

MONTEREY COUNTY PLANNING COMMISSION

Meeting: February 12, 2014 Time: 10:00 A.M.	Agenda Item No.: 6
Project Description: Consider Appeal by Sam Reeves of an administrative interpretation of the Zoning Ordinance made by the Director of RMA-Planning pursuant to Chapter 20.88 regarding status of compliance with Coastal Development Permit and Restoration Plan No. PLN100418 Condition No. 4 (Board of Supervisors Resolution No. 13-021) relating to restoration.	
Project Location: 1170 Signal Hill Road, Pebble Beach	APN: 008-261-007-000
Planning File Number: REF140015	Owner: Signal Hill LLC Appellant: Sam Reeves Agent: Anthony Lombardo
Planning Area: Del Monte Forest Area Land Use Plan	Flagged and staked: No
Zoning Designation: LDR/1-D (CZ) [Low Density Residential, 1 acre per unit with Design Control overlay (Coastal Zone)]	
CEQA Action: Not Subject to CEQA	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit B**) to:

- 1) Deny the appeal (REF140015) and uphold the Director's Decision that the project (PLN100418) is in substantial compliance with the conditions of approval based on the findings and evidence. (**Exhibit B**);

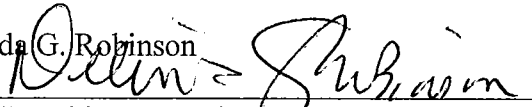
PROJECT OVERVIEW:

At some point in 2009, the owner of the subject property, Signal Hill LLC/Massy Mehdipour, illegally removed two landmark size Monterey cypress trees that were located to the west and southwest of the existing residence. RMA-Planning Department staff has been working with the owner to clear conditions of approval for the after-the-fact Coastal Development Permit and Restoration Plan (PLN100418) approved on appeal by the Board of Supervisors to correct the code violation (CE090288). At the request of Dale Ellis (**Exhibit D**), the Director of RMA-Planning made a written administrative interpretation (Director's Decision, **Exhibit E**) finding that the project is in compliance with the conditions and that the conditions will not be fully satisfied until all of the success criteria are met and all required monitoring completed. The Appellant, Sam Reeves, represented by attorney Anthony Lombardo, filed an Appeal of the Director's Decision, contending that these findings are not supported by the evidence. Section 20.88 provides that the Planning Commission is the appropriate body to hear an appeal from a Director's Decision.

The Planning Commission may either: 1) deny the Appeal and uphold the Director's Decision that the project (PLN100418) is in substantial compliance with the conditions of approval or 2) uphold the Appeal and find that the project is not in compliance with the conditions of approval. The Planning Commission may find that the outcome of the Restoration Plan is less than what may be desired but the efforts to date are in compliance with the conditions. For more detailed discussion see **Exhibit A**.

OTHER AGENCY INVOLVEMENT: None

Note: The decision on this project is appealable to the Board of Supervisors and not the California Coastal Commission.

/S/ Delinda G. Robinson 
Delinda G. Robinson, Senior Planner
(831) 755-5198, robinsond@co.monterey.ca.us
February 4, 2014

cc: Front Counter Copy; Planning Commission; Pebble Beach Community Services District (Fire Protection District); RMA-Public Works Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; John Ford, Planning Services Manager; Delinda Robinson, Project Planner; Signal Hill LLC, Owner; John Bridges, Owner's Attorney; Maureen Wruck, Owner's Agent; Sam Reeves, Appellant; Anthony Lombardo, Appellant's Agent; The Open Monterey Project; LandWatch; Planning File REF140015/PLN100418

- Attachments:
- Exhibit A Project Discussion
 - Exhibit B Draft Resolution
 - Exhibit C Vicinity Map
 - Exhibit D Letter of Request for Director's Decision Dated 09/24/2013
 - Exhibit E Director's Decision Dated 10/04/2013
 - Exhibit F Notice of Appeal of Director's Decision Dated 10/28/2013
 - Exhibit G Board of Supervisor's Resolution No. 13-021
 - Exhibit H Arborist Report Dated March 26, 2013
 - Exhibit I Arborist Report Dated April 1, 2013
 - Exhibit J Arborist Report Dated April 30, 2013
 - Exhibit K Arborist Report Dated May 22, 2013

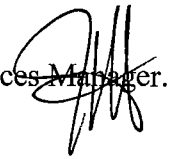
This report was reviewed by John Ford, Acting Planning Services Manager. 

EXHIBIT A DISCUSSION

Project Description and Background

This is an Appeal pursuant to Chapter 20.88 (Appeals to Administrative Determinations) of the Director of RMA-Planning decision (Director's Decision) finding that restoration efforts to date are in compliance with Condition No. 4 of Coastal Development Permit and Restoration Plan No. PLN100418 (**Exhibit G**). The after-the-fact permit was required to clear a code violation (CE090288) for the removal of two landmark size Monterey cypress trees, extensive pruning of three Monterey cypress trees, and dune disturbance in an environmentally sensitive habitat area. The first part of Condition No. 4 specifies the actions required to be taken by the applicant to restore the site to the pre-violation state, including monitoring and reporting to verify compliance, as follows:

- *“Planting of two replacement trees and implementation of a five-year monitoring program in order to restore the visual screening of the home from 17-Mile Drive and other public viewing areas.*
- *The replacement trees shall be Monterey cypress, minimum 48-inch box size.*
- *Two trees shall be located to the west and southwest of the existing residence, as near as feasible to the location of the trunks of the trees that were removed, as determined by the project arborist, but in no case may the trees be more than 20 feet from the location of the trees that were removed and no farther south or west than the location of the southernmost removed tree.*
- *A third tree may be planted to the southwest of the existing residence as shown on the Tree Replacement Plan to provide additional screening at the applicant's discretion.*
- *Quarterly monitoring of the replacement trees by a Certified Arborist for 3 years and annual monitoring thereafter is required. The monitoring program shall remain in place for five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer.*
- *The trees may only be removed with the approval of a Coastal Development Permit.*
- *If any replacement trees fail to survive, they shall be replaced and a new monitoring program is required.”*

The applicant was required to post a bond with the RMA-Planning Department in the amount equivalent to the cost of restoring the site and monitoring for a minimum of 5 years as required by the condition.

The stated purpose for planting replacement trees is “to restore the visual screening of the home from 17-Mile Drive and other public viewing areas.” The removed trees were mature trees with canopy diameters of around 40 feet each. One of the removed trees was located to the west of the house and screened views of the center portion of the house from 17-Mile Drive. The second tree was located to the south of the house, between the driveway and the southwest corner of the house. The branches on the west side of this tree screened views of the southwest corner of the house from 17-Mile Drive. In order to replicate the screening values of the trees, replacement trees need to be planted where the canopies or portions of the canopies will be between the house and 17-Mile Drive. However, the restriction on planting the replacement trees further west than the location of the original southwesterly tree limits the effectiveness of screening because this places the replacement trees out of the line of sight between 17-Mile Drive and the house. The

prohibition on planting to the west was requested by the Appellant's attorney at the Board of Supervisors hearing. There is some concern about the quality of screening provided by 48-inch box size nursery-grown replacement trees. These trees may never be the same as the original trees that grew to maturity in the windy coastal environment. Trees grown in a protected nursery environment have a more columnar shape and may never achieve the shape or diameter of the original trees. However, the condition requires monitoring for a minimum of 5 years or until the canopy of the replacement trees approximates the canopy of the 2007 canopy, whichever is longer. In order to have a way to determine when monitoring can cease, the County and the applicant agreed to use a measurement of the volume of the canopies as the criteria for finding that the replacement tree canopies have reached the required size. The applicant's engineer calculated that the estimated volumes of the original trees were 28,882 cubic feet and 32,061 cubic feet. The applicant's arborist estimated that in 5 years time, the volume of each replacement tree canopy will be 9,100 cubic feet. Thus, monitoring of the trees may extend well beyond the minimum of 5 years. The condition allows the applicant to plant an additional tree to the southwest of the house, at her discretion. If an additional tree is planted in a location that contributes to the screening of the house and the volume of the canopy, monitoring time could be reduced.

One of the replacement trees has been planted four feet (4') south of the allowed location. Staff accepted this based upon the circumstances. The area that replacement Tree C1 would have to be planted as required by the condition is an approximately 14-foot wide by 20-foot long rectangular area adjacent to the house. To avoid conflicts with the house, the tree must be planted far enough away from the house to allow for an eventual canopy radius of at least 10 feet, leaving a strip only 4 feet wide available for planting. According to information submitted by the applicant, the original tree was located 11 feet west of the edge of the driveway. An underground electrical line runs under the center of the driveway and turns to the north at a right angle toward the electrical meter located on the south wall of the house just west of the entrance to the garage. PG&E does not allow excavation within 5 feet of high voltage supply sources and the arborist states that it is not advisable to install trees where eventual root development can damage the underground utility line. This further limits the available area to the east for replanting. Based on physical inspection of roots of the original tree, soil conditions and past failed attempts to plant replacement trees in the immediate vicinity of the original tree, the project arborist recommends that the replacement tree not be placed near the location of the original tree due to the presence of *Phytophthora* fungus in the soil.

The applicant planted two 48-inch box size Monterey cypress trees on the site on March 21, 2013. It was noted in the arborist's report dated April 1, 2013 (**Exhibit I**) and verified by staff that the southernmost replacement tree (Tree C1) had been planted further south than the original tree and that the location did not comply with the requirements of the condition. The County then required that Tree C1 be moved to a new location no further south than the original tree in order to comply. The applicant attempted to relocate the tree on April 30, 2013 but during excavation for the tree, previously unknown buried electrical conduit was damaged and the relocation stopped for safety reasons. The electrical conduit was later moved and the tree was relocated 5 feet to the north of the March 21, 2013 location.

On May 22, 2013, the County received a report and "as planted" plan prepared by arborist Maureen Hamb documenting that tree C1 was 17 feet directly east of the stump of the original tree (**Exhibit K**). Although the final location of the tree is further north than it was when originally planted, the tree is located approximately 4 feet south of the removed southernmost tree. The condition required the tree to be no further south than the removed tree. Staff accepted the location of Tree C1 as being in substantial conformance with the condition because: 1) the

location met the other criteria (no further west and not more than 20 feet from the tree that was replaced); 2) the applicant submitted evidence from the arborist showing that there is not a feasible location for the tree that would comply with the condition due to site constraints; and 3) moving the tree 4 feet further north would not, in staff's estimation, better achieve the goal of visual screening of the home. The appeal is partially based upon the replacement tree being 4 feet too far south. It could be moved to the north but this would not better achieve the screening objectives, and it would place the tree in danger of being compromised by fungus in the soil. For this reason, staff determined this location satisfies the condition.

It must also be noted that the property owner has an active application for a Combined Development Permit (PLN100338) to allow the demolition of the existing residence and the construction of a new residence in the same general footprint. The condition of approval clearly states that the replacement trees may only be removed with a Coastal Development Permit. Staff understands from the applicant that the replacement trees have been located such that they would not have to be removed for the construction of the new residence and no Coastal Development Permit has been submitted for their removal.

Timeline

- August 29, 2012: After-the-fact Coastal Development Permit and Restoration Plan (PLN100418) was approved by the Planning Commission.
- September 17, 2012: Sam Reeves filed an appeal from the decision of the Planning Commission approving the Coastal Development Permit and Restoration Plan.
- February 5, 2013: The Board of Supervisors granted the appeal and approved the project with modified Conditions of Approval (Resolution No. 13-021).
- September 24, 2013: Dale Ellis, agent for the Appellant, requested a Director's Decision on several questions related to project condition compliance pursuant to Monterey County Code Chapter 20.88 (Appeals to Administrative Determinations).
- October 4, 2013: Mike Novo, Director of RMA-Planning provided a Director's Decision with responses to all of Ellis' questions.
- October 14, 2013: Dale Ellis submitted a written request to Novo to extend the deadline to file an appeal to the Director's Decision from October 18, 2013 to October 28, 2013.
- October 15, 2013: Mike Novo granted the request for extension of deadline to file an appeal to October 28, 2013.
- October 28, 2013: Anthony Lombardo submitted an appeal to the Director's Decision outlined in the October 4, 2013 letter on behalf of Sam Reeves.

Appeal

Staff's Response to Appellant's Contentions

The Appeal is brought on the basis that the Director's Decision that the project is in compliance with the terms of Condition No. 4, is not supported by the evidence as follows:

Appellant's Contention No. 1: The southernmost replacement tree was planted further south than the location of the original tree in violation of the condition. The Board's conditions required that this tree be no farther south or west than the tree it replaced. During the course of their hearing, the Board was shown a plan with the north arrow parallel to the western walls of the house. The Board based their decision on that plan. Now the Department has agreed to use what we are told is "magnetic north" which is approximately 20 degrees off the north arrow on the Board's plan. Plans showing that polar shift are attached to this appeal.

Staff Response No. 1: The arborist report received by the County states that the southernmost replacement tree (Tree C1) was relocated 17 feet directly east of the original stump location. The applicant has confirmed that the compass used in the field to determine the location of the replacement tree measured “magnetic north”. It was not the type that could be adjusted to account for magnetic declination, which is approximately 13.5 degrees in Pebble Beach. This did result in the tree being planted approximately 4 feet further south than it would have been had the compass been adjusted and the measurement made using “true north”. The condition language requires that the replacement tree be planted as near as feasible to the location of the original tree *as determined by the project arborist*, but no further than 20 feet from the original tree or further south or west than the original tree. The original tree was located approximately 14 feet south of the house, between the driveway and the southwestern corner of the house, leaving a very limited area available for the replacement tree. The arborist determined that it was necessary to plant the tree the maximum possible distance away from the original stump to avoid the *Phytophthora* fungus in the soil. To plant the tree further east would block access to the garage and would conflict with underground electrical utilities. The stated intent of the condition is to “restore the visual screening of the home from 17-Mile Drive and other viewing areas.” Staff accepted the location of Tree C1 as being in substantial conformance with the condition because: 1) the location met the other criteria (no further west and not more than 20 feet from the tree that was replaced); 2) the applicant submitted evidence from the arborist showing that there is not a feasible location for the tree that would comply with the condition due to site constraints; and 3) moving the tree 4 feet further north would not, in staff’s estimation, better achieve the goal of visual screening of the home.

Appellant’s Contention No. 2: Replacement Canopy: The Board’s conditions also required that the replacement trees be monitored for five years or until such time as the replacement trees approximated the 2007 canopy and visual screening of the Mehdipour building site from Seventeen Mile Drive. These conditions were discussed and agreed to by Ms. Mehdipour. A photo simulation was shown by Mr. Bridges at the Board of Supervisors hearing that showed the replacement trees replicating that canopy and screening within five years. We are now told in Mr. Novo’s determination that “it is unlikely that the replacement trees will ever replicate the screening that was provided by the original trees.” This is in large part due to the applicant’s decision to place the trees as far apart as possible, to allow her to construct a larger home.

Staff’s Response No. 2: The applicant has submitted a copy of contract with a Certified Arborist to provide care and monitoring of the replacement trees for a minimum of 5 years with a provision for the contract to be renewed in the event of mortality of any of the trees. As required by the condition, cash bonds in the amount of \$16,000 (the cost estimate for the entire restoration and monitoring), was posted by the applicant on April 3, 2013. The County will continue to require monitoring until the volume of the canopies is equivalent to the volume of the original trees. As noted in the Director’s Decision, the C1 replacement tree would have provided better screening had the applicant been allowed to plant it further west where it would be between 17-Mile Drive and the house.

The photo simulation that was shown by Mr. Bridges at the December 4, 2012 Board of Supervisors hearing reflected what restoration would have looked like based on the requirements of the condition as it was approved by the Planning Commission and as it was being considered on that date by the Board. That condition required three 36-inch trees, two of which were to be within 20 feet and no further south than the southernmost removed tree, and allowed a fourth optional tree to the southwest of the residence. At that time, the applicant proposed to comply with the condition by planting two groupings of two trees each, to the west and southwest of the

house. At that Board hearing, the Appellant's attorney submitted modified condition language that required larger size replacement trees, eliminated the third required tree, and added language prohibiting the trees from being planted further west than the southernmost removed tree. The condition approved by the Board included those modifications. Thus, the rendering presented at the hearing did not represent the restoration ultimately required by the condition approved the Board. It is the condition as approved by the Board of Supervisors that must be complied with, not the photo simulation presented reflecting a different scheme. See Staff's Response No. 1 for the justifications for planting the tree in the present location. The trees have been in the ground for less than a year. It is premature to make the determination that they will never provide screening for the house or that the project is not in compliance with the condition. The trees will not look the same, but monitoring will not be complete until the performance criteria are achieved. This may not be acceptable to some, but as long as the applicant is working toward compliance, including monitoring and reporting, they are in compliance.

Appellant's Contention No. 3: Because of the conditions are not being met (sic) there is a continuing violation of the County Code under Section 20.90.050. There is also a violation under Section 20.90.130 in that the restoration required by the Code and Board is not and apparently cannot be completed as proposed.

Nevertheless, the staff has determined the application for the new house (PLN100338) to be complete and has started preparation of an initial study.

As a result of the applicant misrepresentation to the Board, the conditions are not and apparently cannot be met based on the tree location approved by staff. Therefore, restoration required by the Code and Board has not and cannot be accomplished and the violation still exists on the site. We ask that the Commission:

- *Find that the condition of PLN100318 (sic) have not been met and direct Mehdipour to do the restoration she committed to do and achieve the canopy and screening required by the Board; or*
- *Set a public hearing pursuant to Section 20.70.060 to consider revocation or modification of PLN100418.*

We also ask that the Planning Commission find that the property has not been restored and direct that all work on PLN100318 (sic) be suspended until such time as the restoration occurs."

Staff's Response No. 3: As discussed in Staff's Response Nos. 1 and 2 above, the County finds that the project is currently in compliance with the Conditions of Approval for PLN100418. The applicant at this time is proceeding with the concurrence of staff. If the Commission disagrees with staff and finds that the permit conditions are not in compliance then the appropriate action would be to approve the appeal and identify the corrective actions that would be necessary to comply with the permit. It is very important to focus on the actual requirements of this permit. The condition including the planting requirements and monitoring are the technical points upon which compliance at this phase is determined. The Appellant may want the restoration to look exactly like the rendering presented at the December 4, 2012 Board hearing, but as stated in Response No. 2, that rendering did not represent the reduced number or locations of replacement trees required by the condition as it was ultimately adopted by the Board. Trees are living things that may not grow as expected. As such, condition compliance needs to take this into account and identify criteria that identify success. In this case canopy volume is the criteria. Under current circumstances this will take more than 5 years but the monitoring requirements of the condition allow this. As long as progress is being made to fulfill the condition it is hard to argue that the efforts are not in compliance with the condition. It is not appropriate at this time to consider revocation or modification of PLN100418.

The application for a Combined Development Permit (PLN100338) to allow the demolition of the existing residence and the construction of a new residence was appropriately deemed complete after restoration was implemented, monitoring agreements were in place and Code Violation Case No. CE090288 was closed. Since the code enforcement action is closed, there is no limitation to processing additional permits.

Environmental Review

This appeal does not meet the definition of a project under Section 21065 of the CEQA Guidelines and is therefore exempt.

Recommendation

Staff recommends that the Planning Commission deny the appeal (REF140015) and uphold the Director's Decision that the project (PLN100418) is in substantial compliance with the conditions of approval based on the findings and evidence.

**EXHIBIT B
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

SIGNAL HILL LLC (REF140015/PLN100418)

RESOLUTION NO. ----

Resolution by the Monterey County Planning
Commission:

- 1) Denying the Appeal by Sam Reeves of an administrative interpretation of the Zoning Ordinance made by the Director of RMA-Planning pursuant to Chapter 20.88 regarding status of compliance with Coastal Development Permit and Restoration Plan No. PLN100418 Condition No. 4 (Board of Supervisors Resolution No. 13-021 (Mehdipour) relating to restoration.

[REF140015, Signal Hill LLC, 1170 Signal Hill Road, Pebble Beach, Del Monte Forest Area Land Use Plan (APN: 008-261-007-000)]

The appeal by Sam Reeves from the administrative interpretation of the Zoning Ordinance (REF140015) came on for public hearing before the Monterey County Planning Commission on February 12, 2014. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **DESCRIPTION and BACKGROUND** – This is an Appeal pursuant to Chapter 20.88 (Appeals to Administrative Determinations) of the Director of RMA-Planning decision finding that restoration efforts to date are in compliance with Condition No. 4 of Coastal Development Permit and Restoration Plan No. PLN100418.
EVIDENCE:
 - a) At some point in 2009, the owner of the subject property, Signal Hill LLC/Mehdipour, illegally removed two landmark size Monterey cypress trees that were located to the west and southwest of the existing residence.
 - b) On August 29, 2012 an after-the-fact Coastal Development Permit and Restoration Plan (PLN100418) was approved by the Planning Commission. The after-the-fact permit (PLN100418) was required to clear the code violation (CE090288) for the removal of two landmark size Monterey cypress trees, extensive pruning of three Monterey cypress trees, and dune disturbance in an environmentally sensitive habitat area. Condition No. 4 specifies the actions required to be taken by the applicant to restore the site to the pre-violation state, including

monitoring and reporting to verify compliance, with Part 1 addressing the planting of trees to replace the two removed-Monterey cypress.

- c) On September 17, 2012 Sam Reeves filed an appeal from the decision of the Planning Commission approving the Coastal Development Permit and Restoration Plan.
- d) On February 5, 2013: The Board of Supervisors granted the appeal and approved the project with modified Conditions of Approval (Resolution No. 13-021).
- e) Condition No. 4, Part 1 from Board of Supervisors Resolution No. 13-021 reads as follows:

“The applicant/owner shall adhere to all of the requirements of the Draft Restoration Plan attached as Exhibit 1 to the February 5, 2013 Board Report and as conditioned by this permit. The Restoration Plan requires:

1. Planting of two replacement trees and implementation of a five-year monitoring program in order to restore the visual screening of the home from 17-Mile Drive and other public viewing areas. The replacement trees shall be Monterey cypress, minimum 48-inch box size. Two trees shall be located to the west and southwest of the existing residence, as near as feasible to the location of the trunks of the trees that were removed, as determined by the project arborist, but in no case may the trees be more than 20 feet from the location of the trees that were removed and no farther south or west than the location of the southernmost removed tree. A third tree may be planted to the southwest of the existing residence as shown on the Tree Replacement Plan to provide additional screening at the applicant's discretion. Quarterly monitoring of the replacement trees by a Certified Arborist for 3 years and annual monitoring thereafter is required. The monitoring program shall remain in place for five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer. The trees may only be removed with the approval of a Coastal Development Permit. If any replacement trees fail to survive, they shall be replaced and a new monitoring program is required.”

Compliance and monitoring actions required to be completed within 60 days of project approval included:

- Installation of the required replacement trees and submittal of verifying documentation;
- Submittal of a copy of a contract with a Certified Arborist to implement the restoration plan and provide the required monitoring program. The monitoring program shall include at a minimum: 1) Quarterly monitoring inspections by a Certified Arborist of the replacement trees for a minimum of 3 years and annual inspections for a minimum of 2 additional years; and
- Post a bond with the RMA-Planning Department in the amount equivalent to the cost of restoring the site and monitoring for a minimum of 5 years as required by the condition.

