new development shall be designed to minimize visual and aesthetic impacts utilizing the following:

- a. All structures (primary and accessory structures, including residences, garages, guest houses, barns, corrals, sheds, greenhouses, lathhouses, artist's studios, etc.) and private driveways shall be located on slopes of 20% or less;
- b. Special attention shall be focused on design of future structures in order to minimize use of large vertical faces. Large understories and exposed retaining walls shall be avoided;
- c. All structures, fences, walls, and roofs shall be constructed using medium to dark earthtone colors and construction materials that are compatible with the natural surroundings. All colors shall blend in with the surrounding soils, vegetation and rock outcroppings. Light colors such as white, off-white, grey, etc. shall be prohibited. Night lighting shall be low intensity, hooded, and shielded inward from property boundaries;
- d. Any necessary retaining walls shall be constructed in earthtones using materials or construction methods which create a textured effect.

¹ Summerland Community Plan, adopted 1992, page 139

Where feasible, native groundcovers shall be planted to cover retaining walls from view;

- e. All cut and fill slopes shall be revegetated with native drought tolerant groundcover immediately after grading is completed; and
- f. All mitigation measures required for minimizing impacts to agricultural resources shall apply as aesthetic mitigation measures in order to ensure preservation of the existing rural agricultural setting.

3. Findings to Approve

The Board shall make all of the following findings prior to approving a project that may impact adjacent views or privacy.

- a. The applicant has designed a project which limits impacts on his/her neighbor's views.
- b. There are no feasible means to further mitigate the project's obstruction of views and privacy without reducing overall square footage.
- c. The project is consistent with the adopted FAR's and Design Standards.

DRAFT SUMMERLAND COMMERCIAL DESIGN GUIDELINES

The Draft Summerland Commercial Design Guidelines include the text from the original 1992 BAR Guidelines for Summerland, referenced above. The intent of these guidelines is to promote view protection through better design. The design guidelines as proposed do not serve to regulate the protection of private views. As noted above, the County does not protect private views.

The following language is included in the draft document to addresses view issues:

Views and Privacy Section

Summerland's geography creates unique ocean, canyon, and mountain views from many areas. Views of the Santa Ynez Mountains exist at several intersections and public spaces which provide a point of reference. The unique topography generally allows development to occur with minimal disruption to views. In addition, the topography assists in maintaining privacy for existing residential uses adjacent to and within the commercial corridor. Public views from parks and open space should be maintained through proper site and architectural design, which can minimize view impacts resulting from additions or new development.

In cases where the South Board of Architectural Review (SBAR) finds that a project has the potential to create significant view or privacy impacts, the Board and applicant should consider a combination of the following as possible mitigations for view and privacy protection:

- Reduction of building height
- Excavation of building into site
- Hip roofs / direction of roof pitch / break up roof mass
- Siting of new structure
- Footprint of new structure
- Reducing the mass of the second story and adding to the first story
- Control of window, deck or balcony placement
- View blockage of only "secondary" views (i.e. Bedroom instead of living room)

In addition, the SBAR shall make all of the following findings prior to approving a project that may impact adjacent views or privacy:

- The applicant has designed a project which limits impacts on his/her neighbor's views.
- There are no feasible means to further mitigate the project's obstruction of views and privacy without reducing overall square footage.
- The project is consistent with the adopted Floor Area Ratio's (refer to Chapter 4) and Design Standards.

View & Privacy Guidelines

- Proposed designs should consider views from public spaces, such as parks and open space and to the extent feasible minimize impacts to those public views.
- Structures located at the uphill side of a parcel should respect the character of adjacent structures and those found across the street.
- Public views must be maintained within the View Corridor Overlay (VC).
- Windows should be located or constructed in a manner that provides privacy for residential uses.

Staff will provide more information regarding private view protection at the March 19, 2008 workshop.

OTHER JURISDICTIONS WITH PRIVATE VIEW PROTECTION

Jurisdictions with similar seaside and scenic views to those of Summerland, such as the City of Santa Barbara, City of Laguna and City of Malibu, provide for limited private view protection through various mechanisms. The various ordinances are quite lengthy, so they have not been attached in this background summary but web links have been provided below.

