

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 Categorically 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/foliage 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:

*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 Categorically 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

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

MARI A. CAMERON  
JOHN S. BRIDGES  
DENNIS G. McCARTHY  
CHRISTOPHER E. PANETTA  
DAVID C. SWEIGERT  
SARA B. BOYNS  
BRIAN D. CALL  
SHARILYN R. PAYNE  
BRIAN E. TURLINGTON  
CAROL S. HILBURN  
THROY A. KINGSHAVEN  
KATHERINE M. HOGAN  
BIANCA KARIM  
ELIZABETH R. LEITZINGER

2801 MONTEREY-SALINAS HIGHWAY

POST OFFICE BOX 791

MONTEREY, CALIFORNIA 93942-0791

TELEPHONE (831) 373-1241

FACSIMILE (831) 373-7219

[www.FentonKeller.com](http://www.FentonKeller.com)

LEWIS L. FENTON  
1923-2005

OF COUNSEL  
CHARLES R. KELLER  
THOMAS H. JAMISON

August 3, 2012

JOHN S. BRIDGES

[JBridges@FentonKeller.com](mailto:JBridges@FentonKeller.com)  
ext. 238

VIA HAND DELIVERY

Monterey County Planning Commission  
c/o Delinda Robinson  
168 W. Alisal Street, 2<sup>nd</sup> 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 case<sup>1</sup>, Ms. Mehdi Pour is also offering to implement the enclosed Dune Restoration Plan prepared by coastal biologist Mike Zander (Attachment 3).

<sup>1</sup> 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 Mehdipour  
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.

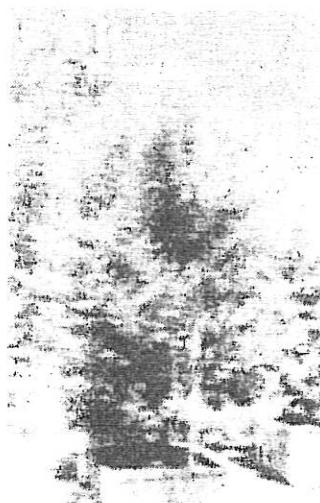
These locations were selected to replace screening qualities and ensure the long-term survival of the new trees.

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.

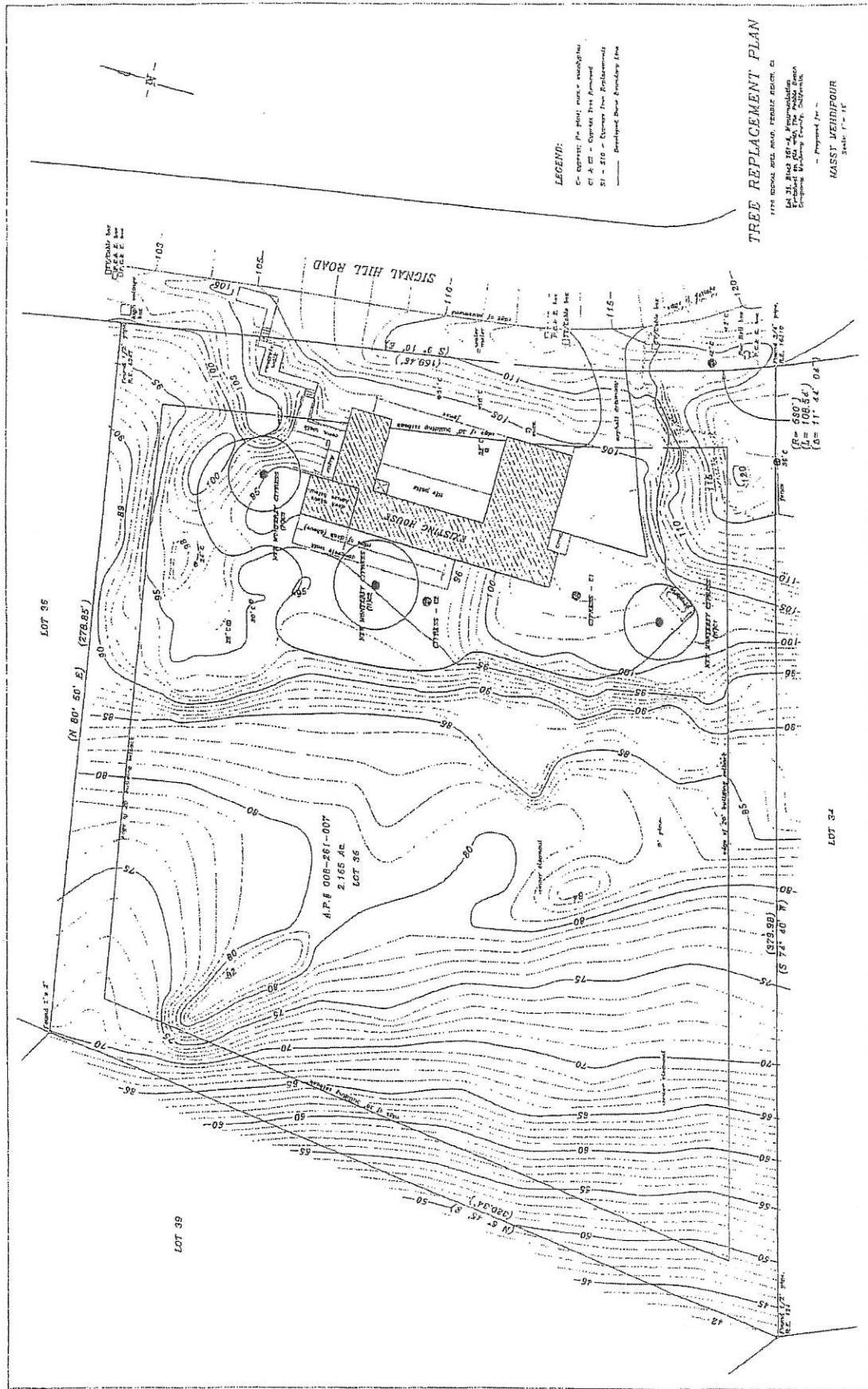
The new trees will require irrigation at a rate of 10 gallons per week, per one inch of trunk diameter. Water will be delivered via a drip system that delivers slowly, allowing the site to drain properly and avoid introducing the "damping off" diseases that cause root decay.