- f) On March 21, 2013 the applicant planted two 48-inch box size Monterey cypress trees on the site to comply with the first part of Condition 4. It was noted in the arborist's report dated April 1, 2013 (**Exhibit I** attached to the Planning Commission February 12, 2014 staff report) and verified by staff that the southernmost replacement tree labeled as Tree C1 had been planted further south than the original tree and that the location did not comply with the requirements of the condition.
- g) The County then required that Tree C1 be moved to a new location no further south than the original tree in order to comply with the condition. The applicant attempted to re-locate the tree on April 30, 2013 but during excavation for the tree, previously unknown buried electrical conduit was damaged and the relocation stopped for safety reasons. In a report dated April 30, 2013 (**Exhibit J** to the February 12, 2014 Planning Commission staff report), Hamb recommended that the tree remain in the March 21, 2013 location, in part because PG&E requires a 5-foot setback from high voltage supply sources for excavation and the planting of trees and because evidence of *Phytophthora* fungal infection were found in the other areas available for planting. Hamb also noted in her report dated March 26, 2013 (**Exhibit H** to the February 12, 2014 Planning Commission staff report) that during her inspection of roots of the original tree, diseased and blackened roots, similar to roots affected by the *Phytophthora* fungus, (the same conditions found when seedlings previously planted in the area died,) were found in the area. At the time the electrical line was repaired, it was also relocated to the north, nearer to the house.
- h) The County again required that Tree C1 be moved to a new location no further south than the original tree in order to comply with the condition. Tree C1 tree was later relocated five feet to the north of the original location and on May 22, 2013, the County received a report and "as planted" plan prepared by arborist Maureen Hamb documenting that tree C1 was replanted 17 feet directly east of the field located stump of the original tree (**Exhibit K** to the February 12, 2014 Planning Commission staff report). The planting site for Tree C1 was located in the field using a compass that was not adjusted for magnetic declination, resulting in the tree being planted approximately 4 feet further south than allowed by Condition No. 4. The County accepted the location of Tree C1 as being in substantial conformance with the condition because: 1) the location met the other criteria (no further west and not more than 20 feet from the tree that was replaced); 2) the applicant submitted evidence from the arborist showing that there is not a feasible location for the tree that would comply with the condition due to site constraints; and 3) moving the tree 4 feet further north would not, in staff's estimation, better achieve the goal of visual screening of the home.
- i) On April 1, 2013, the applicant submitted to the RMA-Planning Department a copy of a contract with Maureen Hamb, a Certified Arborist, to provide care and monitoring of the replacement trees as required by the condition.
- j) On April 3, 2013, cash bonds totaling \$16,000 (the cost estimate for all restoration and monitoring,) was posted by the applicant as required by

the condition.

- k) Because the shape of the replacement trees is different than the shape of the original trees and it is not possible to anticipate exactly how the trees will grow, it was necessary to define a method of measuring the canopies of the original and replacement trees in order to be able to determine compliance with the condition. The County and the Applicant agreed to use the volume of the canopies of the trees to determine compliance with the condition. The applicant's arborist estimates that the volume of each replacement tree canopy would be 9,100 cubic feet in 5 years time. On April 16, 2013, the applicant submitted calculations of the approximate volume of the canopy of the trees that were illegally removed (C1 & C2) prepared by Richard Weber, a Licensed Civil Engineer and based on analysis of historical photos of the property. The estimated volume of the canopy of the first tree was 28,882 cubic feet and the estimated volume of the canopy of the second tree was 32,061 cubic feet. Continued monitoring of the replacement trees will required until the volume of the replacement trees is equal to the volume of the original trees.
- l) In August of 2013 the County determined that restoration had been implemented as required by the condition and all monitoring agreements were in place. Condition 4 is currently in compliance. All other conditions of approval for PLN100418 have been satisfied or are in "Ongoing" status.
- m) In August of 2013, the code violation case CE090288 was closed.
- n) The Appeal submitted by the Appellant to the Monterey County RMA - Planning Department found in Project File REF140015.
- o) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA-Planning Department for the proposed development found in Project File PLN100418.

2. **FINDING:**

PROCESS – The County's processing of the subject Appeal of Director's Decision (REF140015) complies with all applicable procedural requirements.

EVIDENCE:

- a) On September 24, 2013, Dale Ellis submitted a request for a written Director's Decision regarding specific questions regarding status of compliance with Part 1 of Condition No. 4 of Coastal Development Permit and Restoration Plan No. PLN100418 (Board of Supervisors Resolution No. 13-021) related to restoration pursuant to Monterey County Code Chapter 20.88 (Appeals to Administrative Interpretations).
- b) On October 4, 2013, the Director of RMA-Planning provided a written Director's Decision pursuant to Monterey County Code Chapter 20.88 regarding specific questions related to the Signal Hill LLC discretionary application (File No. PLN100418). This Decision specified that any appeal must be filed by 5:00 pm on October 18, 2013, which was 10 business days after the date of mailing of the Director's Decision.
- c) On October 14, 2013, Dale Ellis requested a 10-day extension for filing an appeal to the Director's Decision.
- d) On October 15, 2013, the Director of RMA-Planning granted the 10-day extension for filing an appeal to the Director's Decision from to October

18, 2013 to October 28, 2013.

- e) On October 18, 2013, Anthony Lombardo on behalf of Sam Reeves (“Appellant”), timely filed an appeal from the October 4, 2013 Director’s Decision. This appeal is brought on the basis that the Director’s Decision is not supported by the evidence. The Notice of Appeal is attached as **Exhibit F** of the February 12, 2014 Planning Commission Staff Report.
- f) The public hearing on the appeal was scheduled for February 12, 2014, by mutual agreement by the Appellant and the Applicant.
- g) Public notices for the appeal hearing were published in the Monterey County Weekly, mailed to neighbors within 300 feet, and posted in three different public places pursuant to Monterey County Code Chapter 20.84.
- h) The Appeal submitted by the Appellant to the Monterey County RMA - Planning Department and related support materials found in Project File REF140015.

3. **FINDING:**

APPEAL – The Appellant contends that the Director’s Decision that the project is in compliance with the terms of Condition No. 4, Part 1, is not supported by the evidence. Upon consideration of the documentary information in the files, the staff report, the oral and written testimony and all other evidence presented before the Planning Commission, the Planning Commission responds, as follows, to the Appellant’s contentions:

EVIDENCE a)

Appellant’s Contention No. 1: The southernmost replacement tree was planted further south than the location of the original tree in violation of the condition. The Board’s conditions required that this tree be no farther south or west than the tree it replaced. During the course of their hearing, the Board was shown a plan with the north arrow parallel to the western walls of the house. The Board based their decision on that plan. Now the Department has agreed to use what we are told is “magnetic north” which is approximately 20 degrees off the north arrow on the Board’s plan. Plans showing that polar shift are attached to this appeal.

Response to No. 1: The arborist report received by the County states that the southernmost replacement tree (Tree C1) was relocated 17 feet directly east of the original stump location. The applicant has confirmed that the compass used in the field to determine the location of the replacement tree measured “magnetic north”. It was not the type that could be adjusted to account for magnetic declination, which is approximately 13.5 degrees in Pebble Beach. This did result in the tree being planted approximately 4 feet further south than it would have been had the compass been adjusted and the measurement made using “true north”. The condition language requires that the replacement tree be planted as near as feasible to the location of the original tree *as determined by the project arborist*, but no further than 20 feet from the original tree or further south or west than the original tree. The original tree was located approximately 14 feet south of the house, between the driveway and the southwestern corner of the house, leaving a very

limited area available for the replacement tree. The arborist determined that it was necessary to plant the tree the maximum possible distance away from the original stump to avoid the *Phytophthora* fungus in the soil. To plant the tree further east would block access to the garage and would conflict with underground electrical utilities. The stated intent of the condition is to “restore the visual screening of the home from 17-Mile Drive and other viewing areas.” Staff accepted the location of Tree C1 as being in substantial conformance with the condition because: 1) the location met the other criteria (no further west and not more than 20 feet from the tree that was replaced); 2) the applicant submitted evidence from the arborist showing that there is not a feasible location for the tree that would comply with the condition due to site constraints; and 3) moving the tree 4 feet further north would not, in staff’s estimation, better achieve the goal of visual screening of the home.

Appellant’s Contention No. 2: Replacement Canopy: The Board’s conditions also required that the replacement trees be monitored for five years or until such time as the replacement trees approximated the 2007 canopy and visual screening of the Mehdipour building site from Seventeen Mile Drive. These conditions were discussed and agreed to by Ms. Mehdipour. A photo simulation was shown by Mr. Bridges at the Board of Supervisors hearing that showed the replacement trees replicating that canopy and screening within five years. We are now told in Mr. Novo’s determination that “it is unlikely that the replacement trees will ever replicate the screening that was provided by the original trees.” This is in large part due to the applicant’s decision to place the trees as far apart as possible, to allow her to construct a larger home.

Response to No. 2: The applicant has submitted a copy of contract with a Certified Arborist to provide care and monitoring of the replacement trees for a minimum of 5 years with a provision for the contract to be renewed in the event of mortality of any of the trees. As required by the condition, cash bonds in the amount of \$16,000 (the cost estimate for the entire restoration and monitoring), was posted by the applicant on April 3, 2013. The County will continue to require monitoring until the volume of the canopies is equivalent to the volume of the original trees. As noted in the Director’s Decision, the C1 replacement tree would have provided better screening had the applicant been allowed to plant it further west where it would be between 17-Mile Drive and the house.

The photo simulation that was shown by Mr. Bridges at the December 4, 2012 Board of Supervisors hearing reflected what restoration would have looked like based on the requirements of the condition as it was approved by the Planning Commission and as it was being considered on that date by the Board. That condition required three 36-inch trees, two of which were to be within 20 feet and no further south than the southernmost removed tree, and allowed a fourth optional tree to the southwest of the residence. At that time, the applicant proposed to comply with the condition by planting two groupings of two trees each,

to the west and southwest of the house. At that Board hearing, the Appellant's attorney submitted modified condition language that required larger size replacement trees, eliminated the third required tree, and added language prohibiting the trees from being planted further west than the southernmost removed tree. The condition approved by the Board included those modifications. Thus, the rendering presented at the hearing did not represent the restoration ultimately required by the condition approved the Board. It is the condition as approved by the Board of Supervisors that must be complied with, not the photo simulation presented reflecting a different scheme. See Staff's Response No. 1 for the justifications for planting the tree in the present location. The trees have been in the ground for less than a year. It is premature to make the determination that they will never provide screening for the house or that the project is not in compliance with the condition. The trees will not look the same, but monitoring will not be complete until the performance criteria are achieved. This may not be acceptable to some, but as long as the applicant is working toward compliance, including monitoring and reporting, they are in compliance.

Appellant's Contention No. 3: Because of the conditions are not being met (sic) there is a continuing violation of the County Code under Section 20.90.050. There is also a violation under Section 20.90.130 in that the restoration required by the Code and Board is not and apparently cannot be completed as proposed. Nevertheless, the staff has determined the application for the new house (PLN100338) to be complete and has started preparation of an initial study.

As a result of the applicant misrepresentation to the Board, the conditions are not and apparently cannot be met based on the tree location approved by staff. Therefore, restoration required by the Code and Board has not and cannot be accomplished and the violation still exists on the site. We ask that the Commission:

- *Find that the condition of PLN100318 (sic) have not been met and direct Mehdipour to do the restoration she committed to do and achieve the canopy and screening required by the Board; or*
- *Set a public hearing pursuant to Section 20.70.060 to consider revocation or modification of PLN100418.*

We also ask that the Planning Commission find that the property has not been restored and direct that all work on PLN100318 (sic) be suspended until such time as the restoration occurs."

Response to No. 3: As discussed in Staff's Response Nos. 1 and 2 above, the County finds that the project is currently in compliance with the Conditions of Approval for PLN100418. The applicant at this time is proceeding with the concurrence of staff. If the Commission disagrees with staff and finds that the permit conditions are not in compliance then the appropriate action would be to approve the appeal and identify the corrective actions that would be necessary to comply with the permit. It is very important to focus on the actual requirements of this permit. The condition including the planting requirements and monitoring are the technical points upon which compliance at this phase

is determined. The Appellant may want the restoration to look exactly like the rendering presented at the December 4, 2012 Board hearing, but as stated in Response No. 2, that rendering did not represent the reduced number or locations of replacement trees required by the condition as it was ultimately adopted by the Board. Trees are living things that may not grow as expected. As such, condition compliance needs to take this into account and identify criteria that identify success. In this case canopy volume is the criteria. Under current circumstances this will take more than 5 years but the monitoring requirements of the condition allow this. As long as progress is being made to fulfill the condition it is hard to argue that the efforts are not in compliance with the condition. It is not appropriate at this time to consider revocation or modification of PLN100418.

The application for a Combined Development Permit (PLN100338) to allow the demolition of the existing residence and the construction of a new residence was appropriately deemed complete after restoration was implemented, monitoring agreements were in place and Code Violation Case No. CE090288 was closed. Since the code enforcement action is closed, there is no limitation to processing additional permits.

- b) The Appeal, application, project plans, and related support materials submitted by the Appellant and project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File Nos. REF140015, PLN100338 and PLN100418.

4. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) The Appeal is not defined as a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 21065, and is therefore statutorily exempt from environmental review.
 - b) The appeal involves an administrative decision by the Director of RMA-Planning and does not involve the issuance of an entitlement.
 - c) The appeal, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File REF140015.

5. **FINDING:** **APPEALABILITY** - The decision on this appeal may be appealed to the Board of Supervisors and not the California Coastal Commission

- EVIDENCE:**
- a) Section 20.86.030 of the Monterey County Zoning Ordinance states that an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) Section 20.86.080 of the Monterey County Zoning Ordinance states that the appeal is not subject to appeal by/to the Coastal Commission because the appeal from an administrative determination regarding the Zoning Ordinance is not a Coastal Development Permit.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Deny the Appeal by Sam Reeves of an administrative interpretation of the Zoning Ordinance made by the Director of RMA-Planning pursuant to Chapter 20.88 regarding status of compliance with Part 1 of Condition No. 4 of Coastal Development Permit and Restoration Plan No. PLN100418 (Board of Supervisors Resolution No. 13-021) relating to restoration.

PASSED AND ADOPTED this 12th day of February, 2014 upon motion of **xxxx**, seconded by **xxxx**, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON **DATE**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **[DATE]**

(Coastal Projects)

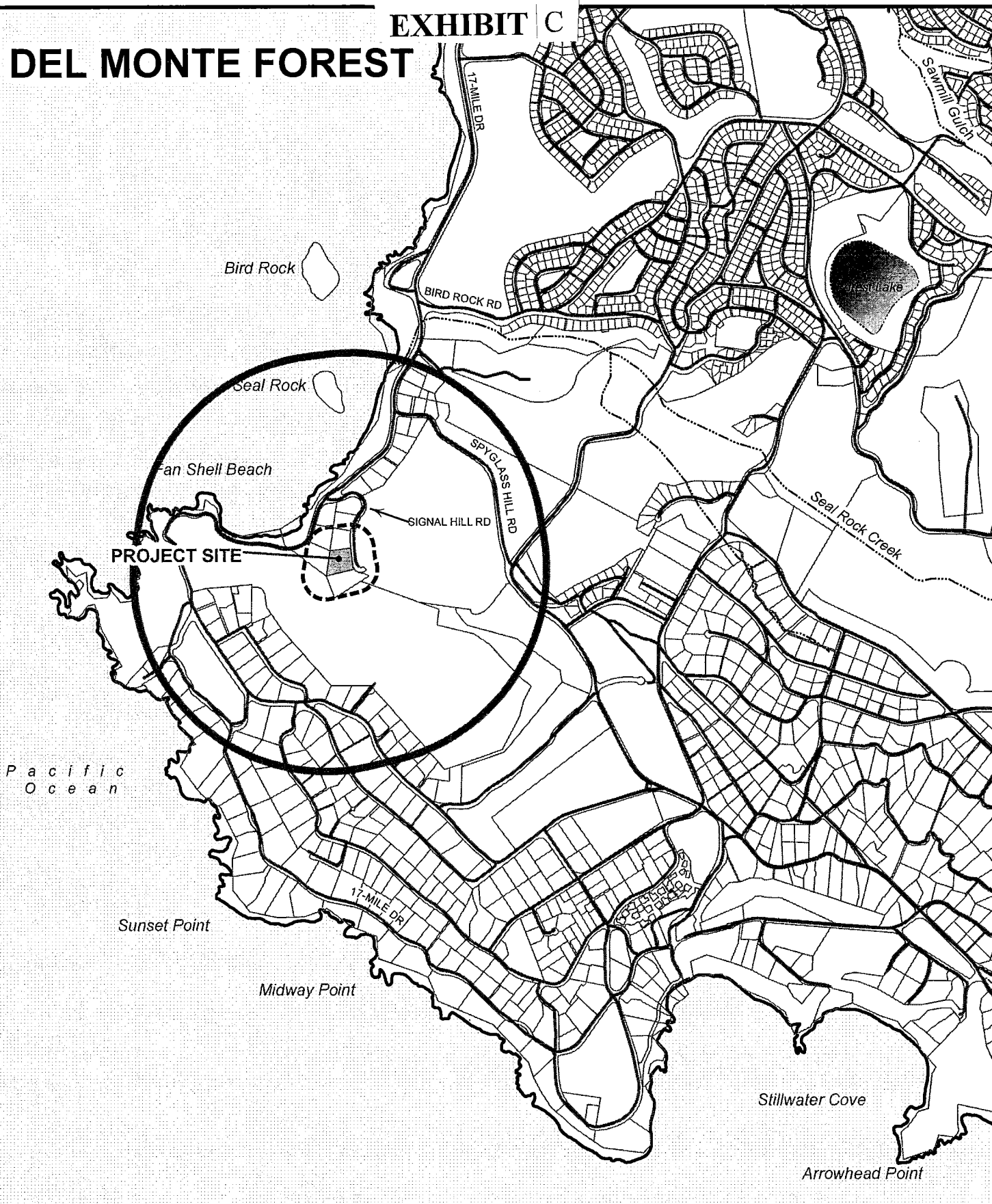
THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS NOT APPEALABLE TO THE COASTAL COMMISSION.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

APPROVED FOR
FORM REV. 11-06-2013

EXHIBIT C

DEL MONTE FOREST

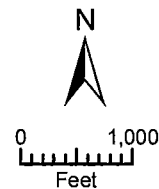


APPLICANT: SIGNAL HILL LLC

APN:008-261-007-000

FILE # PLN100418

Water 2500' Limit 300' Limit City Limits

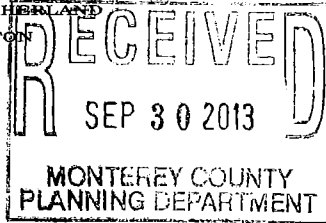


PLANNER: ROBINSON

EXHIBIT D
ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
DEBRA GEMGNANI TIPTON
DONNA L. ROVELLA

450 LINCOLN AVENUE, SUITE 101
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331



September 24, 2013

File No. 01599.001

Mr. Mike Novo
Monterey County Planning
168 W. Alisal Street, Second Floor
Salinas, CA 93901

Re: **Request for Director's Decision (PLN100418)**

Dear Mike:

This request is made pursuant to Monterey County Code Chapter 20.88.

BACKGROUND

There is an extensive history to this application that is well documented in the County's files and is incorporated herein by reference. In short, Ms. Mehdipour removed numerous trees from the property, severely pruned several others and destroyed over 2,500 square feet of dune habitat.

On February 5, 2013, the Board of Supervisors adopted Resolution 13-021 granting Sam Reeves' appeal of the Planning Commission's decision on the Coastal Development Permit for the Mehdipour restoration subject to six conditions. We have now been informed by Delinda Robinson and Irma Gowin that the Board's conditions have been met and code enforcement file has been closed. We subsequently found that the Department has now determined the application (PLN 100338) for the demolition of the Connell house and construction of a new house to be complete.

REQUEST

We are asking for a written Director's determination on these questions:

- Were replacement trees planted within 60 days of the Board's approval of PLN100418?
- The southernmost replacement tree is farther south than the tree it replaced. How does that comply with the Board's decision?
- The Board required the replacement trees be monitored for five years or until the tree canopy approximates the 2007 tree canopy destroyed by the illegal tree removal, whichever is longer. How can the condition be considered satisfied until that monitoring period is complete?

Mr. Mike Novo
Monterey County Planning
September 24, 2013
Page 2

- Have the monitoring reports on the health of the replacement trees and dune restoration been submitted on a quarterly basis? Have those quarterly reports been submitted in a timely manner?
- How was it determined that the canopy of the replacement trees in their current location will approximate the 2007 tree canopy and screening from Seventeen Mile Drive?
- Does the Planning Department consider the conditions of PLN100418 to be fully met?

Sincerely,



Dale Ellis
Director of Planning and Permit Services

DLE:nes

cc: Mr. Sam Reeves

EXHIBIT E

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Benny J. Young, Director

Carl P. Holm, AICP, Deputy Director

Michael A. Rodriguez, C.B.O., Chief Building Official

Michael Novo, AICP, Director of Planning

Robert K. Murdoch, P.E., Director of Public Works



168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
<http://www.co.monterey.ca.us/rma>

October 4, 2013

Dale Ellis

Anthony Lombardo & Associates

450 Lincoln Avenue, Suite 101

Salinas, CA 93901

SUBJECT: Request for Director's Decision (PLN100418)

Dear Mr. Ellis:

This letter is in response to your request for a Director's determination pursuant to Monterey County Code Chapter 20.88 regarding specific questions related to the Signal Hill LLC discretionary application (File No. PLN100418). This application consisted of an "After-the-fact permit to clear a code violation (CE090288); the permit consisting of a Coastal Development Permit and Restoration Plan per Section 20.90.130 of the Monterey County Coastal Implementation Plan Part 1 (Title 20 Zoning Ordinance) for the removal of two landmark Monterey cypress trees, significant pruning of three Monterey cypress trees and sand dune degradation in an environmentally sensitive habitat area." As noted in your letter, the project was approved by the Board of Supervisors on February 5, 2013, subject to six conditions of approval. Responses to your questions are as follows:

Question 1: *"Were replacement trees planted within 60 days of the Board's approval of PLN100418?"*

Response: Yes, replacement trees were planted within 60 days of the Board's approval of PLN100418; however, because one of the trees was originally planted further south than the original tree, that tree was later moved to a new location after the 60 day deadline. The County received an inspection report dated April 1, 2013 from Arborist Maureen Hamb documenting that replacement trees were installed on the site on March 21, 2013, well in advance of the April 6, 2013 deadline. It was noted in the report and verified by staff that the replacement for the tree labeled as Tree C1 was planted further south than the original tree and that the location did not comply with the requirements of the condition. The County then required that the C1 replacement tree be moved to a new location no further south than the original tree in order to comply with the condition. The applicant attempted to re-locate the tree on April 30, 2013 but during excavation for the tree, buried electrical conduit was damaged and the re-location effort stopped for safety reasons. On May 22, 2013, the County received an "as-planted" plan prepared by Hamb that documents that Tree C1 was replanted 17 feet directly east of the field located stump of the original tree.

Question 2: *"The southernmost replacement tree is farther south than the tree it replaced. How does that comply with the Board's decision?"*

Response: The applicant has submitted documentation from the project arborist that the southernmost replacement tree is 17 feet directly east of the location of the tree that it replaced. This complies with the language of the condition.

Question 3: *"The Board required the replacement trees be monitored for five years or until the tree canopy approximates the 2007 tree canopy destroyed by the illegal tree removal whichever is longer. How can the condition be considered satisfied until that monitoring period is complete?"*

Response: Condition 4 is currently in "Partially Met" status. The condition will not be considered fully satisfied until all elements of the condition, including monitoring, are completed.

Question 4: *"Have the monitoring reports on the health of the replacement trees and dune restoration been submitted on a quarterly basis? Have those quarterly reports been submitted in a timely manner?"*

Response: Quarterly monitoring reports have been submitted in a timely manner to date. The first quarterly report on the status of the health of the replacement trees was due 4 months after the planting of the replacement trees. Since the second tree was not planted in its final location until May 15, 2013, the first report was due on September 15, 2013. The first quarterly report on the status of the health of the replacement trees was submitted by Maureen Hamb on September 11, 2013, and was in compliance with the condition. This report included monthly monitoring reports dated May – August. The first quarterly report on the status of dune restoration was due 4 months after the initial phase of restoration was completed. The initial phase of exotic species removal was completed on May 8, 2013. The first quarterly report on the status of the dune restoration was due on September 8, 2013 and was submitted on August 14, 2013, in compliance with the condition.

Question 5: *"How was it determined that the canopy of the replacement trees in their current location will approximate the 2007 canopy and screening from Seventeen Mile Drive?"*

Response: The condition, as approved by the Board of Supervisors, requires that the replacement trees be Monterey cypress, minimum 48-inch box size, and that they be located "as near as feasible to the location of the trunks of the trees that were removed, as determined by the project arborist, but in no case may the trees be more than 20 feet from the location of the trees that were removed and no farther south or west than the location of the southernmost tree." Monitoring of the trees is to continue for five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer. The original trees grew from small trees and adapted to the windy site by growing wide and low. The replacement trees, which are large, nursery-grown specimens, have a more columnar shape and may never grow to have the same shape as the removed trees, so the applicant submitted a calculation of the volume of the canopy of the removed trees. These calculations were based on aerial images of the trees from 2007 as well as images from the California Coastal Project. The volume of original Tree C1 was estimated to be 28,882 cubic feet and the volume of C2 was estimated to be 32,061 cubic feet. Monitoring of the replacement trees will be required until the volume of the replacement tree canopies is equal to the volume of the original tree canopies.

