

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

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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

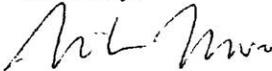
close proximity to the existing residence on the north and the prohibition from planting further south or west. The condition approved by the Planning Commission would have allowed the replacement tree to be located to the west of the original tree where it could have provided screening from Seventeen 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



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 days after written notice of the decision has been mailed to the applicant). Date of decision _____.

1. Please provide the following information:

- a) Your name _____
- b) Phone Number _____
- c) Address _____
- d) Appellant's name (if different) _____

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:

4. What is the file number of the application that is the subject to this appeal?

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 _____
- b) Decision Making Body _____

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).

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).

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).

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 _____ DATE _____

ACCEPTED _____ DATE _____

SECRETARY OF THE PLANNING COMMISSION