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



Exhibit

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 require 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 Nartlon 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.

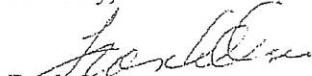
Plant re-establishment is critical to control erosion in this area. Soils in the area are loose and will continue to blow unless stabilized. What is most important is to offer wind protection and available moisture for new plantings to insure their success. My experience with soils of this type shows 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 Mehdipour  
1425 Dana Ave.  
Palo Alto, CA 94301

*Prepared by:*

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

August 2012

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## 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.<sup>1</sup> 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

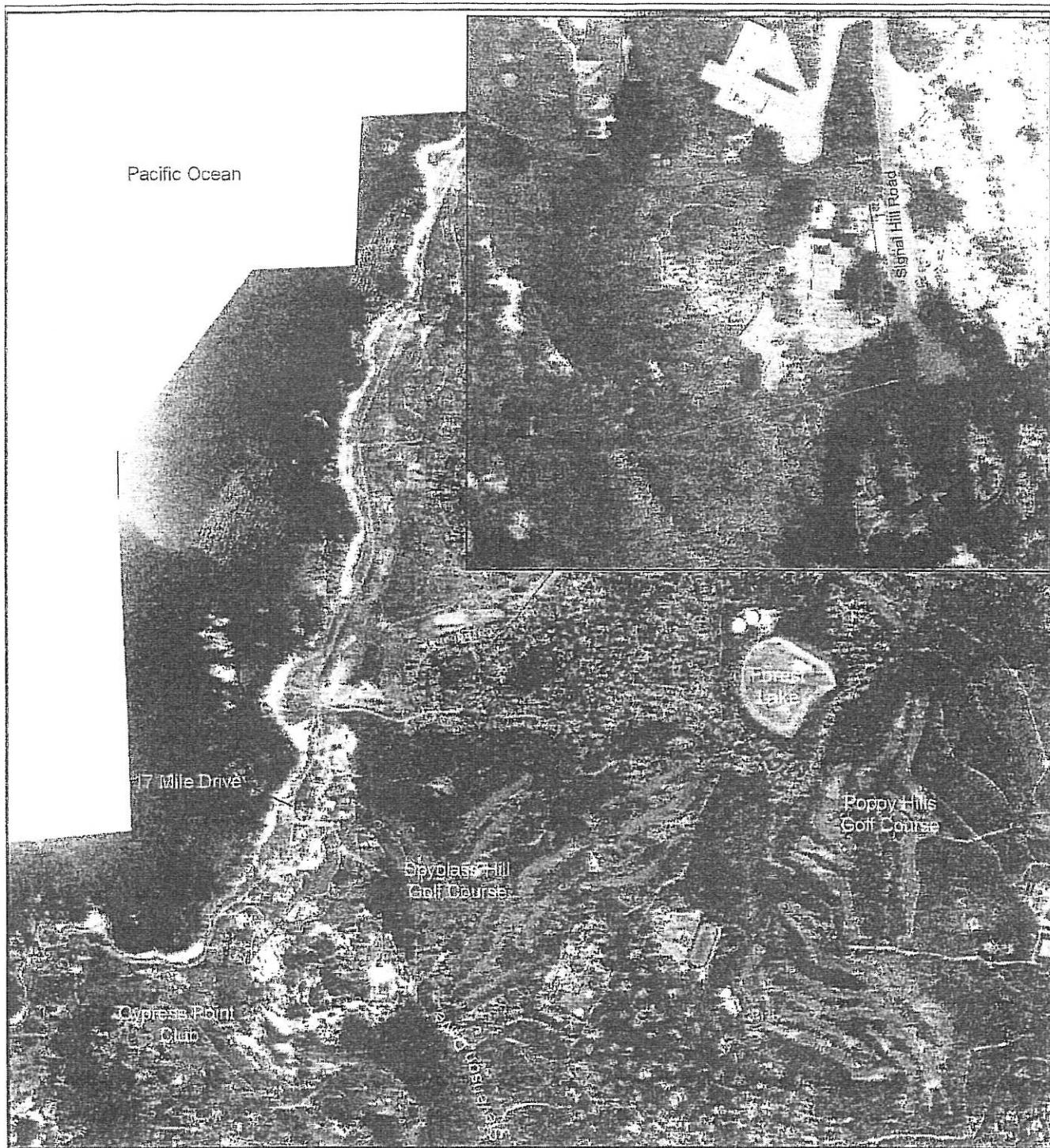
Four general but overlapping and intergraded vegetation types occur on the property: European beachgrass dominant, iceplant dominant, sparsely vegetated open sand, and mixed coastal dune scrub. Figure 2 indicates the general distribution and extent of these vegetation communities and a description of 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*).<sup>2</sup> 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.