It is unlikely that the replacement trees will ever replicate the screening that was provided by the original trees, particularly the southernmost tree (C1). There was a relatively small area in which Tree C1 could be planted and still be in compliance with the condition due to the original tree's

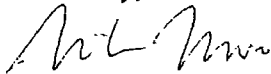
close proximity to the existing residence on the north and the prohibition from planting further south or west. The condition approved by the Planning Commission would have allowed the replacement tree to be located to the west of the original tree where it could have provided screening from Seventeen Mile Drive. However language that was submitted by the appellant's attorney and approved by the Board of Supervisors prohibited the trees from being planted further west of the original tree locations, resulting in Tree C1 being planted 17 feet east of the original tree, where it will frame the house rather than screen it. Tree C2 is located between the house and Seventeen Mile Drive and will provide screening.

Question 6: *"Does the Planning Department consider the conditions of PLN100418 to be fully met?"*

Response: No, the conditions will not be fully met until all of the success criteria have been met and all required monitoring completed. However, the property owner is currently in compliance with the conditions of approval.

Should you wish to appeal this decision, the appeal must be filed with the Secretary to the Planning Commission no later than 5:00 pm on October 18, 2013, or no subsequent appeal on this issue may be heard. The fee for Appeals of Administrative Determinations in the amount of \$2,678.41 is due at the time of the filing of an appeal.

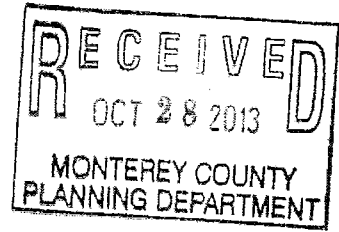
Sincerely,



Mike Novo
Director of RMA-Planning Services
(831) 755-5192

cc: File

EXHIBIT F



NOTICE OF APPEAL

Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)

No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before 10/28/13 (10 days after written notice of the decision has been mailed to the applicant). Date of decision 10/4/13.

1. Please provide the following information:
 - a) Your name ANTHONY LOMBARDO FOR SAM REEVES
 - b) Phone Number 831-751-2330
 - c) Address 450 LINCOLN AVENUE, SUITE 101; SALINAS, CA 93901
 - d) Appellant's name (if different) SAM REEVES

2. Indicate appellant's interest in the decision by checking the appropriate box:
 Applicant
 Neighbor
 Other (please state) _____

3. If you are not the applicant, please give the applicant's name:
N/A

4. What is the file number of the application that is the subject to this appeal? PLN100418
Indicate the file number of the application that is the subject of the appeal and the decision making body (i.e., Zoning Administrator, Director of Planning, Minor Subdivision Committee).
 - a) File Number PLN100418
 - b) Decision Making Body DIRECTOR OF PLANNING

5. What is the nature of the appeal?

a) Is the appellant appealing the approval or the denial of an application? (Check appropriate box)

b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

c) appeal of director's determination

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for the appeal:

There was a lack of fair or impartial hearing; or

The findings or decision or conditions are not supported by the evidence; or

The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Planning Commission will not accept an application for appeal that is stated in generalities, legal or otherwise. If the appellant is appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary).

SEE ATTACHED LETTER

7. As part of the application approval or denial process, findings were made by the decision making body (Director of Planning, Zoning Administrator, or Minor Subdivision Committee). In order to file a valid appeal, you must give specific reasons why the appellant disagrees with the findings made. (Attach extra sheets if necessary).

SEE ATTACHED LETTER

8. Your appeal is accepted when the Secretary of the Planning Commission accepts the appeal as complete on its face, receives the filing fee, and places the appeal for public hearing on the Planning Commission agenda.

APPELLANT SIGNATURE BY ANTHONY LOMBARDO

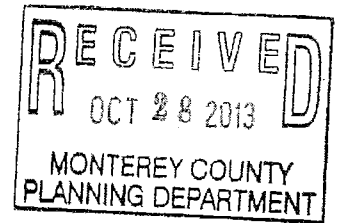
DATE 10/28/2013

ACCEPTED _____
SECRETARY OF THE PLANNING COMMISSION

DATE _____

ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
DEBRA GEMGNANI TIPTON
DONNA L. ROVELLA



450 LINCOLN AVENUE, SUITE 101
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

October 28, 2013

File No. 01599.001

Mr. Jose Mendez
Chair and Members of the Planning Commission
% Mr. Mike Novo
168 W. Alisal Street, Second Floor
Salinas, CA 93901

Re: **Appeal of Director's Determination re: Mehdipour; PLN100418**

Dear Chair Mendez and Members of the Planning Commission:

This constitutes Mr. Sam Reeves' appeal of Mr. Novo's October 4th Director's determination (attached) that Ms. Mehdipour is currently in compliance with the conditions of approval of PLN100418.

The Board of Supervisors on appeal approved a Coastal Development Permit (PLN100418) for a restoration of Ms. Mehdipour's illegal tree removal, excessive tree pruning and disruption of the dune habitat on Signal Hill in the Pebble Beach area. Ms. Mehdipour's clear goal is to demolish the Connell House and build a large new house (PLN100338). That application was held in abeyance pending resolution of PLN100418. In February 2013, the Board of Supervisors approved PLN100418 subject to several conditions. There are two conditions that have not been met and are the subject of this appeal:

- Location of the Southernmost Tree: The Board's conditions required that this tree be no farther south or west than the tree it replaced. During the course of their hearing, the Board was shown a plan with the north arrow parallel to the western walls of the house. The Board based their decision on that plan. Now the Department has agreed to use what we are told is "magnetic north" which is approximately 20 degrees off the north arrow on the Board's plan. Plans showing that polar shift are attached to this appeal.
- Replacement Canopy: The Board's conditions also required that the replacement trees be monitored for five years or until such time as the replacement trees approximated the 2007 canopy and visual screening of the Mehdipour building site from Seventeen Mile Drive. These conditions were discussed and agreed to by Ms. Mehdipour. A photo simulation was shown by Mr. Bridges at the Board of Supervisors hearing that showed the replacement trees replicating that canopy and screening within five years. We are now told in Mr. Novo's determination that "it is unlikely that the replacement trees will ever replicate the screening that was provided by the original trees." This in large part due to the applicant's decision to place the trees as far apart as possible, to allow her to construct a larger home.

Mr. Jose Mendez
Chair, and Members of the Planning Commission
October 28, 2013
Page 2

In both cases, the Board of Supervisors were given assurances by staff and the applicant that the replacement trees would be located as directed by the Board and that the canopy and screening would be replicate that which was illegally removed. Now we are told that it will not. Nonetheless, Mr. Novo determined the conditions are being met.

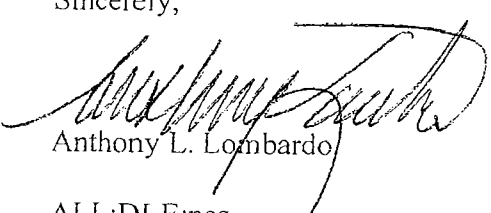
Because of the conditions are not being met there is a continuing violation of the County Code under Section 20.90.050. There is also a violation under Section 20.90.130 in that the restoration required by the Code and Board is not and apparently cannot be completed as proposed. Nonetheless, the staff has determined the application for the new house (PLN100338) to be complete and has started preparation of an initial study.

As a result of the applicant's misrepresentation to the Board, the conditions are not and apparently cannot be met based on the tree location approved by staff. Therefore, restoration required by the Code and Board has not and cannot be accomplished and the violation still exists on the site. We ask that the Commission:

- Find that the conditions of PLN100318 have not been met and direct Mehdipour to do the restoration she committed to do and achieve the canopy and screening required by the Board; or
- Set a public hearing pursuant to Section 20.70.060 to consider revocation or modification of PLN100418.

We also ask that the Planning Commission find that the property has not been restored and direct that all work on PLN100318 be suspended until such time as the restoration occurs.

Sincerely,



Anthony L. Lombardo

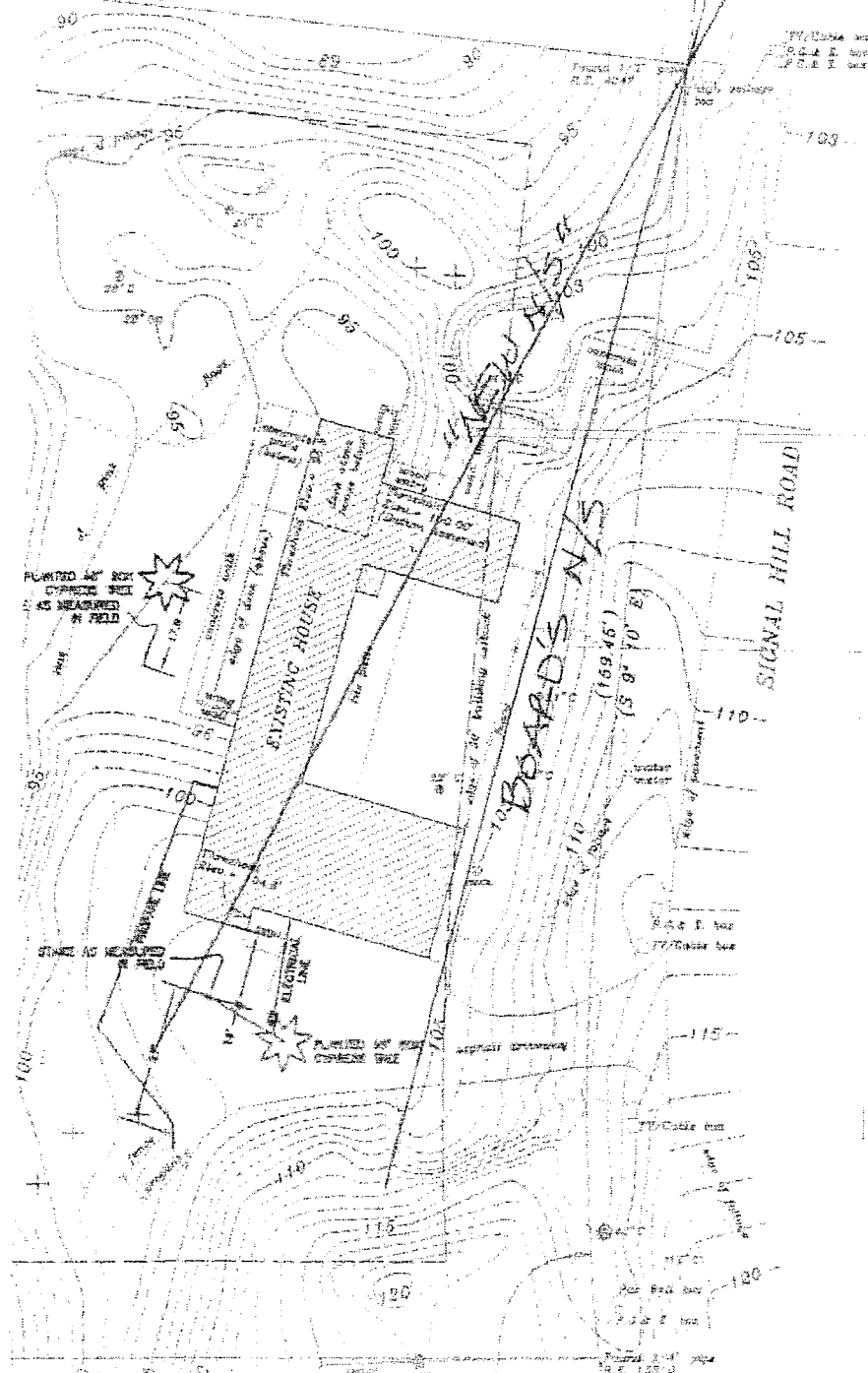
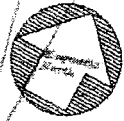
ALL:DLE:ncs

Enclosures

cc: Mr. Sam Reeves

LOT 38

(272.85')



(R = 530)
 (L = 108.54)
 (C = 117.64 3.4)

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Benny J. Young, Director
Carl P. Holm, AICP, Deputy Director

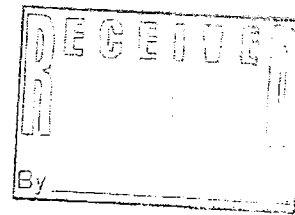
Michael A. Rodriguez, C.B.O., Chief Building Official
Michael Novo, AICP, Director of Planning
Robert K. Murdoch, P.E., Director of Public Works



168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
<http://www.co.monterey.ca.us/rma>

October 4, 2013

Dale Ellis
Anthony Lombardo & Associates
450 Lincoln Avenue, Suite 101
Salinas, CA 93901



SUBJECT: Request for Director's Decision (PLN100418)

Dear Mr. Ellis:

This letter is in response to your request for a Director's determination pursuant to Monterey County Code Chapter 20.88 regarding specific questions related to the Signal Hill LLC discretionary application (File No. PLN100418). This application consisted of an "After-the-fact permit to clear a code violation (CE090288); the permit consisting of a Coastal Development Permit and Restoration Plan per Section 20.90.130 of the Monterey County Coastal Implementation Plan Part 1 (Title 20 Zoning Ordinance) for the removal of two landmark Monterey cypress trees, significant pruning of three Monterey cypress trees and sand dune degradation in an environmentally sensitive habitat area." As noted in your letter, the project was approved by the Board of Supervisors on February 5, 2013, subject to six conditions of approval. Responses to your questions are as follows:

Question 1: *"Were replacement trees planted within 60 days of the Board's approval of PLN100418?"*

Response: Yes, replacement trees were planted within 60 days of the Board's approval of PLN100418; however, because one of the trees was originally planted further south than the original tree, that tree was later moved to a new location after the 60 day deadline. The County received an inspection report dated April 1, 2013 from Arborist Maureen Hamb documenting that replacement trees were installed on the site on March 21, 2013, well in advance of the April 6, 2013 deadline. It was noted in the report and verified by staff that the replacement for the tree labeled as Tree C1 was planted further south than the original tree and that the location did not comply with the requirements of the condition. The County then required that the C1 replacement tree be moved to a new location no further south than the original tree in order to comply with the condition. The applicant attempted to re-locate the tree on April 30, 2013 but during excavation for the tree, buried electrical conduit was damaged and the re-location effort stopped for safety reasons. On May 22, 2013, the County received an "as-planted" plan prepared by Hamb that documents that Tree C1 was replanted 17 feet directly east of the field located stump of the original tree.

Question 2: *"The southernmost replacement tree is farther south than the tree it replaced. How does that comply with the Board's decision?"*

Response: The applicant has submitted documentation from the project arborist that the southernmost replacement tree is 17 feet directly east of the location of the tree that it replaced. This complies with the language of the condition.

Question 3: *"The Board required the replacement trees be monitored for five years or until the tree canopy approximates the 2007 tree canopy destroyed by the illegal tree removal whichever is longer. How can the condition be considered satisfied until that monitoring period is complete?"*

Response: Condition 4 is currently in "Partially Met" status. The condition will not be considered fully satisfied until all elements of the condition, including monitoring, are completed.

Question 4: *"Have the monitoring reports on the health of the replacement trees and dune restoration been submitted on a quarterly basis? Have those quarterly reports been submitted in a timely manner?"*

Response: Quarterly monitoring reports have been submitted in a timely manner to date. The first quarterly report on the status of the health of the replacement trees was due 4 months after the planting of the replacement trees. Since the second tree was not planted in its final location until May 15, 2013, the first report was due on September 15, 2013. The first quarterly report on the status of the health of the replacement trees was submitted by Maureen Hamb on September 11, 2013, and was in compliance with the condition. This report included monthly monitoring reports dated May – August. The first quarterly report on the status of dune restoration was due 4 months after the initial phase of restoration was completed. The initial phase of exotic species removal was completed on May 8, 2013. The first quarterly report on the status of the dune restoration was due on September 8, 2013 and was submitted on August 14, 2013, in compliance with the condition.

Question 5: *"How was it determined that the canopy of the replacement trees in their current location will approximate the 2007 canopy and screening from Seventeen Mile Drive?"*

Response: The condition, as approved by the Board of Supervisors, requires that the replacement trees be Monterey cypress, minimum 48-inch box size, and that they be located "as near as feasible to the location of the trunks of the trees that were removed, as determined by the project arborist, but in no case may the trees be more than 20 feet from the location of the trees that were removed and no farther south or west than the location of the southernmost tree." Monitoring of the trees is to continue for five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer. The original trees grew from small trees and adapted to the windy site by growing wide and low. The replacement trees, which are large, nursery-grown specimens, have a more columnar shape and may never grow to have the same shape as the removed trees, so the applicant submitted a calculation of the volume of the canopy of the removed trees. These calculations were based on aerial images of the trees from 2007 as well as images from the California Coastal Project. The volume of original Tree C1 was estimated to be 28,882 cubic feet and the volume of C2 was estimated to be 32,061 cubic feet. Monitoring of the replacement trees will be required until the volume of the replacement tree canopies is equal to the volume of the original tree canopies.

It is unlikely that the replacement trees will ever replicate the screening that was provided by the original trees, particularly the southernmost tree (C1). There was a relatively small area in which Tree C1 could be planted and still be in compliance with the condition due to the original tree's

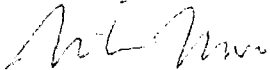
close proximity to the existing residence on the north and the prohibition from planting further south or west. The condition approved by the Planning Commission would have allowed the replacement tree to be located to the west of the original tree where it could have provided screening from Seventeen Mile Drive. However language that was submitted by the appellant's attorney and approved by the Board of Supervisors prohibited the trees from being planted further west of the original tree locations, resulting in Tree C1 being planted 17 feet east of the original tree, where it will frame the house rather than screen it. Tree C2 is located between the house and Seventeen Mile Drive and will provide screening.

Question 6: *"Does the Planning Department consider the conditions of PLN100418 to be fully met?"*

Response: No, the conditions will not be fully met until all of the success criteria have been met and all required monitoring completed. However, the property owner is currently in compliance with the conditions of approval.

Should you wish to appeal this decision, the appeal must be filed with the Secretary to the Planning Commission no later than 5:00 pm on October 18, 2013, or no subsequent appeal on this issue may be heard. The fee for Appeals of Administrative Determinations in the amount of \$2,678.41 is due at the time of the filing of an appeal.

Sincerely,



Mike Novo
Director of RMA-Planning Services
(831) 755-5192

cc: File

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

RESOLUTION NO. 13-021

In the matter of the application of:

SIGNAL HILL LLC (PLN100418)

Resolution by the Monterey County Board of Supervisors:)
a. Granting the appeal by Sam Reeves from a decision of)
the Monterey County Planning Commission approving an)
after-the-fact permit to clear a code violation (CE090288).)
The permit consists of a Coastal Development Permit and)
Restoration Plan for the removal of two landmark)
Monterey cypress trees, significant pruning of three)
Monterey cypress trees and sand dune degradation in an)
environmentally sensitive habitat area;)
b. Finding the project Categoricaly Exempt from CEQA)
per CEQA Guidelines Section 15307; and)
c. Approving an after-the fact permit to clear a code)
violation (CE090288). The permit consists of a Coastal)
Development Permit and Restoration Plan per Section)
20.90.130 of the Monterey County Coastal)
Implementation Plan Part 1 (Title 20 Zoning Ordinance))
for the removal of two landmark Monterey cypress trees,)
significant pruning of three Monterey cypress trees and)
sand dune degradation in an environmentally sensitive)
habitat area.)
[PLN100418, Signal Hill LLC, 1170 Signal Hill Road,)
Pebble Beach, Del Monte Forest Area Land Use Plan)
(APN: 008-261-007-000)].....)

The Appeal by Sam Reeves from the Planning Commission’s August 29, 2012 approval of the Signal Hill LLC application (PLN100418) came on for public hearing before the Monterey County Board of Supervisors on December 4, 2012, January 15, 2013 and February 5, 2013. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. **FINDING:** **CODE VIOLATION BACKGROUND** – The proposed Coastal Development Permit and Restoration Plan (PLN100418) (“Project”) are to correct Code Violation (CE090288) for the removal of two landmark Monterey cypress trees, significant pruning of three Monterey cypress trees and sand dune degradation.
EVIDENCE: a) The property is located at 1170 Signal Hill Road, Pebble Beach

(Assessor's Parcel Number 008-261-007-000), Del Monte Forest Area Land Use Plan. A violation was reported to the County and Code Enforcement File No. CE090288 was opened on August 8, 2009. The violation was the removal of two large Monterey cypress trees without obtaining the required Coastal Development Permit. One of the trees removed was 41-inches in diameter and was located to the west of the existing driveway (Tree C1). The second tree was approximately 30-inches in diameter and was located west of the existing residence (Tree C2).

- b) On August 17, 2009, the property owner submitted a retroactive request for a waiver of Coastal Development Permit for the removal of one 41-inch Monterey cypress tree and one 12-inch Monterey pine tree, both described as "dead and hazardous". The request was accompanied by an arborist report (LIB120212) prepared July 16, 2009 by Forest City Consulting to document findings regarding the removal of trees on the site. The report includes a copy of a Notice of Defensible Space Inspection to the owner from Cal Fire dated May 8, 2008, in which the owner is instructed to: 1) trim Monterey pines and cypress trees of dead branches 6 feet to 10 feet above ground; 2) remove dead cypress tree at corner of garage; 3) remove dead Monterey pine in courtyard; and 4) remove dead branches overhanging house. The report includes a photograph of the stump of Tree C1 and incorrectly identifies a stump on the east side of the house as being the second Monterey cypress tree (C2) that was illegally removed. This arborist did not locate the stump of tree No. 2. Staff determined through review of aerial photographs and personal communication with the Fire Captain that the dead trees required to be removed by Cal Fire were located on the east side of the residence and were not the trees identified in the code enforcement case. The request for waiver was not granted, as there was insufficient documentation submitted to prove that the trees removed represented an imminent hazard to life or property at the time they were removed and the property owner was advised by staff that restoration using Monterey cypress trees of local genetic stock would be required.
- c) On March 16, 2010, the Building Services Department issued a Compliance Order requiring that the property owner apply for and gain approval of permits to restore the site to its pre-violation state for the removal of two protected Monterey cypress trees without first obtaining a Coastal Development Permit.
- d) On November 8, 2010, the property owner submitted a Tree Resource Evaluation/Construction/Impact Analysis prepared by Certified Arborist Maureen Hamb on October 30, 2010 (LIB100394). This report evaluated eight trees on the site (7 Monterey cypresses and 1 Eucalyptus) and documented the location of the two Monterey cypress trees that had previously been removed. Five replacement Monterey cypress trees had been planted in the same location as the removed trees. The trees were "plugs" or very small trees generated from seed stock that originated at Crocker Grove and were reported to be the only available trees generated from local stock.
- e) On September 15, 2011, the Building Services Department issued a

Compliance Order and Notice of Intent to Record Notice of Violation No. 2 requiring that the property owner apply for and obtain approval of a Coastal Development Permit for development within 100 feet of mapped or field identified environmentally sensitive habitats; specifically, significant pruning of three Monterey cypress trees and sand dune degradation.

