

Attachment A  
Correspondence from  
John Bridges dated  
December 12, 2012

Signal Hill LLC  
(Mehidpour)  
PLN100418

## Attachment A

### FENTON & KELLER

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December 12, 2012

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Delinda Robinson  
Monterey County Planning Department  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: Mehdipour Site Restoration (PLN 100418) – Proposed Condition 4  
Our File: 33428.30989

Dear Delinda:

This letter is submitted with regard to proposed Condition 4, Part 3. As you will recall, Ms. Mehdipour voluntarily offered to implement a Dune Restoration Plan over most of her property even though such was not legally required (ref. our August 3, 2012, submittal of the Plan). That offer was made in the context of an overall package to address code enforcement questions. At the time the offer was made, Ms. Mehdipour understood that the required replacement trees (for the two cypress trees that were removed without permit) could be located consistent with her arborists' recommendation. The decision of the Board of Supervisors on December 4 changed that. Because the tree replacement location component of the overall code enforcement remedy has been changed, Ms. Mehdipour is now no longer willing to implement dune restoration and hereby withdraws that offer. Accordingly, we request that Condition 4, Part 3 be deleted as well as any compliance actions and/or findings related thereto.

As you know, it is our legal position that removal of a small patch of beach grass from Ms. Mehdipour's property did not require a permit because it did not constitute development as that term is defined in the LCP (§ 20.06.310.8). Non-native invasive beach grass is not major vegetation. Accordingly, removal of the beach grass was not in violation of the code. Your staff report citation to section 20.70.120.A.2 is misplaced as the exemption exception you cite does not apply in this case (no exemption is required because there was no development in the first place).

Even if by some strained reading of the code a permit was required to remove the beach grass, the applicable restoration standard is to return the property to its "pre-violation state." In this case, the beach grass has already regenerated and nature has returned the property to its original state. Restoration by revegetation of native plants is only required when native plants are removed (§ 20.90.130).

Under the County's code enforcement regulations, the burden of proof is squarely on the County to prove, by a preponderance of evidence, that a violation has occurred. The County has offered no

Delinda Robinson  
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specific evidence (only speculation and conjecture), that anything other than beach grass was removed. The staff report admits it is not possible to verify what types of plants were removed. Such speculation would certainly fail to satisfy a preponderance test. Similarly, the record contains no specific evidence to support the staff report assertion that there was 2,500 square feet of "terracing" done on Ms. Mehdipour's property. The suggestion of an appearance from the perspective of another property by a biologist is not substantial evidence.

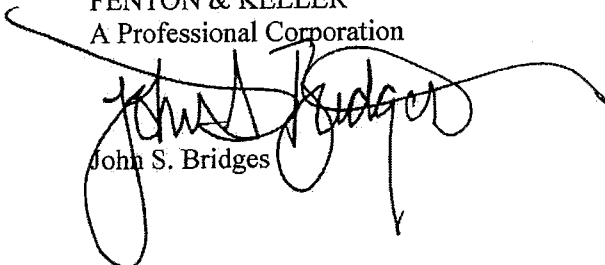
Attached hereto is a sworn declaration from Massy Mehdipour which attests to the fact that only beach grass was removed and that no grading, terracing, or other sand removal took place on the property (Attachment 1). While it is possible (though not certain) that some sand may have been moved to accommodate preliminary staking and flagging of an earlier project design and/or during geological testing on the property, such activities do not require coastal development permits and, again, no major vegetation was removed.

Ms. Mehdipour is resigned to the fact that she must accept the Board of Supervisor's decision about the replacement tree location but she will not restore the dune landscape on her property as a component part of this code enforcement action. Ms. Mehdipour does, however, intend to later restore with native plants the undisturbed dune areas of her property in conjunction with development of a new home on her property.

Please call me if you have any questions with regard to this request.

Very truly yours,

FENTON & KELLER  
A Professional Corporation



John S. Bridges

JSB:kmc

Enclosure

cc: Board of Supervisors c/o Clerk of the Board  
Supervisor Fernando Armenta  
Supervisor Louis Calcagno  
Supervisor Simon Salinas  
Supervisor Jane Parker  
Supervisor Dave Potter  
Massy Mehdipour

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STATE OF CALIFORNIA  
COUNTY OF MONTEREY

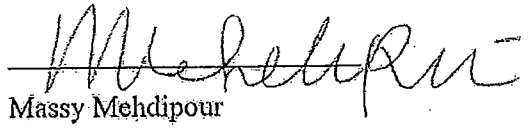
DECLARATION OF  
MASSY MEHDIPOUR

I, Massy Mehdipour, hereby declare:

- 1. I am the owner of the property at 1170 Signal Hill Road in Pebble Beach, California.
- 2. To the best of my information and belief no vegetation, except a small area of non-native invasive beach grass was removed from the dune area of my property. A small patch of beach grass was removed by my contractor when staking and flagging an early concept design for my new home.
- 3. To the best of my information and belief no sand removal, grading, or terracing took place in the dune area on my property. My grandchildren played in the area and would slide down the sand dune. My contractor erected staking and flagging of a concept design for my house in the area. My geologist did some sample soil boring in the area. As a result of these activities apparently a small amount of beach grass was removed and a small amount of sand may have also been pushed aside or leveled. Nothing else occurred.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct, except as to those matters based on information and belief, and as to those matters I believe them to be true, and that if called as a witness I could and would competently testify thereto.

Executed on this 12 day of December, 2012 at Menlo Park California.

By:   
Massy Mehdipour