<sup>1</sup>Native 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.

<sup>2</sup> 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



N

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

Exhibit 1

Page 12 of 24 Pages



 Scale: 1" = 50'	<u>LEGEND:</u>  Open Sand  Beach Grass Dominant  Iceplant Dominant  Coastal Scrub  Existing Residence and Landscaping  Property Boundary	Vegetation Types Mehdi Pour Property Pebble Beach, California  Date: 6/10  Baseline Photo ca 2010	Figure 2
Zander Associates Environmental Consultants 4460 Redwood Hwy, Suite 16-240 San Rafael, CA 94903			

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 disburse 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.

Sparingly 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 nutkana*) 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 Mehdipour 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

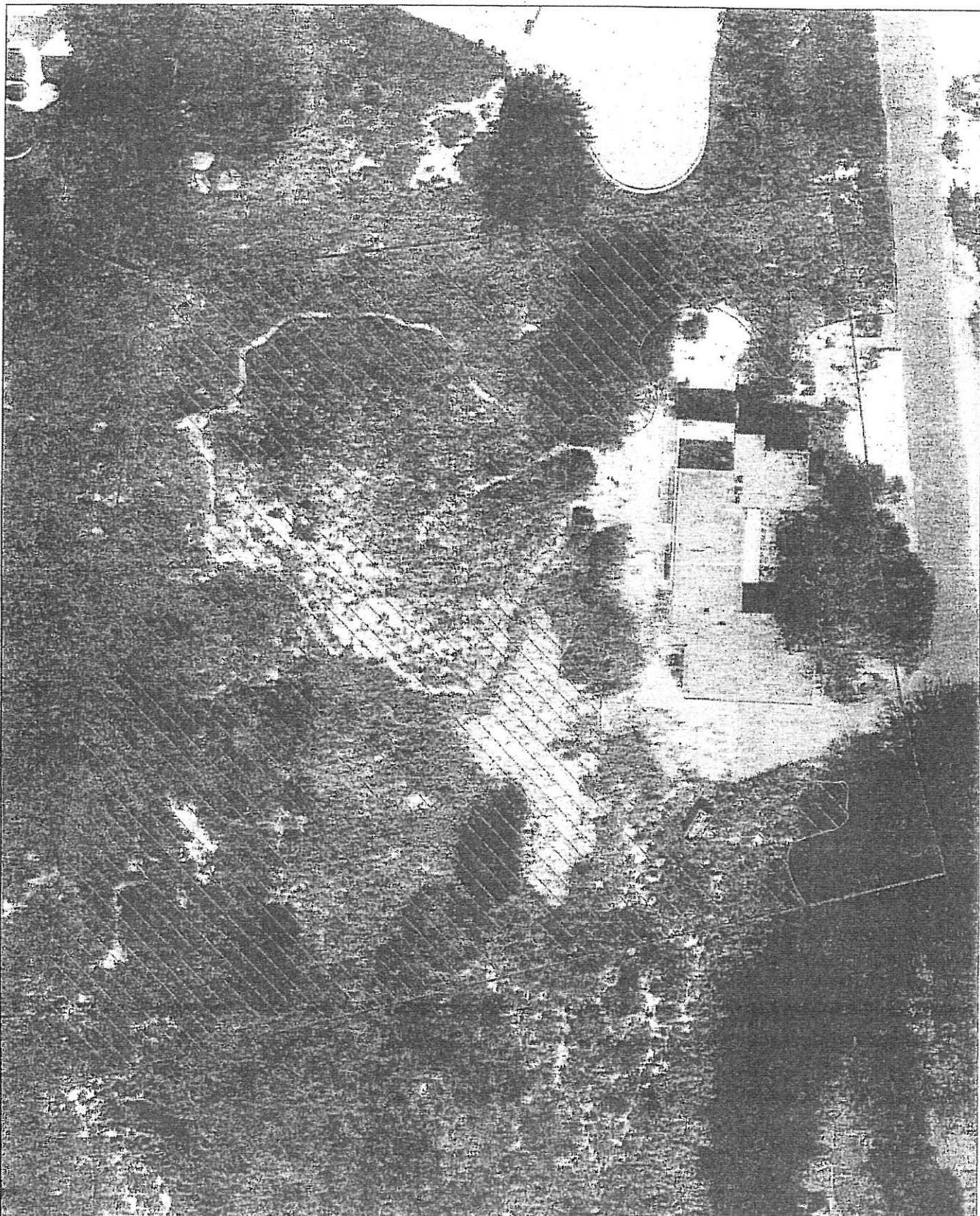
All plants to be installed in the restoration area will be propagated from local sources (i.e. seeds or cuttings) within five miles of the project site. Seed collection will be made at the appropriate time for each targeted species. In general, collections will be made between April and November. No 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 Mehdipour property will be manual removal. This will consist of pulling by hand or digging out the grass so



Zander Associates Environmental Consultants 4460 Redwood Hwy, Suite 16-240 San Rafael, CA 94903
Scale: 1" = 50'



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

LEGEND:  
—— Remnant Dune Restoration Area  
—— Property Boundary

Baseline Aerial Photo ca 2010

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

Figure  
3

Exhibit 1  
Page 16 of 24 Pages

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>	woolly goldfields
<i>Lessingia filaginifolia</i>	California corethrogynne
<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



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@sbglobal.net

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