- f) On September 19, 2011, the property owner submitted a letter report by Certified Arborist Maureen Hamb documenting that the replacement trees were in declining health (see **Attachment K** of the February 5, 2013 Board Report). Hamb found decayed woody and fibrous roots in the area of the replacement plantings, that the roots of the seedlings were discolored and dieback was visible at the root ends. In an effort to keep the seedlings healthy, they were relocated to an area away from the original location of the removed trees where the fungus related to root decay could not affect tree establishment.
- g) On September 30, 2011, the property owner submitted a report dated September 28, 2011 by biologist Michael Zander (LIB110232) containing his evaluation of the area of disturbed slope. Zander reported that the disturbed dune area covers approximately 2,500 square feet, creating a terrace on the dune slope to the southwest of the house. The surrounding slope is dominated by the aggressive, non-native European beach grass, which at the time of the report was also rapidly colonizing the disturbed area. Zander states that beach grass probably was the dominant vegetation in the subject area prior to disturbance and that left alone, beach grass will likely become reestablished, creating 100% cover.
- h) On December 15, 2011, the RMA-Planning Department issued a letter to the property owner advising that Chapter 20.90 requires restoration to the pre-violation state and that the restoration plans submitted as of that date did not conform to the definition of restoration, as the result would not be restoration to the pre-violation state. The property owner was advised that if the site is not restored to the pre-violation state, a Coastal Development Permit is required.
- i) In December of 2011, the property owner submitted a second letter report dated December 22, 2011 by Hamb documenting the status of a cluster of three Monterey cypress trees that had been recently pruned (see Draft Restoration Plan attached as **Exhibit 1** to this resolution). In previous inspections of the trees, Hamb had described the trees as "healthy, well-structured examples of the species." The October 2010 report (LIB100394) also describes the cluster as "remnants of the native cypress forest". Hamb found that the pruning included the removal of large diameter lower branching and that the pruning cuts were not within standard arboricultural standards. Hamb states "trees that have been excessively pruned may not express decline for a number of years" and recommended a 5-year monitoring program, with criteria for replacement if the trees fail.
- j) In March of 2012, the property owner submitted a third letter report by Hamb dated March 13, 2012 in which the feasibility of soil reclamation or remediation in the location of the removed trees was evaluated. Hamb reports that the extent of the fungal growth cannot be determined but that

the root zone of the 41-inch tree could extend as much as 40 feet from the base. She states that removal and replacement of soil in the area cannot be considered as a solution to the presence of soil borne fungus as the fungus has the ability to spread and can remain dormant in the soil until circumstances are appropriate for germination. Removal and replacement of soil at least 40 feet from the stump to a depth of at least 5 feet would be necessary, with no guarantee of success. At that time it was recommended that the small sized replacement trees should be planted outside the area of influence of the fungus to ensure success. Hamb's reports and tree replacement plan were peer reviewed by two separate Certified Arborists: Stephen Staub on May 17, 2012 and Frank Ono on July 30, 2012. Ono concurred that "soil reclamation is not a viable option for this property" and Staub states: "We agree that a major soil reclamation project of the primary rooting around the stumps of the removed trees C1 and C2 is not warranted."

- k) On May 11, 2012, agent Maureen Wruck submitted an application for a Coastal Development Permit and Restoration Plan with associated assessments to the County for consideration in order to clear the existing violation. That Restoration Plan included the planting of 10 replacement trees of local genetic stock, monitoring of the pruned trees for 5 years with provisions for replacement should any of the trees fail and allowing the 2,500 square foot disturbed dune area to naturally re-vegetate with European beach grass.
- l) On July 11, 2012, the Coastal Development Permit and May 2012 Restoration Plan were heard at a public hearing by the Planning Commission and the Planning Commission directed that a revised restoration plan be prepared that would address the disturbances to scenic and visual resources and to environmental resources that exist on the site and that would restore the site to the pre-violation state to the extent feasible.
- m) On August 3, 2012, the applicant submitted a revised Remnant Dune Restoration Plan and on August 24, 2012 the applicant submitted further refinements to The Plan (see Draft Restoration Plan attached as **Exhibit 1** to this resolution). The Restoration Plan with associated impact assessments recommended:
- Planting of three replacement Monterey cypress trees of minimum 36-inch box size.
 - Monitoring of the health of the three pruned Monterey cypress trees for a minimum of 5 years, with provisions for replacement trees to be planted should any of the pruned trees fail or decline to the point where either 50% or more of the remaining live foliage is affected or if pruning wounds decay and invade the main stems to a point where 50% of the stem diameter is affected. Tree replacement will be in the form of native Monterey cypress from Pebble Beach Company stock at a 3-to-1 ratio.
 - Implementation of a Remnant Dune Restoration Plan for 1.63 acres of the 2.17-acre site. The proposed Restoration Plan includes: 1) eradication of non-native vegetation on the site; 2) planting of appropriate native dune species; 3) erosion control and sand

stabilization; 4) success criteria; and 5) recommends quarterly monitoring for a 3-year period.

- n) Field reviews were conducted by staff on-site on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012.
- o) On August 29, 2012 by Resolution No. 12-033, the Planning Commission determined that restoration of the property to its pre-violation state is not feasible and approved the after-the-fact Coastal Development Permit and Dune Restoration Plan dated August 2012 subject to the following additional requirements:
 - Quarterly monitoring of the dune restoration by the Project Biologist for an initial 3-year period as outlined in The Plan and annual monitoring for an additional 2 years is required. If the success criteria are not met by the end of the 5-year monitoring period, additional measures to ensure success developed by the Project Biologist shall be implemented by the owner/applicant and monitoring shall continue until the success criteria are met.
 - Success criteria for the eradication of non-native species within the 2,500 square foot disturbed area shall be 90 percent eradication of non-natives by the end of the 5-year monitoring period.
 - Success criteria for the planting of native species shall be 50 percent cover of natives throughout the restoration area by the end of the 5-year monitoring period.
 - The Restoration Plan shall be bonded.

The Planning Commission found that the restoration of the site to its pre-violation state is infeasible due to circumstances beyond the control of the applicant.

2. **FINDING:** **PROCESS** – The County’s processing of the subject Coastal Development Permit and Restoration Plan (PLN100418) complies with all applicable procedural requirements.

- EVIDENCE:**
- a) On May 11, 2012 the applicant filed an application for after-the-fact permit to clear a code violation (CE090288). The permit consists of a Coastal Development Permit and Restoration Plan for the removal of two landmark Monterey cypress trees, significant pruning of three Monterey cypress trees and sand dune degradation in an environmentally sensitive habitat area.
 - b) The project was approved by the Planning Commission by Resolution No. 12-033 on August 29, 2012.
 - c) On September 17, 2011, Sam Reeves (“Appellant”) filed a timely appeal of the Planning Commission’s approval of the Coastal Development Permit and Restoration Plan for the removal of two landmark Monterey cypress trees, significant pruning of three Monterey cypress trees and sand dune degradation in an environmentally sensitive habitat area. The appeal is brought on the basis that the decision is not supported by the evidence and is contrary to law. The Notice of Appeal is attached as **Attachment D** to the February 5, 2013 Board Report.
 - d) At the Appellant’s request, with concurrence from the Applicant, the public hearing on the appeal was scheduled for December 4, 2012.
 - e) Public notices for the appeal hearing were published in *The Herald*,

mailed to neighbors within 300 feet, and posted in three different public places pursuant to Monterey County Code Chapter 20.84.

- f) On December 4, 2012, the appeal and project were heard at a public hearing by the Board of Supervisors. The Board adopted a motion of intent to grant the appeal and approve the project and restoration plan subject to modifications to one condition of approval. The Board continued the hearing on the project to January 15, 2013, with instructions to staff to return with the revised condition and revised findings and evidence in support of the motion.
- g) On December 12, 2012, the applicant's attorney submitted a letter informing the County that the applicant was withdrawing her offer to restore 1.63 acres of dune habitat and reiterating the contention that the removal of vegetation from the dune area did not require a permit because it was not development as defined in Section 20.06.310.8 of the County Code.
- h) On January 15, 2013, the Board granted staff's request for a continuance of the hearing on the project to February 5, 2013 to allow time for staff to evaluate the new information and prepare a staff report.
- i) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100418; materials on file in the Clerk of the Board of Supervisors.

3. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies, which designate this area as appropriate for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- The 1982 Monterey County General Plan;
- Del Monte Forest Area Land Use Plan (LUP);
- Monterey County Coastal Implementation Plan Part 5 (CIP);
- Monterey County Zoning Ordinance (Title 20);

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 1170 Signal Hill Road, Pebble Beach (Assessor's Parcel Number 008-261-007-000), Del Monte Forest Area Land Use Plan. The parcel is zoned LDR/1-D (CZ) [Low Density Residential, 1 acre per unit with Design Control overlay (Coastal Zone)].
- c) The project is located in an area with a Design Control overlay. As no structures or fences are proposed as part of the project, no Design Approval is required.
- d) The project planner conducted site inspections on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012 to verify that the project on the subject parcel conforms to the plans listed above.
- e) The project site is located on a remnant native coastal sand dune, which is identified in the LUP and in the CIP (Section 20.147.020.E) as environmentally sensitive habitat area (ESHA). Pursuant to Section

20.14.030.E, a Coastal Development Permit is required for development within 100 feet of mapped or field identified ESHA. Development occurred as follows:

- 1) Two landmark size Monterey cypress trees (major vegetation) were removed;
 - 2) Vegetation was removed to bare soil from an area of approximately 2,500 square feet on the dune slope to the southwest of the house. This constitutes development as defined in Section 20.06.310.8 which includes *"removal or harvesting of major vegetation including land clearing pursuant to Chapter 16.12 and removal of natural vegetation specified in the applicable ordinances as requiring a coastal development permit."* Pursuant to Monterey County Code Section 16.12.030.13, *"Land clearing means the removal of vegetation down to duff or bare soil, by any method"*; and
 - 3) Three Monterey cypress trees were excessively pruned, which may be injurious to the health of the trees. LUP Policy 35 allows "Trimming of trees, where not injurious to the health of the tree(s) ... including to reduce safety and fire hazards." In this case, the project arborist found that the amount of branch/foilage removal and the quality of the pruning cuts were not within standard arboricultural standards. If the health of the trees was injured or if any of the trees should die as a result of the pruning, a violation has occurred. The arborist has stated "that trees that have been excessively pruned may not express decline for a number of years" and recommended a 5-year monitoring program, with criteria for replacement should the trees fail;
Therefore a Coastal Development Permit is required.
- f) Pursuant to CIP Section 20.147.050.A.1 a Coastal Development Permit is required for the removal of trees that are landmark trees, located in an environmentally sensitive area or located in or within a public viewshed where removal would lead to degradation of the public view. This project includes the removal of two landmark Monterey cypress trees (approximately 41-inches and 30-inches in diameter) that were located within ESHA and served to screen views of the existing residence from 17-Mile Drive. Therefore a Coastal Development Permit is required.
- g) On May 11, 2012 the property owner submitted an application for a Coastal Development Permit and a Restoration Plan with associated tree and biological impact assessments to the County for consideration in order to clear the existing violation. At the direction of the Planning Commission, on August 3, 2012, the property owner submitted a revised Tree Planting Plan and on August 24, 2012 the property owner submitted a revised Draft Remnant Dune Restoration Plan (attached as **Exhibit 1** to this resolution).
- h) The Board of Supervisors has determined that in this case, restoration of the site is feasible and restoration is necessary to correct the violation.
- i) The project is consistent with LUP Policy No. 14, which requires land disturbance adjacent to ESHA to be restricted to the minimum amount necessary to accommodate reasonable development. The requirement to plant 48" box size trees minimizes impacts to ESHA as compared to appellant's request that the applicant replace the trees with trees of

similar size as the removed trees.

- j) The project will result in the removal of non-native plant species and the replanting with native and non-invasive species within the 2,500 square foot area of disturbed dune habitat, consistent with CIP Section 20.147.040.C.2.e.
- k) The project was not referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because the project does not require CEQA review and does not involve a Lot Line Adjustment, Variance or Design Approval. Although this project was not referred to the LUAC, the applicant's proposed new house (PLN110338) was referred to the LUAC, and the minutes of the November 17, 2011 LUAC meeting on that application includes comments regarding the tree removal and are therefore attached as **Attachment F** of the February 5, 2013 Board Report.
- l) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100418.

4. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed. A result of this action will be restoration of the property. With approval of the Coastal Development Permit and Restoration Plan, the subject property will be considered in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the Monterey County Zoning Ordinance Title 20.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Pebble Beach Community Services District (Fire Protection District) and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) Staff identified potential impacts to Biological Resources, Trees and Soil/Slope Stability. The following reports have been prepared:
 - "Geotechnical Investigation" (LIB100395) prepared by Cleary Consultants, Inc., Los Altos, CA, dated March 2010, "Geological Analysis of Site Erodability" dated June 22, 2011 and Letter Report "Drilling of Soil Borings for Geotechnical Investigation" dated November 23, 2011;
 - Letter Reports by Biologist re: slope disturbance by Michael Zander, San Rafael, CA dated September 28, 2011 and December 21, 2012;
 - "Biological Resource Assessment" and "Supplemental Biological Resource Assessment" (LIB100396) prepared by Michael Zander, San Rafael, CA dated June 8, 2010 and June 23, 2011;
 - Letter Report by Arborist re: findings on a removed cypress tree (LIB120212) prepared by Matt Horowitz, Carmel, CA, dated July

- 16, 2009;
- "Tree Resource Evaluation and Construction Impact Analysis: (LIB100394) prepared by Maureen Hamb, Santa Cruz, CA dated October 30, 2010;
- "Tree Resource Evaluation and Construction Impact Analysis: (LIB110231) prepared by Maureen Hamb, Santa Cruz, CA dated June 27, 2011;
- "Peer Review of Arborist Reports and Tree Replacement Plan for 1170 Signal Hill Road" prepared by Steven Staub, Felton, CA dated May 17, 2012;
- Letter Reports by Arborist prepared by Maureen Hamb, Santa Cruz, CA dated March 13, 2012, December 22, 2011, October 19, 2011 September 19, 2011 and March 25, 2011;
- Letter Report by Biologist re: tree replacement prepared by Michael Zander, San Rafael, CA dated May 7, 2012

The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.

- c) Staff conducted site inspections on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100418.

5. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning Department, Pebble Beach Community Services District (Fire Protection District) and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are available. The existing single-family residence is served water by California American Water Company and sewer service by Pebble Beach Community Services District. The existing connections will remain in place and the project will result in no change to water, sewer or any other public services.
 - c) The project involves an after-the-fact Coastal Development Permit for the removal of trees and a restoration plan on an existing residential parcel that contains an existing single-family residence. No

modifications to the existing residence are proposed or authorized by this project.

- d) Staff conducted site inspections on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012 to verify that the site is suitable for this use.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100418.

6. **FINDING:** **NO VIOLATIONS** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses and other applicable provisions of the County's zoning ordinance. Violations exist on the property. Full restoration of the site is feasible. The approval of the Coastal Development Permit and Restoration Plan will correct the violations and bring the property into compliance. Zoning violation abatement costs, if any, will be paid as a condition of approval within 30 days of this action.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is aware of violations existing on subject property.
 - b) Staff conducted site inspections on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012 and researched County records to assess if any additional violations exist on the subject property.
 - c) Violations that exist on the subject property are:
 - 1) Removal of two landmark Monterey cypress trees without the required Coastal Development Permit (20.147.050.A.1);
 - 2) Dune degradation and land clearing in an environmentally sensitive habitat area without the required Coastal Development Permit (20.14.030.E); and
 - 3) Significant pruning of three Monterey cypress trees which may be injurious to their health (20.147.050.A.1 and LUP Policy 35).
 See also Finding 3, Evidence (e) and (f).
 - d) The definition of Development found in Section 20.06.310.8 includes *"removal or harvesting of major vegetation including land clearing pursuant to Chapter 16.12 and removal of natural vegetation specified in the applicable ordinances as requiring a coastal development permit."* Pursuant to Monterey County Code Chapter 16.12.030.13 *"Land clearing means the removal of vegetation down to duff or bare soil, by any method."* In this case there is evidence in the record that vegetation in an area of approximately 2,500 square feet was removed down to bare soil on the dune below the residence. A Preliminary Biological Reconnaissance of the site conducted on behalf of Samuel T. Reeves by Zander Associates (from the adjacent property) dated October 22, 2009 makes reference to "some evidence of sand excavation and movement in the vicinity of flagged survey stakes on a lower terrace." Bare sand and the survey stakes are visible in Photo 2 of that report. Zander prepared subsequent biological reports on behalf of the applicant on June 8, 2010,

September 28, 2011 and December 21, 2011 and a Restoration Plan in June of 2011. The June 8, 2010 report states: "The mapped open sand habitat just downslope and westerly of the existing house occurs as a small terrace on deep, loose sands that appears to have been created through sand excavation or movement relatively recently." Photographs 3 and 4 in that report show the open sand areas that are identified as "recent open sandy terrace." The September 28, 2011 and December 21, 2011 reports quantify the disturbed area as approximately 2,500 square feet and illustrate the disturbance with aerial photographs from 2000 and 2009. Staff also conducted site visits to confirm the existence of the cleared area and reviewed historical aerial photographs available through the County Geographic Information System to verify that at some point between 2007 and 2009, vegetation in the subject area had disappeared along with the Monterey cypress trees. Staff concludes that the removal of the vegetation down to bare soil in this area constitutes land clearing as defined in MCC Section 16.12.030.13 and is thus considered to be development as defined in Section 20.06.310.8. The site is located within remnant native dune habitat that is known to be rare and is specifically protected by LUP ESHA policies. Development within 100 feet of mapped or field identified environmentally sensitive habitat (ESHA) is listed in Section 20.14.030 as Non-Exempt Development requiring a Coastal Development Permit regardless of which category of allowed uses it falls into. Therefore, a Coastal Development was required for the vegetation removal.

- e) Monterey County Code Section 20.90.130 requires that "alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or the property owner." In this case, full restoration is feasible as described herein.

The planting of at least two 48-inch box size replacement trees within 20 feet of the locations of the removed trees and no farther south or west than the southernmost removed tree, will ensure that the replacement trees provide similar screening of the development from 17-Mile Drive while causing the least possible impacts to ESHA.

Restoration of the approximately 2,500 square feet of dune habitat that was disturbed is feasible.

The large limbs removed from 3 Monterey cypresses cannot be restored; however pursuant to LUP Policy 35, unless the trimming is found to be injurious to the health of the tree(s) the trimming is not a violation, but it will take several years for any injury to become apparent. Therefore, monitoring with provisions for replacements should the trees fail is required.

- f) The proposed project corrects an existing violation (CE090288). When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations. The violation consists of the removal of two landmark size Monterey cypress trees, excessive pruning of three Monterey cypress trees that may be injurious to their health and

disturbance of environmentally sensitive habitat (native remnant sand dune).

A Draft Restoration Plan (PLN100418) has been reviewed and approved in concept by the Board of Supervisors. The restoration plan includes the following requirements:

The applicant/owner shall adhere to all of the requirements of the Draft Restoration Plan attached as Exhibit 1 and as conditioned by this permit. The Restoration Plan requires:

1. Planting of two replacement trees and implementation of a five-year monitoring program in order to restore the visual screening of the home from 17-Mile Drive and other public viewing areas. The replacement trees shall be Monterey cypress, minimum 48-inch box size. Two trees shall be located to the west and southwest of the existing residence, as near as feasible to the location of the trunks of the trees that were removed, as determined by the project arborist, but in no case may the trees be more than 20 feet from the location of the trees that were removed and no farther south or west than the location of the southernmost removed tree. A third tree may be planted to the southwest of the existing residence as shown on the Tree Replacement Plan to provide additional screening at the applicant's discretion. Quarterly monitoring of the replacement trees by a Certified Arborist for 3 years and annual monitoring thereafter is required. The monitoring program shall remain in place for five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer. The trees may only be removed with the approval of a Coastal Development Permit. If any replacement trees fail to survive, they shall be replaced and a new monitoring program is required.
2. Quarterly monitoring of the health of the 3 pruned Monterey cypress trees by a qualified arborist for a minimum of 3 years and annual monitoring for an additional 2 years is required, with provisions for replacement trees to be planted should any of the pruned trees fail or decline to the point where either 50% or more of the remaining live foliage is affected or if pruning wounds decay and invade the main stems to a point where 50% of the stem diameter is affected. The replacement trees shall be Monterey cypress, 36-inch box size or larger. The monitoring program for the replacement trees shall remain in place for five years. The trees may only be removed with the approval of a Coastal Development Permit. If any of the replacement trees fails to survive it shall be replaced and a new five-year monitoring program is required.
3. Implementation of a Dune Restoration Plan for the approximately 2,500 square feet of disturbed area as identified by the project biologist (The Plan) is required. Within 30 days of the approval of this permit, the owner shall submit a restoration plan to the RMA-Planning Department for review and approval which shall be

modeled after the "Remnant Dune Restoration Plan" dated August 2012 and shall also include:

- Success criteria for the eradication of non-native species within the 2,500 square foot disturbed area shall be 100 percent eradication of non-natives within the area by the end of the 5-year monitoring period.
- Success criteria for the planting of native species shall be 50 percent cover of natives throughout the restoration area by the end of the 5-year monitoring period.
- Quarterly monitoring of the dune restoration by the Project Biologist for an initial 3-year period and annual monitoring for an additional 2 years is required. If the success criteria are not met by the end of the 5-year monitoring period, additional measures to ensure success developed by the Project Biologist shall be implemented by the owner/applicant and monitoring shall continue until the success criteria are met.
- The Restoration Plan shall be bonded.

Implementation of said Plan brings the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations.

- g) A condition is included to assure that all zoning abatement costs, if any, have been paid.
- h) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100418.

7. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15307 categorically exempts actions by regulatory agencies for protection of natural resources. The County authorizes, by local ordinances, the Director of Planning discretion over requiring restoration of property to a pre-violation state when necessary to correct a violation.
 - b) The project involves a restoration project to correct a violation (CE090288) which consists of the un-permitted removal of two Monterey cypress trees, un-permitted excessive trimming of three Monterey cypress trees that may be injurious to the trees and the un-permitted disturbance of an area of environmentally sensitive dune habitat.
 - c) Restoration of the site, as proposed by this application, is protective of the environment in that the dune area that was disturbed will be restored to native dune habitat, the planting of replacement trees will result in screening qualities of the original trees with the least possible disturbance to ESHA and monitoring of the pruned trees with provisions for replacement should they fail will cause no environmental impact.
 - d) No adverse environmental effects were identified during staff review of the development application during site visits on July 28, 2010, October

- 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012.
- e) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Although the project site is located in an environmentally sensitive habitat area, the planting of 48-inch box size replacement trees in the previously developed areas of the property and monitoring of the health of the excessively pruned trees will not cause an adverse environmental impact. The restoration of 2,500 square feet of degraded dunes to native dune habitat will not cause an adverse environmental impact.
 - f) Staff conducted site inspections on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012 to verify that the site is suitable for this use.
 - g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100418.

8. **FINDING:**

APPEAL - The Appellant contends that the Planning Commission's findings or decision were not supported by the evidence and that the decision is contrary to law. Upon consideration of the documentary information in the files, the staff reports, the oral and written testimony, and all other evidence presented before the Board of Supervisors, the Board responds, as follows, to the Appellant's contentions:

EVIDENCE:

Appellant's Contention No. 1: Finding 1, which states that restoration of the site to its pre-violation state is not feasible due to circumstances beyond the control of the owner, is not supported by the evidence because:

1. *There is no independent third party evidence to support those claims. All of the "evidence" upon which the Commission relied was supplied by the applicant's consultants;*
2. *There is no evidence of the cost of doing the restoration that is required by ordinance. Without such an estimate, an independent judgment of the economic feasibility of restoration could not have been made.*
3. *There is no independent evidence of the actual existence of a soil pathogen nor a discussion of the process or cost to remediate that fungus if it actually exists.*
4. *The Planning Commission did receive substantial evidence from recognized experts, Environmental Design, in transplanting major trees, including mature Monterey cypress in the Pebble Beach area, that restoration is completely feasible.*

Response to No. 1:

1. Professionals that are on the County's list of approved consultants prepared all of the reports and plans provided by the applicant. Staff reviewed all of the reports and concurred with the conclusions. Although there is no requirement in the Monterey County Code for an applicant to provide independent third party review of reports prepared and submitted in compliance with the applicable

regulations, in addition to the primary arborist reports prepared by Certified Arborist Maureen Hamb, the applicant submitted peer reviews by two other Certified Arborists: Stephen Staub and Frank Ono, both of whom concurred with the findings of Hamb.

