

Attachment H
Compliance Letter to
Massy Mehdipour
Dated December 15, 2011

Signal Hill, LLC
PLN100418

ATTACHMENT H

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY

Planning Department

Mike Novo, AICP, Director of Planning

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December 15, 2011

Massy Mehdipour
1425 Dana Ave.
Palo Alto, CA 94301

RE: Restoration Plan to Abate Violation;
Code Enforcement Case No. CE090288;
Restoration Plan File No. PLN100418

Dear Ms. Mehdipour:

Monterey County Planning Department has reviewed the information you submitted on the restoration related to the violation for disturbance to environmentally sensitive habitat (dune habitat), tree removal (three Monterey cypress); and extensive pruning of native Monterey cypress trees. However, the information submitted is not consistent with the department restoration policy dated September 17, 2004 (copy enclosed).

In order to abate the violation, you have submitted: 1) Documents prepared by Maureen Hamb, Certified Arborist: "Tree Resource Evaluation Construction Impact Analysis" dated October 20, 2010, "Tree Resource Evaluation Construction Impact Analysis" dated June 27, 2011, and letters dated March 25, 2011, September 19, 2011, and October 19, 2011 addressing removal of two native Monterey cypress trees and pruning of 3 native Monterey cypress trees; 2) A monitoring agreement with Maureen Hamb to provide monitoring services for the tree components of the restoration; and 3) a letter from Zander Associates, Biologist, dated September 29, 2011 addressing restoration of dune disturbance areas. This information is incomplete and does not meet our restoration policy requirements. A restoration plan must include the following in one submittal:

1. A site plan showing the location of where the violations occurred (in this case tree removal, tree pruning and site disturbance) and where the restoration is going to occur including contouring, replanting, irrigation, etc.;
2. Completion and monitoring schedule; subject to the approval of the Director of Planning;
3. Provisions for maintenance and protection of replacement plantings;
4. Provisions for monitoring until the restoration is deemed to be successful (in this case, quarterly monitoring reports are required to be submitted to the Planning Department for a minimum of 5 years or until restoration is deemed successful by the Planning Department, whichever occurs later); and
5. Bonding. Submittal of estimates from licensed professionals for the full cost of completion including installation and materials is required. A bond in the full amount of all estimated costs

will be required if full restoration to the pre-violation state will not be completed immediately to ensure that restoration will occur in the long term.

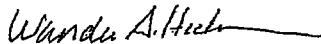
The proposal to provide monitoring services between you and Maureen Hamb needs to include the following additional information:

1. Full address;
2. Assessor's Parcel Number;
3. What is being monitored;
4. What was removed (type and size);
5. Why it is not possible to replace like for like in the same location;
6. Provision for copies of all reports to be sent to the Planning Department for review and approval.

The letter dated September 28, 2011 from Zander Associates does not recommend restoration of the disturbed dune areas in the absence of a larger restoration plan for the entire property. Zander recommends an effort to initiate an eradication program for beach grass in the subject area as a more appropriate step toward eventual control over the spread of the species on the property. If the eradication program is to be implemented as part of this restoration plan, submit recommendations from Zander as to how it should be implemented and the dune stabilized in the subject area.

Title 20.90 requires restoration to the pre-violation state. Pursuant to Monterey County Code Section 20.90.130 restoration is defined as "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 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." The information that you submitted does not conform to the definition of restoration; as the result will not be restoration to the pre-violation state. If the site is not restored to the pre-violation state, a Coastal Development Permit is required.

Respectfully,



Wanda Hickman
Planning and Building Services Manager
(831) 755-5285

WAH:dgr

Enclosure

cc: Delinda Robinson;
CE090288 File;
PLN100418 File

MEMORANDUM

PLANNING & BUILDING INSPECTION

County of Monterey

Date: September 17, 2004

To: P&BI Staff

From: Dale Ellis

Subject: Restoration

There are continuing questions and inconsistency in the way we address restoration of sites. The Enforcement provisions of Title 21 (Chapter 21.84) are cited in this memo. There are equivalent provisions in Chapter 20.90 of Title 20. Please keep in mind that *restoration is the first and preferred option* in correcting a grading/vegetation removal violation. Alternatives to restoration are an exception and need to be looked at critically.

When is restoration required? Restoration is required before a discretionary permit can be determined complete when there is a violation of a County ordinance regulating "...grading, vegetation removal or tree removal ..." on the subject property. (See Section 21.84.130, paragraph one). Restoration is also needed to correct grading and vegetation removal violations and must be addressed before any other permits, including after the permits, can be issued.

What is restoration? Restoration is the "...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 County ordinances regulating grading, vegetation removal or tree removal." (See Section 21.84.130, paragraph two).

Who approves the restoration plan? In most cases the restoration plan may be approved by the Director of Planning and Building Inspection. (See Section 21.84.130, paragraph three). For the purpose of our operations, restoration plans may be approved by the Director, Chief Assistant Director, Assistant Director or a Planning Manager. Because of permitting requirements for certain things (e.g., 30% slope exception or development in the Coastal Zone) a permit may be required for the restoration that normally requires Planning Commission approval. So that we do not unduly delay restoration by extended permit processes we have decided that if the restoration triggers a discretionary permit and CEQA review resulting in a mitigated negative declaration (or EIR), the permit and MND will go to the Planning Commission. All other restoration plans and permits will be considered by the Director.

What if restoration is impractical or may be more damaging than not restoring? "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." (See Section 21.84.130, paragraph two). It is incumbent upon the owner/applicant to show that an alternative to restoration is more appropriate. For the purpose of our operations, alternatives to restoration plan may be only be

approved by the Director, Chief Assistant Director, or Assistant Director.

Is a permit required for restoration? If the work to be done in restoration would normally require a permit (for example, grading more than 100 cubic yards), a permit is required for restoration. Again, the Director can approve the permit as part of the restoration unless a MND is involved.

What is to be included in a restoration plan? The complexity and detail of a restoration plan should be directly proportionate to the amount of restoration to be done. In general terms, the restoration plan should include:

- Existing conditions
- Restoration plan (contouring, replanting, irrigation, etc.)
- Completion schedule
- Maintenance
- Monitoring
- Bonding (if needed)

What is the fee for a restoration plan? Are the fees doubled? If no other permits are required, the fee for review and approval of a restoration plan is \$140/hr. We will charge a minimum of 4 hours. If permits are required for the restoration, normal permit fees are to be charged instead of the \$140/hr. Permit fees are doubled.

Can other permits be issued prior to restoration? Generally, no. "No department, commission, or public employee ... shall issue or approve such permits, licenses or other entitlements nor determine a discretionary permit complete where there is an outstanding violation of this Title involving the property upon which there is pending application for such permit, license or other entitlement unless such permit, license, or other entitlement is the, or part of the, administrative remedy for the violation." (see Section 21.84.120, paragraph one). Restoration is the avenue to correct the violation and until restoration is done or an alternative approved, no other permits can be issued.

I hope this helps. Please let me know if there are any questions.