City of Santa Barbara

In 2002, the Santa Barbara City Council adopted an ordinance (*SBMC Section 22.76-“View Protection Ordinance #5220*), establishing a private process for neighbors to resolve disputes regarding the alleged blockage of private views by trees or vegetation. The City's ordinance does not ensure protection of private views, rather, it provides for voluntary dispute resolution process when vegetation interferes with a private view. After a claim is filed, the dispute resolution is agreed upon, the City is not involved in the claim. Rather, claims are mediated between the parties by private mediators funded by the parties.

In 2007, the County monitored the results of the City's ordinance and found that while the ordinance facilitates the mediation process, one is not required under the ordinance or prevented with such an ordinance.²

The full ordinance can be viewed by accessing the following link:

http://www.santabarbaraca.gov/Documents/Municipal_Code/03_Individual_Titles/SBM_C_TITLE_22_Environmental_Policy_and_Construction.pdf

² Letter to 1st district constituent from Dianne Black, Director of Development Services, County of Santa Barbara Planning and Development, December 10, 2007 (copied to 1st district office)

City of Laguna

The City of Laguna's Municipal Code includes an ordinance on the protection of private views (Chapter 12.16 VIEW PRESERVATION) within Title 12-Trees and Vegetation. It's quite long and there have been a few amendments to the ordinance in attempt to address problems with enforcement and definitions that have been considered in various Planning Commission hearings since it's inception in 2001.

The City of Laguna view preservation ordinance is similar to that of the City of Santa Barbara in that it gives provisions for a process to resolve conflicts through mediation and arbitration and pertains mostly to view impacts resulting from vegetation and landscaping.

The full ordinance can be viewed by accessing the following link:

<http://qcode.us/codes/lagunabeach/>

City of Malibu

The City of Malibu's land use regulations protect views to the limited extent that they may be affected by a new structure in excess of 18 feet. Often, however, previously existing views are impaired by landscaping.

An actual view protection ordinance does not exist for the City of Malibu; however, the City Council is currently considering placing an advisory measure on the April 2008 general municipal election ballot. The City Council has heard arguments at various public hearings both for and against a City-wide view preservation ordinance. It is unclear whether the majority of residents would be in favor of such an ordinance. An advisory measure is a question that is placed on the ballot solely for the purpose of allowing voters to voice their opinions on substantive issues or to indicate to the legislative body approval or disapproval of the ballot proposal.

The measure will not bind the City Council to any definite course of action, but will provide the legislative body with If the City Council desires to submit the advisory question to the voters, adopt the Resolution No. 07-60 submitting to the voters on the April 2008 general municipal election ballot an advisory measure to determine whether Malibu residents would favor adoption of an ordinance that would require the removal or trimming of landscaping to restore and maintain primary views from private homes, setting priorities for filing written arguments and rebuttal arguments, and directing the City Attorney to prepare an impartial analysis.³

SUMMARY

Given the limited resources of the County and the limited potential for an ordinance to protect private views, the County has not pursued a private view ordinance to date.

In line with the mediation process outlined in the City of Santa Barbara's private view ordinance, the County's efforts to protect private views have encouraged "good neighbor practices" in official documents including the adopted Eastern Goleta Valley Residential Design Guidelines, and the Draft Mission Canyon Design Guidelines. In addition to incorporating many of these concepts into the Draft Commercial Design Guidelines for Summerland, Staff also anticipates incorporating much of this content

³ City of Malibu, Council Agenda Report for the December 10, 2007 City Council Meeting

into the Residential Design Guidelines document that will be developed in the coming months.

The development of a view protection ordinance would require establishing criteria to establish and evaluate "right to a view", view equity and sunlight issues, and a view preservation and restoration process and include provisions for landscaping, trees, natural vegetation, hedges, encroachments, BAR review, and enforcement issues.

The SunPAC will need to provide more direction, through a roll call vote, on how to proceed with this matter.