2. There is no requirement in the County Code for the applicant to provide a cost estimate for doing restoration. No finding was made regarding the economic feasibility of restoration.
3. At the December 4, 2012 public hearing, the Board received and supported revised language for Condition No. 4, Part 1 that requires 48-inch box size replacement trees to be planted as near as feasible to the location of the trunks of the trees that were removed, no farther than 20 feet from the locations of the trees that were removed and no farther south or west than the location of the southernmost removed tree. This will cause the trees to be planted within the area identified by the applicant's consultants as likely to be affected by a fungus. Evidence in the record indicates that with proper care and monitoring, there is no reason to believe that replacement trees would not survive in that location (December 19, 2012 letter by David Cox, attached to February 5, 2013 staff report as **Attachment J**). The requirement for monitoring of the replacement trees for 5 years or until the tree canopy of the replacement trees approximates the 2007 canopy, whichever is longer, will ensure that the applicant will take all necessary measures to mitigate any soil pathogens that might harm the replacement trees.
4. On August 29, 2012 Anthony Lombardo, Attorney for the appellant, submitted letters from David Cox of Environmental Design, Inc. (**Attachment I** of the February 5, 2013 Board Report) in which Mr. Cox describes his company as being "expert in the transplanting of mature trees". In his December 19, 2012 letter, Cox concludes that based on his "knowledge of the site, the reported soil conditions, the expected healthy condition of 48" box specimens and subsequent routine care of the trees, [he sees] no reason the replacement trees cannot and should not be planted in the same location as the illegally removed trees" Revised Condition No. 4 requires the planting of 48-inch box size trees to the west and southwest of the existing residence, as near as feasible to the location of the removed trees but in no case may the trees be more than 20 feet from the location of the southernmost removed tree.

Appellant's Contention No. 2: Finding 2, which states that "...a result of this action [the Planning Commission approval] will be restoration of the property to its pre-violation state" is not supported by the evidence because:

1. *This finding is in direct conflict with Finding 1 which says restoration to the pre-violation state is not feasible.*
2. *The approved restoration plan does not require mature Monterey Cypress to be planted at the locations and to the approximate size of the trees Monterey Cypress (sic) that were removed to the west of the house, the numerous other trees that were removed without*

permits or permit waivers and all of the dune area damaged by the owner.

Response to No. 2:

1. This finding has been amended. See Finding 4.
2. See Response to Appellate Contentions 1, No. 1-4. Staff has no evidence of other protected trees being removed without permits. The approved restoration plan requires 48-inch box size Monterey cypress trees to be planted no less than 20 feet from the trees that were removed. The record shows that the Fire Marshall required the removal of two dead trees (one Monterey cypress and one Monterey pine) adjacent to the residence. There is no evidence in the record of any other protected trees being removed from the site. The owner disturbed approximately 2,500 square feet of dune habitat. Implementation of the dune restoration plan will result in the restoration of those 2,500 square feet of disturbed dune to native dune habitat.

Appellant's Contention No. 3: Finding 3, which states that the approval of this permit and its quasi-restoration plan will not be detrimental or injurious to persons living in the neighborhood or to the general welfare of the County, is not supported by the evidence because:

1. *This permit approves after the fact removal of mature Monterey Cypress and sand dune degradation in an environmentally sensitive habitat. The tree removal and dune degradation took place over a period of time during which Ms. Mehdipour was fully aware of the violations, the need for permits and neighborhood controversy. Nonetheless she proceeded to cause violations of the Code, and then proceeded to ask for forgiveness. Requiring anything less than full restoration and long term maintenance of the restored areas will, under these circumstances, set a poor precedent which will lead to other persons choosing to cut first and ask forgiveness later.*
2. *Evidence c) states in part "No modifications to the existing residence are proposed." This is not true. An application is currently pending (PLN100338) by Ms. Mehdipour to demolish a single family dwelling that the County's Historic Resources Review Board has determined to be historically significant and to construct a new large home. While this permit does not approve that project, it certainly sets the stage for "modifications to the existing residence."*

Response to No. 3:

1. The appellant states his opinion regarding the applicant's intentions. The restoration plan requires that the applicant/owner post a bond in the amount equivalent to the cost of restoring the site and monitoring for a minimum of 5 years as required by the condition. The appellant's definition of "full restoration" includes replacement of the 41-inch and 31-inch Monterey cypress trees with trees of similar size. The Board finds that implementation of Condition No.

- 4 will result in full restoration. See Response to No. 1-4 for discussion of requirement for smaller replacement trees.
2. Pursuant to Section 20.90.130, "no application for a discretionary land use permit ... except for a restoration project, shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until restoration has been implemented on that property and monitoring agreements are in place." An application (PLN100318) for a Combined Development Permit to demolish the existing dwelling and build a new dwelling on the subject site has been deemed incomplete pending the implementation of the restoration plan and execution of monitoring agreements. The house application (PLN100338) is not part of the action before the Board of Supervisors. If and when that application is deemed complete, it will be subject to all appropriate environmental review and separate consideration.

Appellant's Contention No. 4: Finding 4, which states that there will be no remaining code violations on the subject property, is not true. It is not supported by the evidence because:

1. *The application does not address the substantial number of trees and ESHA that has been disturbed. These areas are clearly identifiable by aerial photographs that the County has in its possession from 2007 and 2009.*
2. *The staff has indicated that when the trees are planted and monitoring agreements are in place, the violation will be abated. Those monitoring agreements are by condition of the permits to be in place for five years but there is no assurance, however, that the five year period will be adhered to given the staff has already said the trees could be removed before that as part of another development permit.*

Response to No. 4:

1. See Response to No. 2-2 above.
2. See Response to No. 3-2 above. The appellant's agent asked staff if the replacement trees could be removed at a later date. Staff's response was that the replacement trees will be considered to be protected trees, and their removal would require a new Coastal Development Permit that would be subject to environmental review and public hearing pursuant to the requirements of the CIP. No such application has been submitted. Condition No. 4 has been amended to include a requirement that the replacement trees may only be removed subject to the approval of a Coastal Development Permit.

Appellant's Contention No. 5: The decision is contrary to law because any decision other than to require full restoration is contrary to the County Code. The applicant has caused substantial environmental damage to the property by removal of several mature trees, including two landmark Monterey Cypress, severely pruning three mature Monterey Cypress and disruption of a substantial area of ESHA. These are all

violations of the County Code. The Code (MCC 20.90.130) is clear. The property must be fully restored to its pre-violation condition to abate the violation.

Response to No. 5: See Response to No. 2-2 above. The Code (MCC Section 20.90.130) is clear that the Director of Planning and Building Inspection *may* (emphasis added) require restoration of the property to its pre-violation state if in his or her opinion it is necessary to correct the violation." "Restoration of the property shall include, *but not be limited to* (emphasis added), the revegetation of native plants and trees and the reconstruction of natural features of the land which have been removed or changed in violation of the County ordinances regulating grading, vegetation removal or tree removal. Alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or the property owner." In this case, restoration has been deemed by the Board of Supervisors to be feasible. **Condition No. 4** requires the monitoring of the trimmed trees with provisions for the planting and monitoring of replacement trees should any of the trees fail to survive. The effect of implementation of the "Remnant Dune Restoration Plan" will be that the 2,500 square feet of area that was disturbed will be restored from degraded dune that is heavily colonized by aggressive, non-native invasive species, to native dune habitat. The project arborists have determined that the landmark Monterey cypress that were removed were probably planted as landscape trees and were thus not natural components of the dune habitat. However they were valuable because they provided screening of the existing development from 17-Mile Drive. While the replacement trees will not initially be the same size or placed in the exact locations of the trees that were removed, the trees will be placed in locations that will ultimately screen views of the development from 17-Mile Drive. The project is conditioned to require that monitoring continue until such time as the canopy of the replacement trees approximates the 2007 canopy, thus restoring the site to its pre-violation state.

Appellant's Contention No. 6: *The decision is contrary to law because There are broad statements by the applicant's paid consultants to the effect that restoration is not feasible due to cost and a soil fungus. However:*

1. *There is no independent third party evidence to support those claims.*
2. *There is no independent evidence or evidence supplied by the applicant of the cost of doing the restoration that is required by ordinance.*
3. *There is no independent evidence of the actual existence of a soil pathogen or discussion of the process or cost to remediate that fungus if it actually exists.*
4. *The Planning Commission did receive substantial evidence from recognized experts, Environmental Design, in transplanting major*

trees, including mature Monterey Cypress in the Pebble Beach area, that restoration is completely feasible.

Response to No. 6:

1. See Response to No. 1-1 above. There is nothing in the Findings and Evidence regarding unfeasibility of restoration because of cost.
2. See Response to No. 1-2 above.
3. See Response to No. 1-3 above.
4. See Response to No. 1-4 above.

9. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.147.130 of the Monterey County Coastal Implementation Plan can be demonstrated.
 - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 8 in the Del Monte Forest Area Land Use Plan).
 - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100418.
 - e) The project planner conducted site inspections on July 28, 2010, October 27, 2010, August 1, 2011, November 2, 2011 and January 5, 2012.

10. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the California Coastal Commission

- EVIDENCE:**
- a) Section 20.86.080 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because the project is located between the first public road and the sea and because the project involves development that is permitted in the underlying zone as a conditional use.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Board of Supervisors does hereby:

1. Grant the appeal by Sam Reeves from a decision of the Monterey County Planning Commission approving an after-the-fact permit to clear a code violation (CE090288);
2. Find the project Categorical Exempt per CEQA Guidelines Section 15307; and
3. Approve an after-the-fact permit to clear a code violation (CE090288). The permit consists of a Coastal Development Permit and Restoration Plan per section 20.90.130 of the Monterey County Coastal Implementation Plan Part 1 (Title 20 Zoning Ordinance) for the removal of two landmark Monterey cypress trees, significant pruning of three

Monterey cypress trees and sand dune degradation in an environmentally sensitive habitat area, in general conformance with the Draft Restoration Plan (**Exhibit 1**) as revised per the conditions of approval, and subject to the attached conditions (**Exhibit 2**), all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Salinas, and carried this 5th day of February 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Potter and Parker

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on February 5, 2013.

Dated: February 13, 2013
File Number: 13-0094

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____



Deputy

EXHIBIT 1
DRAFT RESTORATION PLAN

MARI A. CAMERON
JOHN S. BRIDGES
DENNIS O. MCCARTHY
CHRISTOPHER E. PANETTA
DAVID C. SWEJGERT
SARA B. BOYKS
BRIAN D. CALL
SHARILYN R. PAYNE
BRIAN E. TURLINGTON
CAROL S. HILBURN
TUDY A. KINGSHAVEN
KATHERINE M. HOGAN
BIANCA KARIM
ELIZABETH R. LEITZINGER

FENTON & KELLER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
2601 MONTEREY-SALINAS HIGHWAY
POST OFFICE BOX 791
MONTEREY, CALIFORNIA 93942-0791
TELEPHONE (831) 373-1241
FACSIMILE (831) 373-7219
www.FentonKeller.com

LEWIS L. FENTON
1925-2005

OF COUNSEL
CHARLES E. KELLER
THOMAS H. JAMISON

August 3, 2012

JOHN S. BRIDGES

JBridges@FentonKeller.com
ext. 238

VIA HAND DELIVERY

Monterey County Planning Commission
c/o Delinda Robinson
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Tree Replacement at 1170 Signal Hill Road (PLN 100418/CE090288)
Our File: 33428.30989

Dear Planning Commissioners:

In accordance with direction received from the Commission at the July 11 hearing on the above referenced matter, please see the enclosed revised Tree Replacement Plan and new Dune Restoration Plan.

The Tree Replacement Plan now proposes the planting of three large (36 inch box) trees (rather than the 10 seedlings) along the west (ocean) side of the house to address the view from 17 Mile Drive looking toward the home. The three larger trees will be spread across the west side of the house with the middle one located very near the location of removed tree C-2. Specifications for the trees and their planting are outlined in the enclosed report from arborist Maureen Hamb dated July 30, 2012 (Attachment 1). Also enclosed is a second peer review of Ms. Hamb's original Tree Replacement Plan prepared by arborist Frank Ono (Attachment 2). Ms. Hamb's assessment of tree replacement viability has now been peer reviewed and approved by two independent experts, Mr. Staub and Mr. Ono.

Although not legally required in this case¹, Ms. Mehdipour is also offering to implement the enclosed Dune Restoration Plan prepared by coastal biologist Mike Zander (Attachment 3).

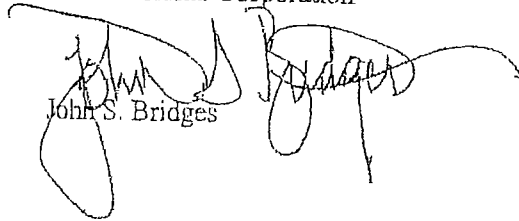
¹ Restoration is not required because the invasive non-native beach grass that was removed is not "major vegetation" under the Land Use Plan so no permit was required for its removal in the first instance. Moreover, the grass has already reestablished itself to the point where the pre-removal condition has been essentially replicated.

Monterey County Planning Commission
August 3, 2012
Page Two

In summary, in accordance with our understanding of the Commission's direction, Ms. Mehdipour's offer to remedy the code enforcement issues now consists of a) planting three large Monterey cypress trees to replace the two removed in the locations and consistent with the specifications outlined in the attached Maureen Hamb letter; and b) restoration of all areas of the property that constitute remnant native sand dune. Please let us know if you need any further information. We look forward to presenting this revised proposal to the Planning Commission on August 29.

Very truly yours,

FENTON & KELLER
A Professional Corporation



John S. Bridges

JSB:kmc
Enclosures

cc: Commissioner Jose Mendez (via hand delivery)
Commissioner Aurelio Salazar, Jr. (via hand delivery)
Commissioner Don Rochester (via hand delivery)
Commissioner Cosme Padilla (via hand delivery)
Commissioner Paul C. Getzelman (via hand delivery)
Commissioner Jay Brown (via hand delivery)
Commissioner Amy Roberts (via hand delivery)
Commissioner Luther Hert (via hand delivery)
Commissioner Keith Vandevere (via hand delivery)
Commissioner Martha Diehl (via hand delivery)
Delinda Robinson (via hand delivery)
Wanda Hickman (via hand delivery)
Laura Lawrence (via hand delivery)
Mike Novo (via hand delivery)
Massy Mehdipour (via email)
Maureen Wruck (via email)

ATTACHMENT 1

July 30, 2012

Massy Mehdi pour
1425 Dana Avenue
Palo Alto, CA 94301

Project: 1170 Signal Hill Road
Phase: Cypress Planting

As you requested I have reviewed the most recent tree planting plan proposed for your property at 1170 Signal Hill Road. The plans indicate the locations of three large (36 inch nursery box) Monterey cypress (*Cupressus macrocarpa*).

The replacement trees (referred to as (N) C1, (N) C2 and (N) C3) will be planted at the southern edge of the property, approximately 30 feet from the original tree, on the western side of the existing residence, approximately 16 feet from the original tree and on the northern portion of the site adjacent to the existing cypress cluster.

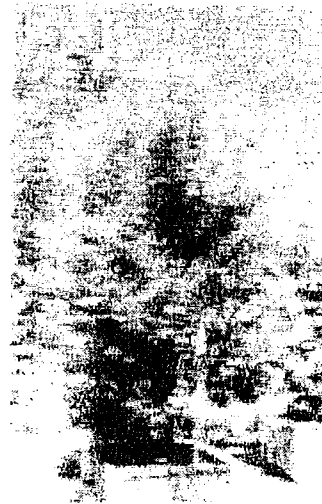
These locations were selected to replace screening qualities and ensure the long-term survival of the new trees.

I have located three 36 inch box Monterey cypress trees at a Bay Area nursery that are healthy, well-structured examples of the species.

The trees are 13 feet in height with canopy spread of seven feet. The trees were germinated at a central California location either by cuttings or by seed.

As a species, Monterey cypress has not been genetically manipulated to change or improve tree appearance or growth habits. The actual parent trees cannot be identified but the genetic traits of the trees are purely Monterey cypress.

Cone production in Monterey cypress begins on trees that are six to 10 years of age and require two years to reach maturity. Cones can open and seed distributed with or without fire. The seeds require a bare mineral soil for germination and establishment. Within native stands seedling development is limited to rocky, granitic soil.



Due to the specific requirements for seed germination and establishment, the presence of native Monterey cypress seedlings within developed areas is rare.

There are no concerns that the planted trees on this site will interfere or cross pollinate with nearby trees thought to be members of a "native" cypress community. The larger trees will re-establish some of the lost screening and be more tolerant of the forces of wind and salt spray typical to the site.

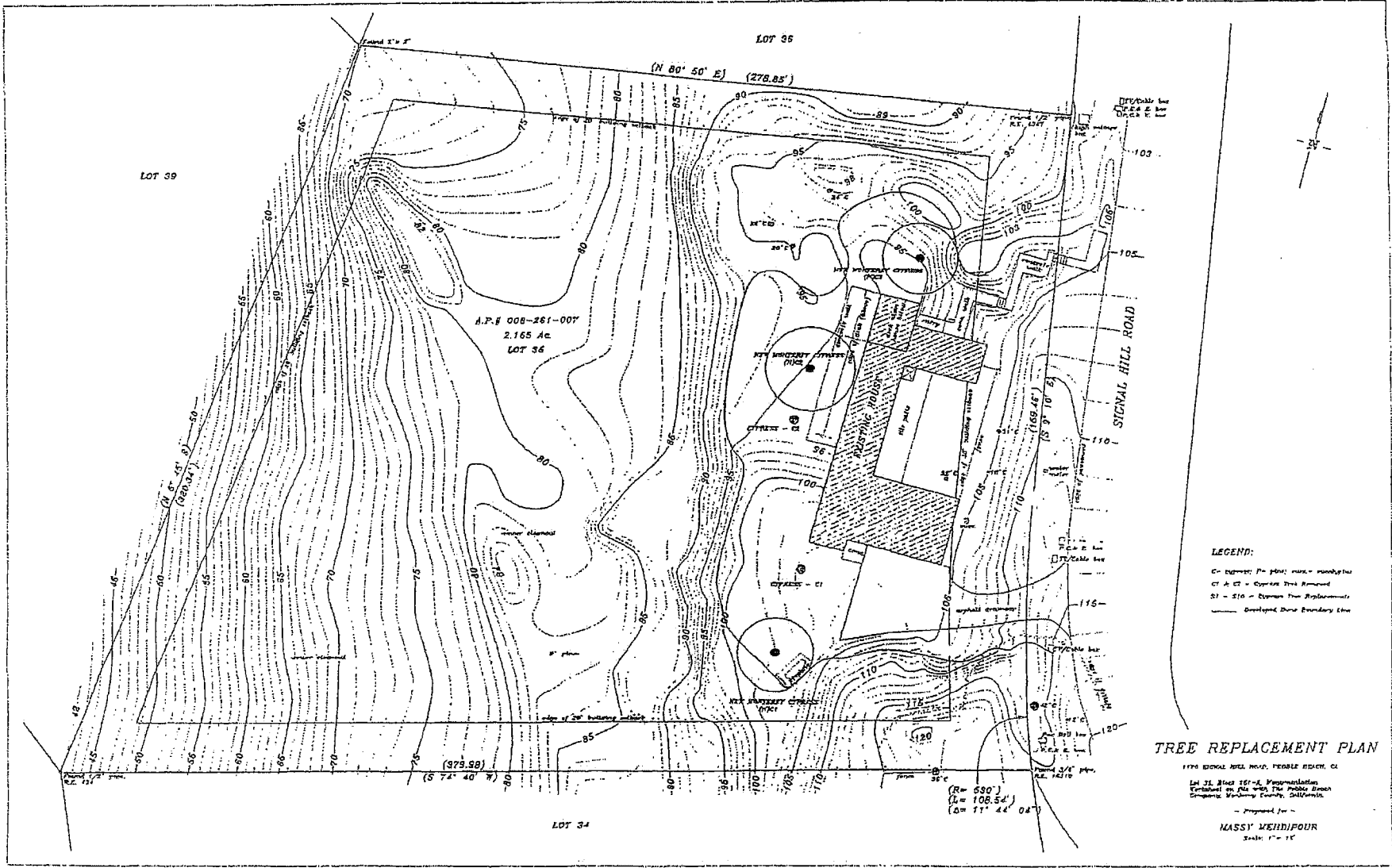
The new trees will require irrigation at a rate of 10 gallons per week, per one inch of trunk diameter. Water will be delivered via a drip system that delivers slowly, allowing the site to drain properly and avoid introducing the "damping off" diseases that cause root decay.

At the time the trees are planted a fence and burlap barrier will be installed to protect the tree from browsing by wildlife and limit the potential damage and decline that can be caused by severe winds common to the site.

Please call my office with any questions regarding the tree planting on this site.

Respectfully,

Maureen Hamb, Certified Arborist WE2280



LEGEND:

- Existing Tree
- X Tree to be Removed
- Tree Replacement
- Developed Dune Boundary Line

TREE REPLACEMENT PLAN

1770 SIGNAL HILL ROAD, PEABODY MA, 01960

Lot 36, Block 261-007, Registration
 Entered on file with the Public Branch
 Registry, Middlebury County, Vermont.

Prepared for -
MASSY MENHIDPOUR
 Scale 1" = 10'

ATTACHMENT 2

Peer Review
Arborist Report and Tree Replacement Plan
1170 Signal Hill Road
Pebble Beach, CA

Prepared by Frank Ono
1213 Miles Avenue
Pacific Grove CA, 93950
Telephone (831) 373-7086 Cellular (831) 594-2291

ASSIGNMENT/SCOPE OF WORK

I have been requested to perform a peer review regarding 1170 Signal Hill Road, Pebble Beach CA. The documents reviewed are authored by Maureen Hamb consisting of the following:

- Arborist Report and Restoration Plan - dated December 22, 2011 - unauthorized Monterey Cypress Removal (Restoration Plan PLN100418-Code Enforcement Case CE090288).
- Proposal to Provide Maintenance and Monitoring Services dated December 22, 2011
- Supplemental Arborist Report (Maureen Hamb) dated March 13, 2012.
- Tree Replacement Plan Site plan date May 4, 2012

The findings of this review are to assist in a determination to either;

- Unconditionally accept the previously submitted report;
- Accept the report in the event that its authors improve it in certain ways;
- Reject the report, but encourage revision and invite resubmission;
- Reject the report outright.

LIMITATIONS OF THE ASSIGNMENT

The findings of this report/review are limited to documents related to unauthorized removal and replacement restoration for a 31" diameter and 41" diameter Monterey cypress trees on this property only. No further tests such as a soil testing or comprehensive site analysis were requested nor considered necessary at this point. Other than those documents provided above, no other material was reviewed.

OBSERVATIONS/DISCUSSION

This peer review process requires an onsite visit to study site conditions, site limitations, and related document review to digest the site analysis as it pertains to the studied site and its treatment. My comments are as follows:

In reviewing the site it appears that the affected vegetation on the subject property and the existing residence are planted or introduced cypresses associated with native dunes habitat which is adjacent the Cypress Point area. The site appears to be previously disturbed land on soils classified as dune land according to the USDA Natural Resource Conservation district soils report. Vegetation associated with this soil type is northern coastal bluff scrub (typically found on exposed seaward edges). The small stand of trees on this property and surrounding areas appear to be planted as part of construction rather than being a part of the native Monterey cypress found growing further to the south in pure stands starting at Cypress point (growing on Narlon or Sheridan soils). According to the soils report this lot is located on soils classified as dune land. The natural vegetation associated on this soil type is ice plant, brush lupine, small coastal brush and a few flowering plants and grasses. Drainage with this soil type is excessive, and water permeability is rapid. The available water capacity is 2 or 3 inches. Runoff ranges from very slow or slow and soil blowing hazard is high or very high, however roots can penetrate to a depth of 60 inches. The property faces west/south west with dominant winds blowing off the ocean from the west to northwest winds that have desiccating effects to vegetation. Plant re-establishment is a difficult task in dune land, especially on northwest facing slopes, due to exposure to wind, the shifting nature of soils, and poor water capacity.

The Hamb report mentions that a soil born fungus may be responsible for the failure of replant success and makes further recommendations for treatment (includes wind protection and irrigation assistance). I concur with the findings of the report that soil reclamation is not a viable option for this property. The treatments to remediate soil born fungi would be monumental and create extreme disturbance with no guarantee of success.