## 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 as 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.

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Trees that have been excessively pruned may not express decline for a number of years. Tree structure, although modified has not been 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.

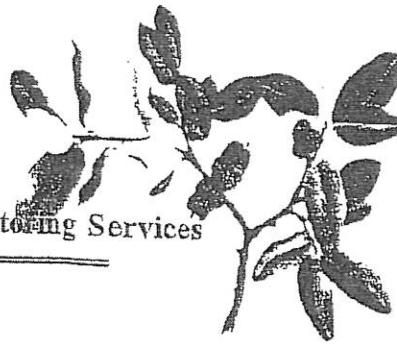
If decline of the canopy occurs and affects more than 50% of the live foliage tree replacement will be required. If pruning wounds decay and invade the main stems to a point of 50% of the stem diameter tree replacement will be required.

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 provided 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@sbglobal.net](mailto:maureenah@sbglobal.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.

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Signature

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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 008-261-000 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

<b>Responsible Department:</b>	Planning Department
<b>Condition/Mitigation Monitoring Measure:</b>	<p>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.</p> <p>(RMA - Planning Department)</p>
<b>Compliance or Monitoring Action to be Performed:</b>	<p>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.</p> <p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.</p>

#### 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.

<b>Compliance or Monitoring Action to be Performed:</b>	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)

<b>Responsible Department:</b>	Planning Department
<b>Condition/Mitigation Monitoring Measure:</b>	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.
<b>Compliance or Monitoring Action to be Performed:</b>	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)

<b>Responsible Department:</b>	Fire
<b>Condition/Mitigation Monitoring Measure:</b>	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)
<b>Compliance or Monitoring Action to be Performed:</b>	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.