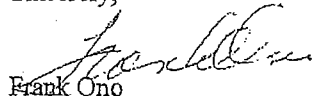
Plant re-establishment is critical to control erosion in this area. Soils in the area are loose and will continue to blow unless stabilized. What is most important is to offer wind protection and available moisture for new plantings to insure their success. My experience with soils of this type shows that small seedling trees have a difficult time surviving the harsh environmental pressures created due to their topographic position and location in the a landscape from salt wind (even larger trees are wind trained by the salt wind in this area). It appears that the number of plantings and their placement may be a dynamic situation until the soils where they are located are stabilized and protected. New plantings to replace the desiccated planted material should be focused in areas with a south or eastern faced slope (if at all possible) and located below stabilized topographic rises and ridges of the soils on the property. This would offer some minimal protection from west to northwest winds. Additionally foliage including dead matter on cypress trees (wind burned branching) should be retained as long as possible; they are an essential buffer for new foliage that may result from any sort of plantings. Ornamental pruning of the existing cypresses should be discouraged to retain foliage that offers some baffling

from strong salt laden winds. Addition of organic material such as cypress mulch from a certified source (even perhaps water retaining polymers) also may also prove to be beneficial because the already existing soils on this and adjacent properties are considered poor growing mediums.

CONCLUSION

I recommend that the report be accepted with additional information. Additional recommendations include larger replant material such as five or one gallon Monterey cypress staggered in height to offer protection for each other. Local seed stock is preferred, but since these are obviously planted trees I am unsure of how convoluted the seed source is in the general area. Additional locally obtained cypress mulching (cypress chips) also is recommended around the new plantings to promote and opportunity for moisture retention and cypress seedling development. These should be part of the ongoing maintenance and reporting for the property.

Sincerely,



Frank Ono

Certified Arborist #536

REMNANT DUNE RESTORATION PLAN
MEHDIPOUR PROPERTY

1170 Signal Hill Drive
Pebble Beach, California

Prepared for:

Massy Mehdi pour
1425 Dana Ave.
Palo Alto, CA 94301

Prepared by:

Zander Associates
4460 Redwood Hwy, Suite 16-240
San Rafael, California 94903

August 2012

TABLE OF CONTENTS

1.0 Introduction 1
 1.1 Setting 1
 1.2 Purpose of the Plan 2
2.0 Restoration Plan 3
 2.1 Goals and Objectives 3
 2.2 Native Plant Propagation 3
 2.3 Exotic Plant Species Control 3
 2.4 Sand Stabilization 4
 2.5 Legless Lizard Avoidance 4
 2.6 Planting Plan 4
 2.6 Monitoring and Maintenance Program 5
 2.7 Success Criteria 6
3.0 Implementation Schedule 7

List of Tables and Figures

Table 1 Recommended Plant Species for Restoration Area
Table 2 Estimated Implementation Schedule

Figure 1 Site Location
Figure 2 Vegetation Types
Figure 3 Remnant Dune Restoration Area

1.0 INTRODUCTION

This dune restoration plan has been prepared to address restoration of remnant dune areas on an approximately 2.17-acre parcel located at 1170 Signal Hill Drive, Pebble Beach, California, known as the Mehdipour property (Figure 1). The property is situated in an older (ca 1950's) residential subdivision on sandy dune substrates between two existing golf courses: Spyglass Hill & Cypress Point. The property also sits near the base of Signal Hill Dune, a protected remnant of a once more extensive dune system that historically occurred along the Monterey Peninsula shoreline. The historic dune system has been fragmented by sand mining, the construction of roads, golf courses, houses and other development over the years.

The existing house, driveway, landscaping and other residential amenities occupy approximately 0.40-acre of the site on a graded pad adjacent to Signal Hill Road. Several mature trees and shrubs, including Monterey cypress (*Hesperocyparis macrocarpa*), eucalyptus (*Eucalyptus* sp.) and tea tree (*Leptospermum* sp.) are growing as landscape elements along Signal Hill Road and at the edge of the pad near the house.¹ West of the pad, the site slopes down (southwesterly) toward 17-Mile Drive through sandy dune terraces. Most of the undeveloped areas on the property are heavily colonized by non-native European beachgrass (*Ammophila arenaria*) and iceplant (*Carpobrotus* spp.) but there are also limited areas of more native dune habitat.

1.1 Setting

Four general but overlapping and intergraded vegetation types occur on the property: European beachgrass dominant, iceplant dominant, sparsely vegetated open sand, and mixed coastal dune scrub. Figure 2 indicates the general distribution and extent of these vegetation communities and a description of each is provided below.

European beachgrass covers large areas of the lot and is especially dominant on the slopes west of the existing house. It often occurs in pure stands at the exclusion of other vegetation, but is also mixed with non-native iceplant and native coastal scrub elements such as mock heather (*Ericameria ericoides*) and coyote brush (*Baccharis pilularis*).² European beachgrass was originally introduced to California in the late 1800s for the purpose of stabilizing dunes but is now considered one of the most pervasive exotic plants currently threatening dune environments on the west coast, driving out native species, reducing biodiversity and altering native dune morphology. The species spreads almost exclusively by rhizomes which form extensive underground systems and can rapidly colonize large areas, especially in sandy substrates.


Iceplant-dominated areas also occur on parts of the property, mostly well downslope of the existing house and pad toward the westerly borders of the lot. Dense iceplant mats largely preclude the establishment of other vegetation, but do allow occasional scattered patches of aggressive colonizers like poison oak (*Toxicodendron diversilobum*) and a few isolated individuals of plants such as seacliff buckwheat (*Eriogonum parvifolium*) and mock heather.

¹Native habitat for Monterey cypress occurs at Cypress Point, just south of the property; however, the trees on the site appear to have been planted as landscape elements.

² A solitary Monterey pine (*Pinus radiata*) sapling is also growing in a matrix of beachgrass and iceplant below the house and pad.



Legend

 Property Boundary

1 inch equals 1,667 feet



Zander Associates
 Environmental Consultants
 4460 Redwood Hwy, Suite 16-240
 San Rafael, CA 94903
 Baseline Photo ca 2010







Site Location
 Mehdi-pour Property
 Pebble Beach, California
 Date: 6/11

Figure
 1



Scale: 1" = 50'

LEGEND:

-  Open Sand
-  Beach Grass Dominant
-  Iceplant Dominant
-  Coastal Scrub
-  Existing Residence and Landscaping
-  Property Boundary

Zander Associates
 Environmental Consultants
 4460 Redwood Hwy, Suite 16-240
 San Rafael, CA 94903

Vegetation Types
 Mehdi pour Property
 Pebble Beach, California

Date: 6/10

Baseline Photo ca 2010

Figure
 2

Iceplant is also interspersed with other vegetation types throughout the property. The species was brought to California in the early 1900s to stabilize soil along railroad tracks and roadways with thousands of acres planted until the 1970s. It has also been promoted as an ornamental plant because of its succulent foliage, bright magenta or yellow flowers and adaptability to harsh (e.g. dry, salty, windy) conditions. Iceplant grows very quickly, producing large, spreading mats. It flowers prolifically and the seeds disperse easily. The plant also reproduces vegetatively; even small pieces of the plant can root and grow easily. Consequently it has invaded foredune, dune scrub, coastal bluff scrub, coastal prairie, and maritime chaparral communities throughout coastal California. It is considered among the most invasive wildland pest plants by the California Exotic Pest Plant Council (CalEPPC), documented as aggressive invaders that displace natives and disrupt natural habitats.

Sparsely vegetated open sand occurs patchily on the property and is comprised of mostly bare white sands that support only scattered dune species, such as beach sagewort (*Artemisia pycnocephala*), mock heather, woolly lotus (*Lotus heermannii* var. *orbicularis*), sand verbena (*Abronia* sp.) and beach evening primrose (*Camissonia cheiranthifolia*). The open sandy areas with sparse native shrubs provide the best potential habitat on the property for plant species, most of which are annual and cannot tolerate much, if any, competition from other plants. The mapped open sand habitat just downslope and westerly of the existing house occurs as a small terrace on deep, loose sands that appears to have been created through sand excavation or movement relatively recently. Rhizomes of European beachgrass are already colonizing the area and other invasives including iceplant and French broom (*Genista monspessulana*) are growing nearby. The open sandy areas to the west are more compacted but are also vulnerable to colonization by non-natives.

Coastal dune scrub vegetation, characterized by native shrubby species such as coyote brush, silver lupine (*Lupinus chamissonis*), coffee berry (*Rhamnus californica*), Pacific blackberry (*Rubus ursinus*), and mock heather, occurs in some areas as the dominant cover in a matrix of iceplant, beach grass and dune sedge (*Carex pansa*). Other prevalent species include seacliff buckwheat, poison oak, Pacific reed grass (*Calamagrostis nutkatensis*) and Mexican rush (*Juncus mexicanus*). Dune sedge is the significant ground cover in large areas dominated by this vegetation type, giving way to iceplant toward the southwesterly parts of the site and beach grass to the south and east. Prominent granitic outcrops, colonized by a mix of non-native and native scrub species and open sand, are found toward the westerly property boundary.

1.2 Purpose of the Plan

The purpose of this plan is to describe restoration techniques, outline measures for short term monitoring and long term maintenance of the restored area, and recommend measures for long-term habitat protection on approximately 1.63 acres of remnant dune habitat on the Mehdi-pour property. The area targeted for restoration in this plan includes sandy dune terraces vegetated with a combination of native and nonnative species as described above. The primary goal within the 1.63-acre restoration area will be to eradicate nonnative species and reestablish native vegetation.

2.0 RESTORATION PLAN

This section states the goals and objectives of the restoration plan and provides descriptions of specific management techniques that will be used to meet the objectives. Implementation of the restoration plan, including all activities described below, will be overseen and monitored by a qualified biologist (Project Biologist).

2.1 Goals and Objectives

The primary goal of this restoration plan is to eliminate all aggressive exotic species and restore native dune habitat within the 1.63-acre remnant dune area designated on Figure 3.

The specific objectives for accomplishing the project goals are as follows:

- Eradicate and control exotic vegetation in areas designated for native plant restoration and landscaping.
- Plant and seed areas that are bare from the exotic plant removal with native dune species.
- Stabilize drifting sand areas to be planted, as necessary.
- Use local plant sources for revegetation material. Plants shall be propagated from seed or cuttings collected within five miles of the site.
- Establish a monitoring program to track success of exotic vegetation control and establishment of native species.
- Establish an ongoing maintenance program for exotic plant control, dune stabilization and other actions noted during monitoring.
- Avoid impacts to legless lizards and improve the remnant dune area as habitat for wildlife.

2.2 Native Plant Propagation

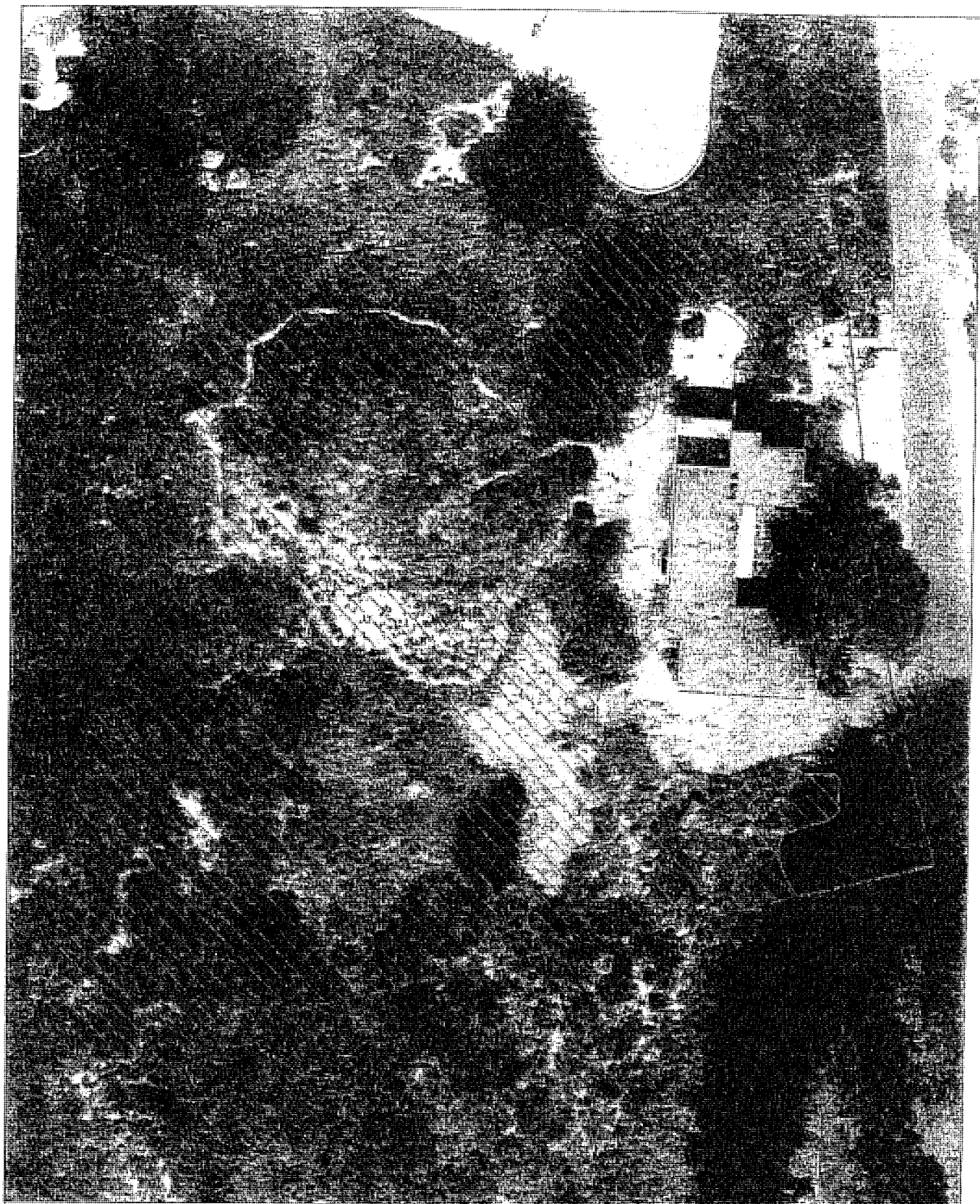
All plants to be installed in the restoration area will be propagated from local sources (i.e. seeds or cuttings) within five miles of the project site. Seed collection will be made at the appropriate time for each targeted species. In general, collections will be made between April and November. No seeds will be purchased from commercial seed suppliers.

2.3 Exotic Plant Species Control


A program to remove and control exotic plant species within the restoration area will be initiated following approval of this plan by Monterey County. The target species will include European beachgrass, iceplant, and French broom. Exotic landscape trees (e.g. eucalyptus, tea trees) around the existing house and bordering Signal Hill Drive may also be removed and replaced with Monterey cypress trees.

Control of exotic species in the restoration area will be an ongoing process but focused efforts over a minimum period of three years should help to reduce the density of exotic species and allow for establishment of natives. Methods for controlling the identified target species are as follows:


European beachgrass: The primary control method for European beachgrass on the Mehdi-pour property will be manual removal. This will consist of pulling by hand or digging out the grass so



Terra Associates
 Environmental Consultants
 4450 Redwood Hwy, Suite 10-340
 San Rafael, CA 94903



 Scale: 1" = 50'
 Baseline Aerial Photo ca 2010

LEGEND
 Remnant Dune Restoration Area
 Property Boundary

Remnant Dune Restoration Area
 Mehdiour Property
 Pebble Beach, California
 Date: 7/12

Figure
 3

as to remove as much of the root structure as possible. Removal should occur prior to flowering and/or seed-set (before July) but may be ongoing as directed by the Project Biologist. Pulled material will either be burned or hauled away to the landfill. An intensive effort to remove all European beachgrass observed in the restoration area shall be conducted for three consecutive years. After initial manual removal, new starts can also be controlled by selective spraying with a 10% glyphosate with 0.5% added surfactant solution (e.g. Roundup Pro®). Selective spraying in combination with manual removal may continue during and beyond the initial three year period at the discretion of the Project Biologist.

Iceplant: Iceplant mats shall be sprayed with a 2% glyphosate in August-October. The dead mats shall be left in place until dry to help with sand stabilization. However, once they have dried, the iceplant mats should be removed from the restoration area to prevent development of an organic surface layer over sandy dune substrates and provide opportunity for recolonization by natives. Interim sand stabilization measures (i.e., straw crimping) may be necessary prior to establishment of native vegetation in areas where iceplant mats have been removed (see below). Each year, new iceplant starts shall either be pulled or sprayed with glyphosate.

French Broom: French broom is not dominant on the property, but removing any plants in the area will eliminate the threat of infestation. All French broom shall be removed by hand during initial control efforts and material shall be hauled offsite to the landfill. Each year, new starts shall be pulled and removed from the site. If there are particularly large specimens of broom, they can be sawed off at the base and an herbicide applied to the trunk. The detached material shall be carefully removed from the site to ensure that seed pods are not spread. Any seed pods observed around the area where plants are removed shall be collected and disposed of properly.

2.4 Sand Stabilization

Sand stabilization may be necessary where large areas of European beachgrass or iceplant mats leave exposed bare sand. The Project Biologist will determine if stabilization is necessary once the beach grass and iceplant are removed. If stabilization is recommended, it will be completed as follows:

Bundles of rice straw will be inserted 4 inches into the sand at 12" to 15" on-center. Each bundle will consist of a fistful of straw and measure approximately ten inches long. The bundles will be placed into a four inch deep hole, perpendicular to the surface, and the hole will be backfilled with sand. Note: wheat straw may be substituted for rice, but any other grain such as oats that can naturalize on the dunes shall be prohibited.

2.5 Legless Lizard Avoidance

Physical activities on the ground including manual beach grass removal, straw crimping, plant installation, etc. will cease in the event that legless lizards are encountered in the active work area during those activities. Work will only commence again once the lizards have safely relocated to adjacent dune habitat.

2.6 Planting Plan

Native plants will be installed in areas where non-native species have been removed and effectively controlled over a minimum period of one growing season. The timing and location of

plant installation will be at the direction of the Project Biologist. Native plant species for propagation and installation will be selected from the list recommended in Table 1.

Table 1: Recommended Plant Species for Remnant Dune Restoration Area

Scientific Name	Common Name
<i>Abronia umbellata</i>	pink sand verbena
<i>Achillea millefolium</i>	yarrow
<i>Artemisia pycnocephala</i>	beach sagewort
<i>Baccharis pilularis</i>	coyote brush
<i>Camissonia cheiranthifolia</i>	beach primrose
<i>Cardionema ramosissimum</i>	sand mat
<i>Castilleja latifolia</i>	Monterey Indian paintbrush
<i>Danthonia californica</i>	California oat grass
<i>Deschampsia caespitosa</i>	hair grass
<i>Dudleya caespitosa</i>	sea lettuce
<i>Ericameria ericoides</i>	mock heather
<i>Erigeron glaucus</i>	seaside daisy
<i>Eriogonum parvifolium</i>	dune buckwheat
<i>Eriophyllum staechadifolium</i>	lizard tail
<i>Lasthenia minor</i>	wooly goldfields
<i>Lessingia filaginifolia</i>	California corethrogyne
<i>Mimulus aurantiacus</i>	sticky monkey flower

Plant installation will occur in the fall, winter or early spring following successful removal and control of exotic plants. Ideally, at least 2-3" of rain would have fallen and more rain would be projected at the time of planting. Supplemental watering should be avoided, except immediately following installation of the plants, and during the initial establishment period of any replacement plants over time. Planting locations and spacing will be determined in the field by the Project Biologist

2.6 Monitoring and Maintenance Program

Quarterly monitoring of the restoration area will be conducted for three years following initial weed eradication. The first monitoring visit will occur three months after initiation of European beachgrass and iceplant removal and subsequent visits will occur at three month intervals thereafter. Monitoring will be conducted by the Project Biologist who will visually inspect the area to evaluate the following:

- Regeneration of exotic species
- Sand stabilization and erosion control
- Health and vigor of installed plants
- Plant cover deficiencies

The results of each monitoring visit will trigger maintenance activities for the next quarter. Such activities will be recommended by the Project Biologist and could include:

- Continued removal of exotic species
- Installation of erosion control measures
- Adjustment to or installation of sand stabilization measures
- Watering of installed plantings
- Installation of replacement plantings
- Installation of additional plantings
- Installation of herbivory protection for plantings

During the first summer following completion of initial weed eradication, quantitative data will be collected to track the progress of the restoration efforts. The Project Biologist will establish two permanent transects through the restoration area in order to collect data on percent cover of native and non-native species. Data will be collected in one-meter plots every 10 meters along the transect line. All species within the plot will be recorded and percent cover assigned. Photographs will be taken along the transect line. This same exercise will be repeated during the following two summers. Data will be evaluated to determine percent cover of native and non-native species, with a goal of no more than 10% cover overall of non-natives after three years. At the end of the three year monitoring period, the Project Biologist will prepare a report that describes the initial and ongoing maintenance activities, evaluates the results of the quantitative sampling, and provides recommendations for on-going management of the area.

2.7 Success Criteria

The restoration area will meet the following success criteria (minimum performance standards):

- Percent cover of non-native species in transects through restoration area:
 - 1 year: 40%
 - 2 years: 20%
 - 3 years: 10%
- Percent cover of native annual and perennial species in transects through restoration area:
 - 1 year: 15%
 - 2 years: 25%
 - 3 years: 40%
- Species composition:
 - Minimum 12 native annual and/or perennial species present in year 3.
- Health and vigor of restoration area:
 - Native plants are in good health, condition of restored dune is consistent with reference location(s), and damage from people, deer or pets is negligible.
- Erosion:
 - Sand stabilization measures are effective
 - No significant erosion, generally not evident.

If transect data indicate a failure to meet the any of the above stated standards, corrective actions will be identified in the annual report and enacted prior to the start of field survey for the next annual report.

3.0 IMPLEMENTATION SCHEDULE

Following is an estimated implementation schedule, assuming that County approval of this restoration plan is granted prior to October, 2012.

Table 2: Estimated Implementation Schedule

TASKS	TIMING
Select Project Biologist	Following plan approval by County.
Spray iceplant mats	October 2012
Remove European beach grass	Ongoing from October 2012
Remove dead iceplant mats	Jan-April 2013
Stabilize bare sand, if necessary	January through December 2013
Collect native plant seeds and cuttings	October 2012 through September 2013
Grow native plants in nursery	April 2013 through December 2013
Install nursery plants in selected sections of restoration area	November 2013 through March 2014 as directed by Project Biologist
Monitor exotic species control and native plant establishment in restoration area	Quarterly for three years beginning three months after initial spraying/removal of beachgrass
Maintenance of restoration area	As directed by Project Biologist for first three years following implementation of restoration plan
Quantitative data collection	Annually in the summer for three years following initial restoration activities
Prepare monitoring report	At the end of the three-year monitoring period
Management of restoration area	As recommended by Project Biologist

Maureen Hamb-W'CLSA Certified Arborist WE2280
Professional Consulting Services



December 22, 2011

Massy Mehdipour
1425 Dana Avenue
Palo Alto, CA 94301

Project: 1170 Signal Hill Road
Pebble Beach, CA 93953
APN 008-261-007

Phase: Restoration Plan PLN100418/Code Enforcement Case No. CE090288

Monterey Cypress Removal and Restoration

In October 2010, I installed five Monterey cypress seedlings on the above named property. These trees are intended as restoration for two mature Monterey cypress that were removed previously without the required authorization from Monterey County Planning. The removed trees were approximately 41 and 30 inches in trunk diameter. Seedlings were installed in locations adjacent to the removed trees.

Initially attempts were made to locate larger replacement trees of local genetic origin. Large replacement trees (36 inch nursery box) were located in a nursery in the Santa Barbara area. The origin of the plants could not be verified. Pebble Beach Company was found to be the only source of local stock, generated from seeds gathered from Crocker Grove. The only size available was seedlings.

In September of this year the seedlings were found in a severe state of decline. The root systems were examined and found to be infected by a decay causing fungus that was present in the soil. The decay appeared to originate from the degrading root system of the original trees. This may have been a result of previous chemical treatment to prevent the regeneration of the removed tree, or a soil borne fungus initiated naturally by decaying woody material.

Due to the soil conditions adjacent to the original planting areas the trees were replaced and planted in areas where they are sheltered from severe winds and native trees exist nearby.

The seedlings will be protected from severe winds and possible browsing by deer with exclusionary fencing and burlap barricades. Irrigation will be provided during dry periods at a rate of two gallons per week. Monitoring will be performed as outlined in the attached proposal.

849 Almar Ave, Suite C #319
Santa Cruz, CA 95060
email: maureenah@shcglobal.net

Telephone: 831-763-6919
Fax: 831-763-7724
Mobile: 831-234-7735

Exhibit 1
Page 21 of 24 Pages

Monterey Cypress Pruning

In October of this year I inspected a cluster of three Monterey cypress (*Cupressus macrocarpa*) trees growing on property located at 1170 Signal Hill Road. The trees were recently pruned and concerns were raised regarding the long-term affects to tree health that may be a result.

I have inspected the trees on a number of occasions during the previous 18 months Documenting the health and structural condition in several reports. In those documents I described the trees and healthy, well-structured examples of the species.

The recent pruning included the removal of large diameter lower branching. The upper canopies remain intact. The face of the pruning cuts are rough and uneven, paint has been applied to the open wounds.

Although the amount of branch/foliage removal and quality of the pruning cuts (placement at the branch/stem attachment point) are not within standard arboricultural industry standards there is no evidence of decline in the tree canopy at this time.

Trees that have been excessively pruned may not express decline for a number of years. Tree structure, although modified has not be destabilized. The poorly placed pruning cuts could decay in the distant future, but this is yet to be determined.

A monitoring program that runs in conjunction with the five-year monitoring program that is in place for the Monterey cypress seedlings on this property is recommended. The health of the foliar canopy will be inspected for coloration, annual growth rates and signs of dieback or discoloration. Pruning wounds will be inspected to note any indications of decay or bark beetle infestations.

If decline of the canopy occurs and affects more than 50% of the live foliage tree replacement will be required. If pruning wounds decay and invade the main stems to a point of 50% of the stem diameter tree replacement will be required.

Tree replacement will be in the form of native Monterey cypress from Pebble Beach Company stock. Replacement ratios will be three trees planted for every tree in decline.

Please contact me with any questions or further clarification of the cypress restoration and monitoring recommendations.

Respectfully submitted,

Maureen Hamb Certified Arborist WE2280



Proposal to Provide Maintenance and Monitoring Services

Prepared for: Massy Mehdipour
 1425 Dana Avenue
 Palo Alto, CA 94301

Project: 1170 Signal Hill Road
 Pebble Beach, CA 93953
 APN 008-261-007-000

Date: December 22, 2011

SCOPE OF SERVICES

Monterey Cypress Seedlings

- Install barricade type fencing around the perimeter of the planting areas. Fencing will consist of burlap and plastic orange fencing supported by metal posts. The burlap will aid in protecting the seedlings from salt spray and wind.
- Provide irrigation that supplies the trees 2 gallons of water per week (during dry periods only) for a period of 12 months.
- Following the 12-month acclimation period inspections shall be performed at quarterly intervals for a period of five years.
- Monitoring reports documenting the condition of the trees including health status and growth rates will be provide to the Monterey County Planning Department on a quarterly basis.
- If tree mortality occurs at any time during the five-year monitoring period the trees will be replaced and the same monitoring requirements will be renewed for the replacement tree/trees.

Mature Cypress

A cluster of mature Monterey cypress growing in a dense grove was pruned in September of this year. The pruning removed excessive branching and foliage that could lead to eventual decline.

- The condition of the trees will be monitored and findings documented in quarterly reports submitted to Monterey County Planning Department for a period of five years.

849 Almar Ave. Suite C #319
Santa Cruz, CA 95060
email: maureenah@shcglobal.net

Telephone: 831-763-6919
Fax: 831-763-7724
Mobile: 831-234-7735

FEES

All monitoring visits will be billed hourly at \$ 175.00. The total cost to provide the above described services for a period of five years will not exceed: \$ 8000.00

ACCEPTANCE

I understand and accept the scope of services and associated fees described in this proposal. I agree to pay all invoices in full upon presentation.

Signature

Date

EXHIBIT 2

Monterey County Planning Department
Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN100418

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

This is an after-the-fact permit to clear a code violation (CE090788); the permit consisting of a Coastal Development Permit and Restoration Plan per Section 20.90.130 of the Monterey County Coastal Implementation Plan Part 1 (Title 20 Zoning Ordinance) for the removal of two landmark Monterey cypress trees, significant pruning of three Monterey cypress trees and sand dune degradation in an environmentally sensitive habitat area. The project is located at 1170 Signal Hill Road, Pebble Beach (Assessor's Parcel Number 008-261-007). This Coastal Development Permit and Restoration Plan were approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)

**Compliance or
Monitoring
Action to be Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

The applicant shall record a Permit Approval Notice which states:
"This Coastal Development Permit and Restoration plan (Resolution No. 13-021) was approved by the Monterey County Board of Supervisors for Assessor's Parcel Number 008-261-007-000 on February 5, 2013. The permit was granted subject to 6 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)

**Compliance or
Monitoring
Action to be Performed:**

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

4. PDSP001 - RESTORATION PLAN (NON-STANDARD)

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

The applicant/owner shall adhere to all of the requirements of the Restoration Plan attached as Exhibit 1 to the February 5, 2013 Board Report and as conditioned by this permit. The Restoration Plan requires:

1. Planting of two replacement trees and implementation of a five-year monitoring program in order to restore the visual screening of the home from 17-Mile Drive and other public viewing areas. The replacement trees shall be Monterey cypress, minimum 48-inch box size. Two trees shall be located to the west and southwest of the existing residence, as near as feasible to the location of the trunks of the trees that were removed, as determined by the project arborist, but in no case may the trees be more than 20 feet from the location of the trees that were removed and no farther south or west than the location of the southernmost removed tree. A third tree may be planted to the southwest of the existing residence as shown on the Tree Replacement Plan to provide additional screening at the applicant's discretion. Quarterly monitoring of the replacement trees by a Certified Arborist for 3 years and annual monitoring thereafter is required. The monitoring program shall remain in place for five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer. The trees may only be removed with the approval of a Coastal Development Permit. If any replacement trees fail to survive, they shall be replaced and a new monitoring program is required.

2. Quarterly monitoring of the health of the 3 pruned Monterey cypress trees by a qualified arborist for a minimum of 3 years and annual monitoring for an additional 2 years is required, with provisions for replacement trees to be planted should any of the pruned trees fail or decline to the point where either 50% or more of the remaining live foliage is affected or if pruning wounds decay and invade the main stems to a point where 50% of the stem diameter is affected. The replacement trees shall be Monterey cypress, 36-inch box size or larger. The monitoring program for the replacement trees shall remain in place for five years. The trees may only be removed with the approval of a Coastal Development Permit. If any of the replacement trees fails to survive it shall be replaced and a new five-year monitoring program is required.

3. Implementation of a Dune Restoration Plan for the approximately 2,500 square feet of disturbed area as identified by the project biologist (The Plan) is required. Within 30 days of the approval of this permit, the owner shall submit a restoration plan to the RMA-Planning Department for review and approval which shall be modeled after the Remnant Dune Restoration Plan dated August 2012 and shall also include:

- Success criteria for the eradication of non-native species within the 2,500 square foot disturbed area shall be 100 percent eradication of non-natives within the area by the end of the 5-year monitoring period.
- Success criteria for the planting of native species shall be 50 percent cover of natives throughout the restoration area by the end of the 5-year monitoring period.
- Quarterly monitoring of the dune restoration by the Project Biologist for an initial 3-year period and annual monitoring for an additional 2 years is required. If the success criteria are not met by the end of the 5-year monitoring period, additional measures to ensure success developed by the Project Biologist shall be implemented by the owner/applicant and monitoring shall continue until the success criteria are met.
- The Restoration Plan shall be bonded.

**Compliance or
Monitoring
Action to be Performed:**

Within 30 days of the approval of this permit, the owner shall submit the required restoration plan for the disturbed dune area to the RMA-Planning Department for review and approval.

Within 60 days of project approval the applicant/owner shall install the required replacement trees. As evidence that this has been completed, the applicant/owner shall submit an "as planted" plan prepared by a Certified Arborist showing the location of the replacement trees, protective measures that have been installed, species, size and irrigation plan.

Within 60 days of project approval the applicant/owner shall submit a copy of contracts with a Certified Arborist and a qualified biologist to implement the restoration plan and provide the required monitoring programs. The monitoring program shall include at a minimum:

1) Quarterly monitoring inspections by a Certified Arborist of the replacement trees and the three pruned trees for a minimum of 3 years and annual inspections for a minimum of 2 additional years.

2) A report prepared by the Certified Arborist or qualified the biologist documenting the findings of each inspection shall be submitted to the RMA-Planning Department within one month of each inspection. The first quarterly inspection report for monitoring of trees is due 4 months after the planting of the replacement tree(s). The first quarterly inspection report for dune restoration is due 4 months after the initial phase of restoration has been completed.

Within 60 days of the approval of this permit the applicant/owner shall post a bond with the RMA-Planning Department in the amount equivalent to the cost of restoring the site and monitoring for a minimum of 5 years as required by the condition. The cost estimate for installation and monitoring of the tree portion of the restoration to be provided by a Certified Arborist. The cost estimate for the installation and monitoring of the dune habitat restoration portion of the project to be provided by a qualified biologist. Said bond to be released upon satisfactory completion of the required monitoring program.

5. PDSP002 - ZONING ABATEMENT COSTS (NON-STANDARD)

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:** Within 60 days of the approval of this permit, the applicant/owner shall submit evidence to the RMA-Planning Department that all zoning abatement costs, if any, have been paid.

**Compliance or
Monitoring
Action to be Performed:** Within 60 days of approval of the permit, the applicant/owner shall submit evidence that all zoning abatement costs, if any, have been paid.

6. FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD)

Responsible Department: Fire

**Condition/Mitigation
Monitoring Measure:** Manage combustible vegetation from within a minimum of 100 feet of structures, or to the property line, whichever is closer. Trim tree limbs to a minimum height of 6 feet from the ground. Remove tree limbs from within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. (Pebble Beach Community Services District)

**Compliance or
Monitoring
Action to be Performed:** Prior to issuance of any grading and/or building permits, Applicant shall incorporate specification into design and print the text of this condition as "Fire Dept. Notes" on construction plans.

Prior to requesting a final building inspection, the Applicant shall complete the vegetation management and shall obtain fire department approval of the final fire inspection.

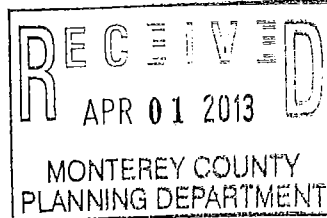
EXHIBIT H

*Maureen Hamb-WCISA Certified Arborist WE2280
Professional Consulting Services*



March 26, 2013

Monterey County Planning Department
Attention: Delinda Robinson



Project: 1170 Signal Hill Road
Phase: Replacement Tree Planting

On March 6, 2013 we met at 1170 Signal Hill Road in Pebble Beach to review planting areas for the two 48-inch box Monterey cypress trees required by the Planning Department and the Monterey County Board of Supervisors.

Prior to your arrival on site I completed minor excavation of the planting area adjacent to the stump of tree "C1". Several small diameter roots were unearthed (less than one inch in diameter); they were soft and black in coloration. This type of root degradation is similar to conditions found when seedlings planted in the area died.

Soil borne fungus similar to *Phytophthora* was suspected. This type of fungi can survive in the soil for many years and enter plants through the crown or roots and is produces no fruiting bodies visible to the naked eye. The softening of root tissue is not caused by the fungus itself but is a result of secondary organisms that colonize the diseased roots. (Pests of Landscape Trees and Shrubs published by the University of California 1994).

On March 21, 2013 the replacement trees were brought to the site. Prior to planting the stump from the "C1" tree was ground to 12-24 inches below natural grade. The area was examined and additional smaller woody roots with symptoms of disease were found.

As a result of this condition the "C1" replacement tree was installed to the east of the stump in the area discussed. The replacement tree for the "C2" tree was planted north of the original tree in the position we discussed.

Photographs documenting the tree installation are shown on the following page. Please call my office with any questions regarding the trees on this site.

Respectfully,

Maureen Hamb-Certified Arborist WE2280

849 Almar Ave. Suite C #319
Santa Cruz, CA 95060
email: maureenah@sbeglobal.net

Telephone: 831-763-6919
Fax: 831-763-7724
Mobile: 831-234-7735



"C1" Replacement Tree



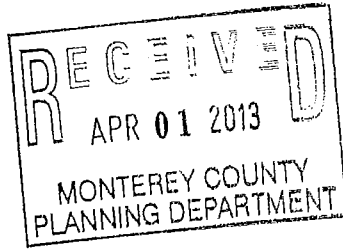
"C2" Replacement Tree

EXHIBIT I

*Maureen Hamb- Certified Arborist WE2280
Professional Consulting Services*



April 1, 2013



Massy Mehdipour
1425 Dana Avenue
Palo Alto, CA 94301

Project: 1170 Signal Hill Road
Phase: Replacement Tree Planting

As you requested I have inspected the replacement Monterey cypress planted on your Signal Hill property as required by Monterey County.

The replacement for the C2 tree has been properly installed less than 20 feet from the stump of the original tree (pictured at right).

I measured the location of the C1 replacement tree by staking the location of the original stump. This was completed using measurements taken previously.

One stake was placed at the southern edge of the stump location another placed at the eastern edge of the stump location.

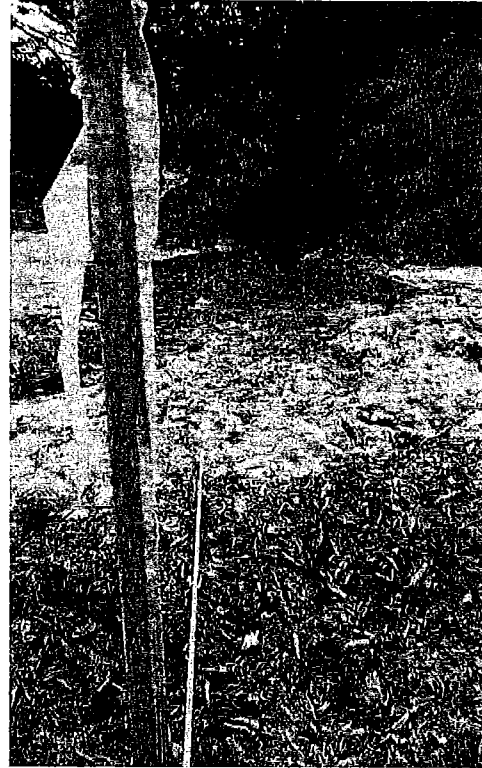
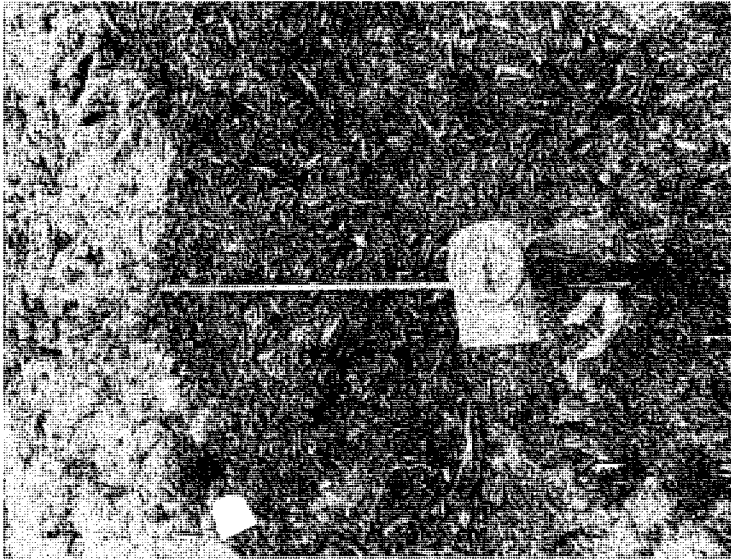
A compass was placed within the staked areas and the new tree location measured from these points.



849 Almar Ave. Suite C #319
Santa Cruz, CA 95060
email: maureenah@sbcbglobal.net

Telephone: 831-763-6919
Fax: 831-763-7724
Mobile: 831-234-7735

The stake shown on the ground is pointing directly east toward the replacement tree. Continuing the line in an easterly direction the trunk of the tree is five feet and approximately 15 degrees from direct east.



When measured from the stump staking the trunk of the replacement tree is 20 feet away.

All measurements and compass directions were obtained using field type methods, as no survey points were available. The location of the tree is appropriate from an arboricultural perspective and substantially conforms to the requirements of Monterey County Planning.

Please call my office with any questions.

Respectfully,

Maureen Hamb-certified Arborist WE2280

EXHIBIT J

Maureen Hamb- Certified Arborist WE2280
Professional Consulting Services



April 30, 2013

Massy Mehdipour
1425 Dana Avenue
Palo Alto, CA 93953

Project: 1170 Signal Hill Road
Phase: Replacement Tree Planting

Planting Site Feasibility

As required, I have studied the feasibility of planting a replacement tree in the same position of a previously removed tree on your Signal Hill Property.

In 2011, I planted three seedlings in areas three to five feet from the original stump of tree C1. I provided irrigation to the trees and monitored their condition and growth. In September 2011, I found the seedlings in a declining condition. The lower stem and branching was discolored (black) and moisture was oozing from the stem. I unearthed the small root structures from the growing site, found that the roots were black, and appeared saturated. Deeper excavation into the planting site revealed woody roots one to two inches in diameter that had originated from the stump of the C1 tree. As with the seedlings, the larger roots were discolored.

The symptoms described are consistent with *Phytophthora*, a species of soil inhabiting pathogens. Monterey cypress is a susceptible host for this disease (Pests of Landscape Trees and Shrubs, University of California Publication 3359). The attached University of California Publication 74133 describes the symptoms, biology, and management of this pathogen.

The description of the multiple visual symptoms within the professional publications (various types of foliar discoloration, darkened areas in the bark at the root crown and upper roots, dark sap oozing from the bark, reddish brown streaks under the bark) have lead to the conclusion that *Phytophthora* is present in the planting site and was responsible for the death of the seedlings. The irrigation I provided to keep the trees alive was likely the medium needed to germinate dormant spores.

The *Phytophthora* species produces resting spores that survive for years in moist soil where no host is present. When the soil is dry the spores can only survive a few months, the introduction of a nearby host and free water in the soil allows the spores germinate and infect the host.

849 Almar Ave. Suite C #319
Santa Cruz, CA 95060
email: maureenah@sbcglobal.net

Telephone: 831-763-6919
Fax: 831-763-7724
Mobile: 831-234-7735

Planting a replacement tree in the area where the original C1 tree and the seedlings were installed is not feasible due to the potential for infection. Trees require irrigation for survival; the introduction of moisture to the site can germinate dormant spores and allow for inoculation of the new tree. The area where spores could be present cannot be determined.

Replacement Tree Location

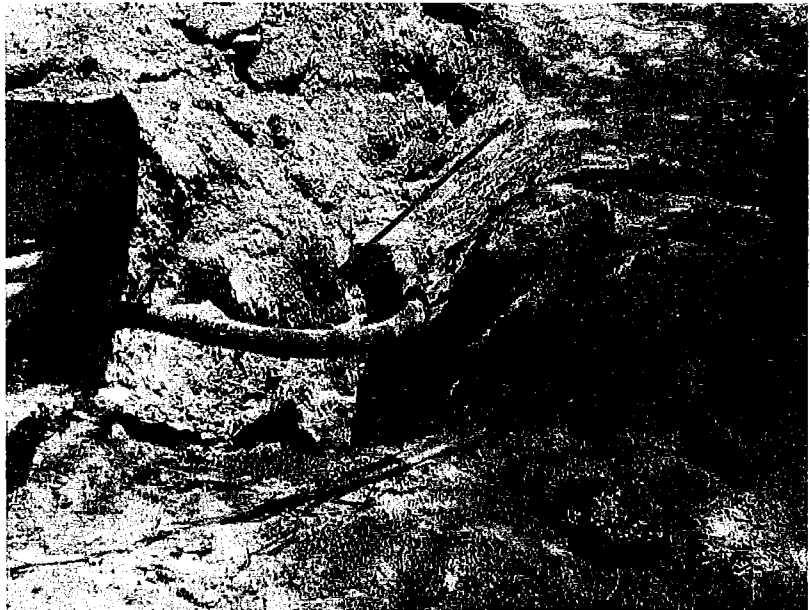
On April 1, 2013, I documented the locations of the two Monterey cypress replacement trees (C1 and C2).

I documented the location of the C1 replacement tree measuring from the original stump. After a review by Monterey County Planning it was determined that the tree would require relocation at least five feet to the north and no further than 20 feet from the stump.

On April 30, 2013, I returned to the site with the tree planting crew from TreeMovers, a licensed contractor specializing in installing large trees. A small area of asphalt required removal to excavate the planting site. While digging, the backhoe encountered an underground electrical conduit, damaging the pipe and causing an electrical shortage that caused sparking and smoke to pour from the damaged area. The site had been scanned previously by USA to locate any underground utilities; there was no indication that the utility was present.

Following an electrical shut down by PG & E personnel, the area was photographed and the potential for a new planting area evaluated.

The electrical supply line is under the center of the asphalt driveway and turns to the north at a right angle toward the electrical meter located on the house.



The electrical meter is shown in the photo at right; the red line indicates the location of the underground supply line.

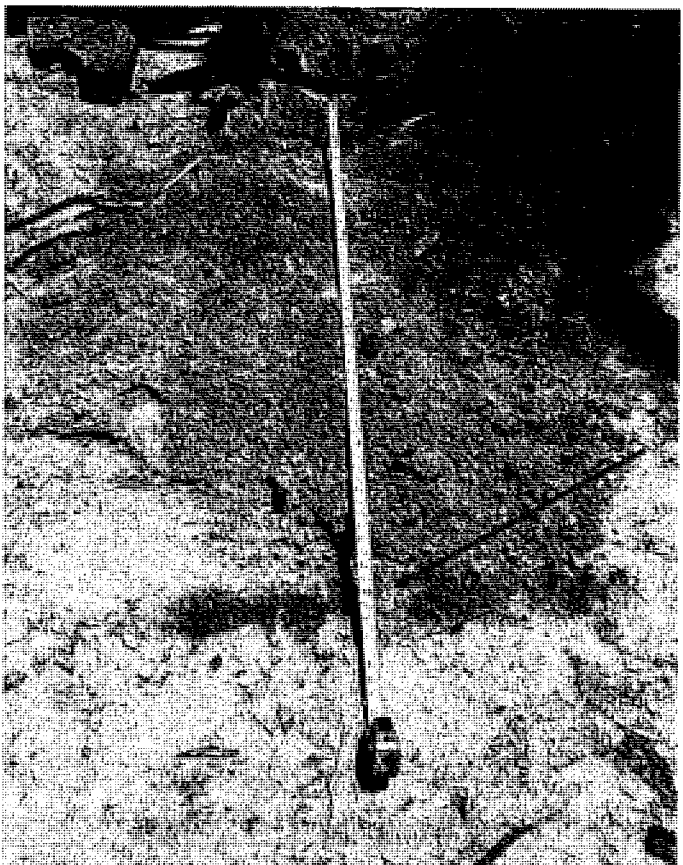
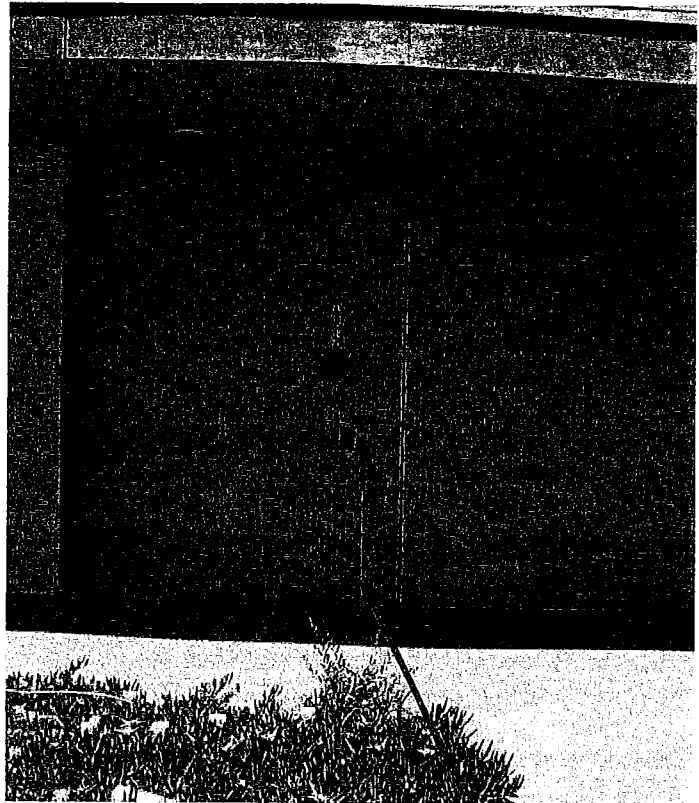
The tree cannot be planted in the area required by Monterey County as the electrical supply line is within the planting site.

PG & E will not allow trees or excavation adjacent to high voltage supply sources. In addition, it is professionally irresponsible to install trees where eventual root development can damage underground utility lines. Woody roots are known to damage and break service lines.

The excavation for the planting site cannot be completed within five feet of the source. This prevents the tree from being planted on either side of the line within a five-foot buffer from the root zone.

The five-foot buffer from the pipe is shown at right. The arrow is located at the five-foot mark.

This point is seven feet from the eastern edge of the original stump. The tree cannot be planted here due to the potential for infection by *Phytophthora*.



Conclusion

I recommend the replacement tree for C1 remain in its current position. There are no feasible planting areas available due to the presence of disease causing organisms and underground utilities.

Please call my office with any additional questions or concerns.

Respectfully,

Maureen Hamb-Certified Arborist WE2280

PHYTOPHTHORA

ROOT AND CROWN ROT IN THE GARDEN

Integrated Pest Management for Home Gardeners and Landscape Professionals

Several species of soilborne pathogens in the genus *Phytophthora* cause crown and root rot diseases of herbaceous and woody plants. Almost all fruit and nut trees, as well as most ornamental trees and shrubs (including many California natives), can develop *Phytophthora* rot if soil around the base of the plant remains wet for prolonged periods, or when planted too deeply (Fig. 1). Tomatoes, peppers, eggplant, and other vegetable crops can also be affected by *Phytophthora* rot. In trees and shrubs, the pathogen kills plants by growing from the roots up through the root crown and into the lower trunk, where it kills the inner bark and causes a browning of the outer layer of sapwood. In many of these crops, different species of *Phytophthora* are involved. Losses to *Phytophthora* are minimized by providing good soil drainage and selecting the most tolerant rootstocks or varieties available. In general, *Phytophthora* requires warm, moist soils in order to cause disease. Another species of *Phytophthora*, *Phytophthora ramorum*, causes sudden oak death, which has very different symptoms and management than the species discussed here. See *Pest Note: Sudden Oak Death in California*, available online at <http://www.ipm.ucdavis.edu>.

SYMPTOMS

The leaves of plants affected by *Phytophthora* rot appear drought stressed. Trees or plants often wilt and die rapidly with the first warm weather of the season. Leaves may turn dull green, yellow, or in some cases red or purplish. Often, only plants in the most poorly drained area of the field or garden are affected. *Phytophthora* infections typically kill young trees, because their root systems and crown areas are small compared to those of mature trees.

Symptoms may develop first on one branch or stem then spread to the rest of a tree or plant. Trees may decline over a period of years before finally dying or they may be killed in a single season. Slow decline occurs when the roots are attacked; rapid decline occurs when the crown or basal stem is attacked and girdled, the damage completely encircling the stem in a single season.

Symptoms on roots and crowns may vary somewhat depending on the species of *Phytophthora* involved, the plant being attacked, the resistance of the plant variety, and soil moisture and temperature. In general, trees affected by *Phytophthora* develop darkened areas in the bark around the crown and upper roots. Gum or dark sap may ooze from the margins of the diseased trunk area. If bark tissue is carefully cut away, reddish brown streaks or zones can be seen in the inner bark and outer layer of wood. No mycelium (slender filaments of a fungus body) is visible in between the bark and wood in trees affected by *Phytophthora*, distinguishing this disease from *Armillaria* root rot, which is caused by a true fungus.

When tomatoes and eggplants are affected by *Phytophthora* root rot, roots of all sizes develop water-soaked spots that dry out and turn a chocolate brown as the disease becomes advanced. Early infections, caused by *Phytophthora* and other pathogens that cause damping-off diseases, kill seedlings. For more information on damping-off diseases, see Suggested Reading, *Pest Notes: Damping-Off Diseases in the Garden*. Later infections reduce plant vigor and may cause collapse and death of the plant. If you cut infected tap roots in cross section, you will see

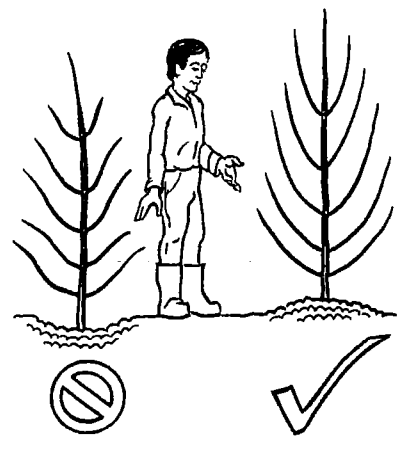


Figure 1. Avoid planting in a hole or a low-lying area, except when planting in sandy soils.

that the stele (central core of conducting tissue) is brownish above the rot lesions. Stele discoloration may extend into the lower stem.

BIOLOGY

Phytophthora species are soil-inhabiting pathogens that are favored by wet conditions. Although previously considered fungi, *Phytophthora* species are now considered to be in a separate classification called oomycetes. Species of *Phytophthora* produce resting spores that survive for years in moist soil in the absence of a suitable host. However, if the soil is completely dried out, these spores are less likely to survive for more than a few months. When a host is nearby and free water (water in soil pore spaces) is present in the soil, resting spores germinate to produce motile spores that can directly penetrate roots, branches, or crowns as long as free water is present. Wounds are not required for infection. Resting spores, decaying host tissue in the soil, and active cankers (disease-infected dead, sunken lesions in plant parts) can all be

PEST NOTES

Publication 74133

University of California
Agriculture and Natural Resources

October 2006

sources for new infections. The pathogen can be spread in splashing rain or irrigation water, in surface irrigation, and runoff water, and by movement of contaminated soil, equipment, or plant parts. Flooded and saturated soil favors the spread of *Phytophthora* to healthy plants.

Some *Phytophthora* species are favored by warm weather, some by cool weather. Root rot of avocado, citrus, and tomato are favored by warm conditions, developing most extensively in late spring and early summer. Decay of crown, trunk, and branches of other tree species are favored by cool, wet conditions. These decays develop most rapidly in late fall and early spring.

MANAGEMENT

The most important factor in reducing the threat of Phytophthora rot is good water management (Fig. 2). Avoid prolonged saturation of the soil or standing water around the base of trees or other susceptible plants. Irrigate only as much and as often as necessary; in an orchard, keep track of the soil moisture around each tree and water only when necessary. If you irrigate trees with sprinklers, use low-angle sprinkler heads and splitters to avoid wetting the trunk and lower branches. If using a drip system, place the emitters at least a foot away from the trunk. Avoid planting susceptible species on poorly drained or shallow soils. Water

stress and/or salinity make some plant species more susceptible to infection when wetted subsequently by irrigation or rains.

For all vegetable and orchard plants, provide good soil drainage. Good soil drainage is best provided before planting. Drainage should be plentiful to the rooting depth of the plants, generally 3 to 6 feet for trees, 2 to 4 feet for shrubs, and 1 to 2 feet for bedding plants. During favorable weather you do not want the roots and crown of a plant to remain wet for the 4 to 8 hours that are required for *Phytophthora* to infect the plant.

Provide adequate drainage by breaking through soil compaction and hardpan. In poorly drained soils, or in an area where you know *Phytophthora* is present, consider planting trees and shrubs on mounds. The mounds should be 8 to 10 inches high. Planting depth after settling should be no deeper than as received from the nursery, with the upper roots near the soil level and the graft union well above the soil line. Do not install irrigated turf around the base of trees, remove all weeds, and do not water the crown area directly. Never cover the graft union with soil or mulch. If you are not sure where the graft union is, ask someone at the nursery to show you and mark it. Raised beds provide good drainage in vegetable garden situations also. Group plants

according to their irrigation needs. Separate those needing frequent, light irrigations, such as potatoes and strawberries, from those needing infrequent, deep irrigations, such as tomatoes and melons.

At the first signs of aboveground symptoms, examine the tree at the soil line for crown rot. Carefully cut away bark that looks affected. If crown rot is present, trees can sometimes be saved by removing soil from the base of the tree down to the top of the main roots and allowing the crown tissue to dry out.

Sanitation

It may be possible to slow the spread of *Phytophthora* within an orchard by avoiding movement of infested soil, water, and plant parts from an area where Phytophthora rot has developed. Surface and subsurface drainage water and anything that can move moist soil can carry the pathogen to a new area, including boots, car tires, and tools. If the physical setting allows drainage water to flow from infested to uninfested areas within the garden during wet weather, consider putting in drains to channel the water away from healthy plants.

Selection of planting stock

Plant only certified nursery stock from a reputable source, and choose the most resistant rootstocks or varieties available for your area. Less susceptible

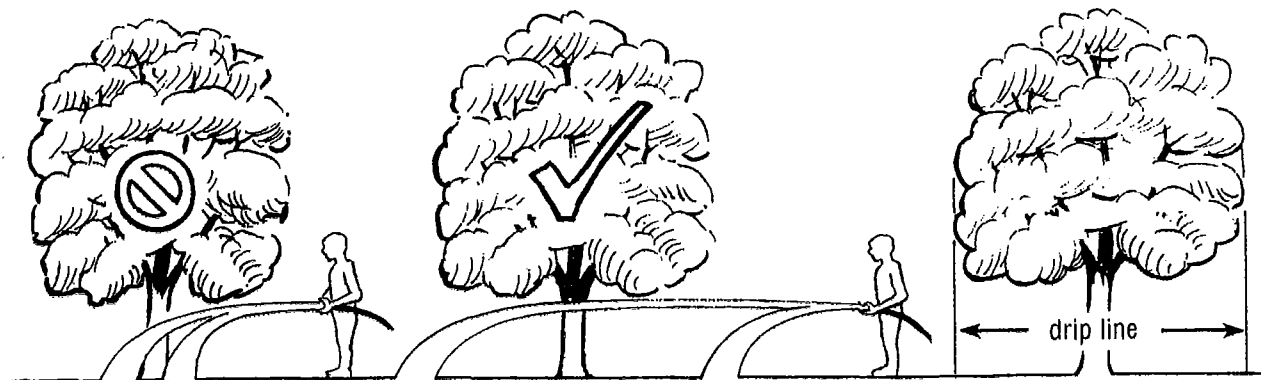


Figure 2. Do not water established trees and shrubs near their trunks, as this promotes root and crown disease. Water plants when needed around the drip line and beyond. Adjust sprinklers or install deflectors to prevent wetting of trunk bases. Move drip emitters away from the base of the trunk after plants are established.

rootstocks or varieties are available for almonds and stone fruit, apples, cauliflower, and strawberries. Carefully select individual plants that are free of symptoms and/or that come from healthy lots of material.

Rotation

If tomatoes have been affected by *Phytophthora* root rot, avoid planting tomatoes or other susceptible plants such as eggplant or peppers in the same soil for at least one or two seasons. Plant a resistant crop such as corn instead, or leave the soil unplanted and do not irrigate, but keep it well worked to allow the soil to dry as deeply as possible. Different species of *Phytophthora* attack beans and cole crops, so these plants

can be substituted as well. Consult a nursery or farm advisor for possible alternatives in your area.

Chemical control

The most effective way of preventing *Phytophthora* rot diseases is to provide good drainage and to practice good water management. Along with the appropriate cultural controls, the fungicide fosetyl-al (Aliette) may be used on a number of ornamental plant species to help prevent *Phytophthora* infections. When applied as a foliar spray it is absorbed by foliage and moves into roots. However, do not rely on fungicide applications alone to control root and crown rot diseases.

SUGGESTED READING

Pest Notes: Damping-Off Diseases in the Garden. Aug. 2006. Perry, E. J. Oakland: Univ. Calif. Div. Agric. Nat. Res. Publ. 74132 UC Statewide IPM Program. Also available online at <http://www.ipm.ucdavis.edu>.

Pests of the Garden and Small Farm: A Grower's Guide to Using Less Pesticide. 1998. Flint, M. L. Oakland: Univ. Calif. Agric. Nat. Res. Publication 3332.

Pests of Landscape Trees and Shrubs. 2004. Dreistadt, S. H. Oakland: Univ. Calif. Div. Agric. Nat. Res. Publ. 3359. ❖

For more information contact the University of California Cooperative Extension in your county. See your telephone directory for addresses and phone numbers.

AUTHOR: E. J. Perry, UC Cooperative Extension, Stanislaus Co.
TECHNICAL EDITOR: M. L. Flint
COORDINATION & PRODUCTION: P. N. Galin
ILLUSTRATIONS: Fig. 1 & 2: *Pests of Landscape Trees and Shrubs*. 2004. Oakland: Univ. Calif. Agric. Nat. Res. Publication 3359.

Produced by IPM Education & Publications, UC Statewide IPM Program, University of California, Davis, CA 95616-8620

This Pest Note is available on the World Wide Web (www.ipm.ucdavis.edu)



This publication has been anonymously peer reviewed for technical accuracy by University of California scientists and other qualified professionals. This review process was managed by the ANR Associate Editor for Pest Management.

To simplify information, trade names of products have been used. No endorsement of named products is intended, nor is criticism implied of similar products that are not mentioned.

This material is partially based upon work supported by the Extension Service, U.S. Department of Agriculture, under special project Section 3(d), Integrated Pest Management.

WARNING ON THE USE OF CHEMICALS

Pesticides are poisonous. Always read and carefully follow all precautions and safety recommendations given on the container label. Store all chemicals in the original labeled containers in a locked cabinet or shed, away from food or feeds, and out of the reach of children, unauthorized persons, pets, and livestock.

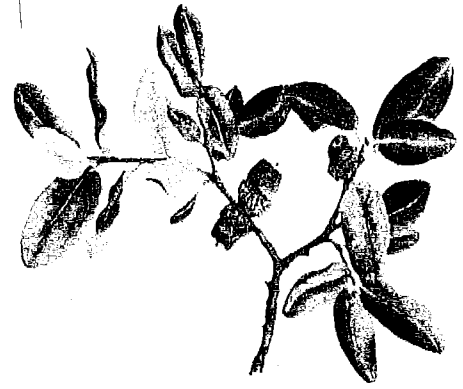
Confine chemicals to the property being treated. Avoid drift onto neighboring properties, especially gardens containing fruits or vegetables ready to be picked.

Do not place containers containing pesticide in the trash or pour pesticides down sink or toilet. Either use the pesticide according to the label or take unwanted pesticides to a Household Hazardous Waste Collection site. Contact your county agricultural commissioner for additional information on safe container disposal and for the location of the Household Hazardous Waste Collection site nearest you. Dispose of empty containers by following label directions. Never reuse or burn the containers or dispose of them in such a manner that they may contaminate water supplies or natural waterways.

The University of California prohibits discrimination or harassment of any person on the basis of race, color, national origin, religion, sex, gender identity, pregnancy (including childbirth, and medical conditions related to pregnancy or childbirth), physical or mental disability, medical condition (cancer-related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or status as a covered veteran (covered veterans are special disabled veterans, recently separated veterans, Vietnam era veterans, or any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized) in any of its programs or activities. University policy is intended to be consistent with the provisions of applicable State and Federal laws. Inquiries regarding the University's nondiscrimination policies may be directed to the Affirmative Action/Staff Personnel Services Director, University of California, Agriculture and Natural Resources, 300 Lakeside Drive, 6th Floor, Oakland, CA 94612-3550, (510) 987-0096.

EXHIBIT K

*Maureen Hamb- Certified Arborist WE2280
Professional Consulting Services*



May 22, 2013

Massy Mehdipour
1425 Dana Avenue
Palo Alto, CA 94301

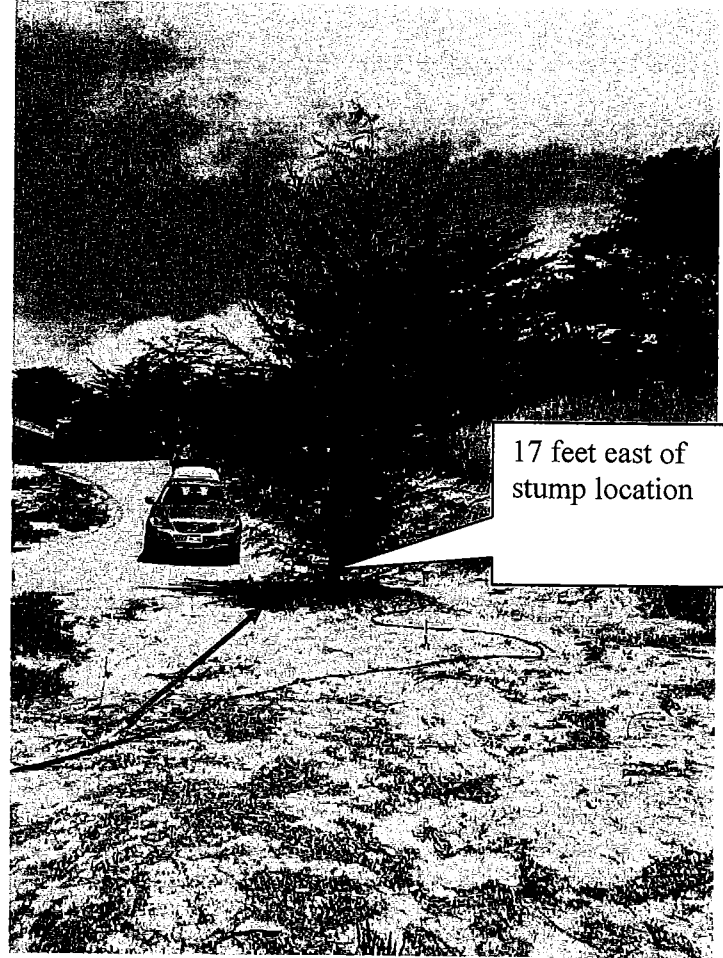
Project: 1170 Signal Hill Road
Phase: Replacement Tree Planting

As you requested I have inspected the new location of the C1 replacement tree. The tree has been relocated five feet to the north and is now directly east of the C1 stump location (pictured at right).

The C1 and C2 replacement tree locations were surveyed by Whitson Engineering and are documented on the attached site plan. In addition, the underground utilities (electrical and propane) were professionally located and are documented on the plans.

The location of the C1 stump was staked using the field measurements I had taken previously. The stump was 14 feet from the residence, 11 feet from the edge of the asphalt driveway and 27 feet from the fence surrounding the propane tank. These measurements are shown on the attached site plan.

The new C1 tree is 17 feet directly east of the center of the field located stump.



849 Almar Ave. Suite C #319
Santa Cruz, CA 95060
email: maureenah@sbglobal.net

Telephone: 831-763-6919
Fax: 831-763-7724
Mobile: 831-234-7735

Planting Site Feasibility

I have researched and documented the feasibility of the C1 planting site since the original replacement seedlings died in 2011. The symptoms observed on the seedlings were consistent with the fungal pathogen *Phytophthora*.

Replacement of the soil surrounding the stump area cannot be considered a solution to remediating the planting site. The area that would require excavation would need to be at least 40 wide and more than five feet in depth. Even with this extensive removal, there are no assurances that all spores would be eliminated.

In addition, the underground utilities would interfere with this process and the sensitive dune habitat would be disturbed.

The use of phosphonate type fungicides may be effective in managing fungal diseases but the disease must first be present on the plant, they are not used on the plant as a preventative.

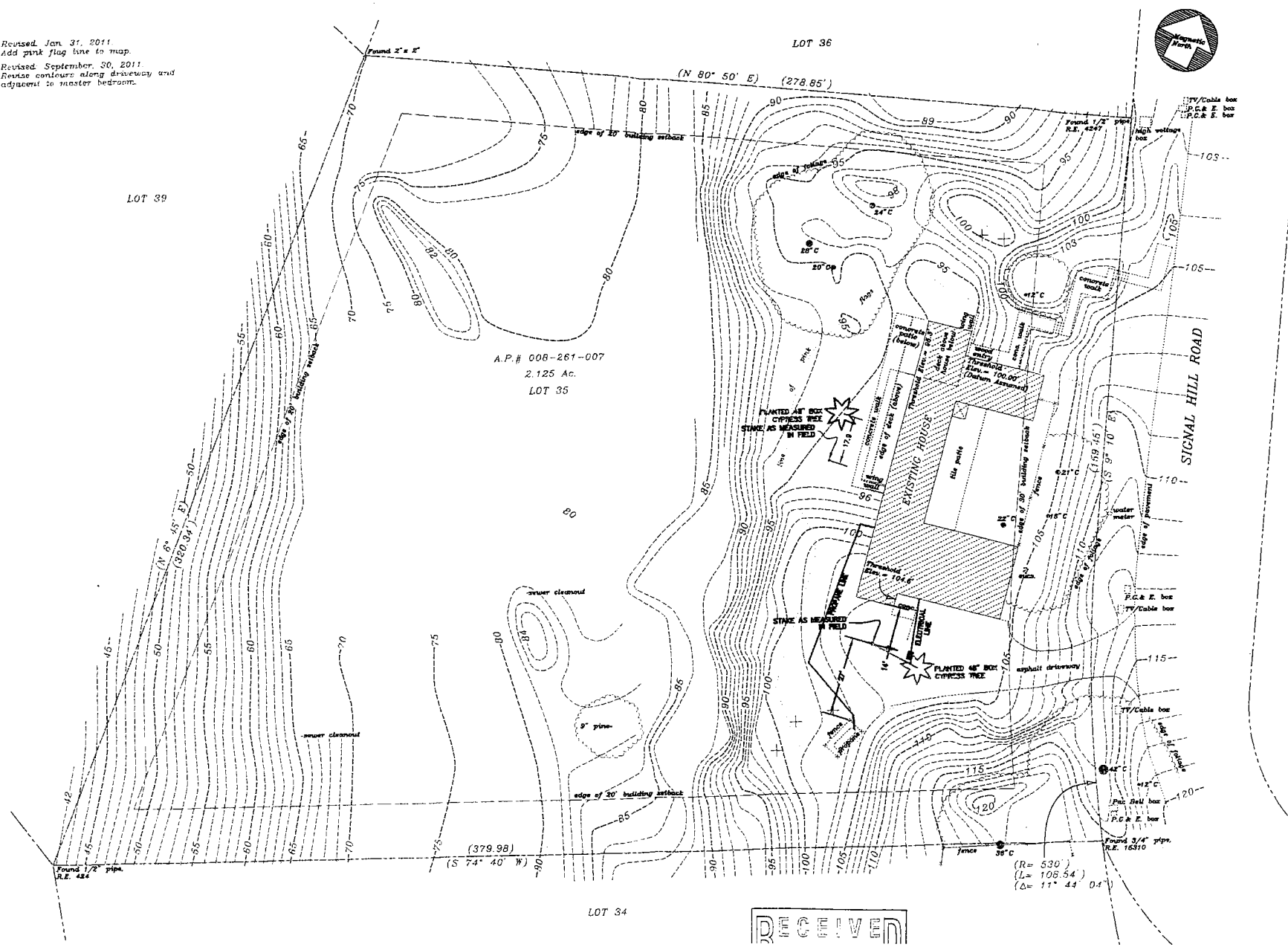
The use of these chemicals to sanitize the entire growing site may not be affective as the spores remain dormant and can move to the plant when conditions are suitable. Use of chemicals adjacent to an ESHA is not appropriate; phosphonates can kill spores of beneficial soil fungus as well as disease causing fungus.

Please call my office with any additional questions regarding the replacement trees on this site.

Respectfully

Maureen Hamb-Certified Arborist WE2280

Revised: Jan 31, 2011
 Add pink flag line to map.
 Revised: September 20, 2011
 Raise contours along driveway and
 adjacent to master bedroom.



LOT 39

LOT 36

A.P.# 008-261-007
 2.125 Ac.
 LOT 35

LOT 34



RECEIVED

N100418

Found 1/2" pipe
 R.E. 424

(379.98)
 (S 74° 40' W)

(N 80° 50' E) (278.85')

(R= 530')
 (L= 106.54')
 (Δ= 11° 44' 04")

Found 3/4" pipe
 R.E. 16310