

# Exhibit F

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**From:** Gail Hatter  
**To:** [Blanco, Maira x5052](#)  
**Cc:** [Cody Phillips](#); [Tony Lombardo](#)  
**Subject:** FW: Gianos PLN170246- Mitigation and Monitoring Agreement and NOD Filing Fee  
**Date:** Friday, July 13, 2018 10:06:23 AM

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Maira,

We have reviewed your letter dated July 2, 2018 requiring acceptance of proposed mitigation measures by the owners for the Gianos project. The letter noted that the acceptance must be signed “prior to circulation of the environmental document”, which would have been premature in that the applicants had not yet received or reviewed the environmental document or a staff report to determine if the proposed project conditions and mitigations are in fact warranted. Since receipt of this request however, the environmental document was in fact circulated, and we have reviewed that document. The staff report for the project is still pending. In response to the environmental document, we note the following:

- The applicants hereby acknowledge receipt and review of the proposed mitigations.
- The applicants note no objection to Conditions 1 – 9, and 11 – 17.
- We hereby note formal objection on behalf of the applicants to Condition No 10, based on the following:
  1. There are two archaeological reports on file with the County for this property (prepared for the former owner and for the current owner). Both reports were negative as to known resources on the site and/or evidence found during the surveys.
  2. Both reports recommended as mitigations the standard cautionary notes on plans and an on-site archaeological monitor during excavation. Neither report recommended or suggested a tribal monitor for excavation activities on this site.
  3. The Public Resources Code does not cite any requirements for an on-site monitor. Rather, the law says that mitigation measures shall be determined during the consultation with the MLD and shall in turn be incorporated into the environmental document. The law gives some examples of mitigation measures which may be considered (if feasible) during the consultation, none of which include monitoring:

**21084.3. [...]** *The following are examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts:*

*(1) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.*

*(2) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:*

*(A) Protecting the cultural character and integrity of the resource.*

- (B) Protecting the traditional use of the resource.*
- (C) Protecting the confidentiality of the resource.*
- (3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.*
- (4) Protecting the resource.*

**Condition No. 8 & 9 are sufficient mitigation in that:**

**Condition No 8 states that:** “If at any time, potentially significant archaeological resources or intact features are discovered, the monitor shall temporarily halt work until the find can be evaluated by the OCEN Monitor and principal Archaeologist. If the find is determined to be significant, work shall remain halted until mitigation measures have been formulated with the concurrence of the lead agency, and implemented. In order to facilitate data recovery of smaller midden components, such as beads or lithic debitage, the excavated soil from the project site shall be screened during monitoring.”, **and**

**Condition No. 9 (note on plans) states:** “Mitigation Measure Monitoring Action No. 2b. If human remains are accidentally discovered during construction activities, there shall be no further excavation or disturbance within 50 meters (150 feet) of the find and the following shall occur:

- The Owner/Applicant/Contractor shall contact the Monterey County Coroner to determine that no investigation of the cause of death is required;
- If the coroner determines the remains to be Native American: - The coroner shall contact the Native American Heritage Commission and the RMA Planning Department within 24 hours.
  - The Native American Heritage Commission shall identify the person or persons from a recognized local tribe of the Esselen, Salinan, Costonoans/ Ohlone and Chumash tribal groups, as appropriate, to be the most likely descendent.
  - The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.9 and 5097.993.

**Condition No 10** is redundant and premature, in that it requires an tribal monitor on-site for all excavation prior to any actual discovery and contrary to the timing and language in Condition No. 8 and 9.

As such we find that the condition for the onsite monitor is unnecessarily burdensome and does not avoid or substantially lessen the impact on the “identified cultural resource” per PRC Section 21082.3 any more than it would if the condition said that we had to stop work and call a monitor upon discovery of remains.

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*R. Gail Hatter*

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*"People will forget what you say, people will forget what you did; But people will never forget how you made them feel."*

On Jul 5, 2018, at 4:41 PM, Blanco, Maira x5052  
<[BlancoM@co.monterey.ca.us](mailto:BlancoM@co.monterey.ca.us)> wrote:

Hi Terry,

These mitigation measures were incorporated to mitigate the impacts of the proposed development to a less than significant level. If you have any ideas on how to do this without the mitigation measures, I'd invite you to formally comment on the project and conditions of approval during the review period so that it becomes part of the record.

Sincerely,

Maira

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**From:** terence latasa [<mailto:tlatasa@sbcglobal.net>]  
**Sent:** Thursday, July 5, 2018 4:09 PM  
**To:** Blanco, Maira x5052 <[BlancoM@co.monterey.ca.us](mailto:BlancoM@co.monterey.ca.us)>  
**Cc:** Flip Gianos <[pgianos@gmail.com](mailto:pgianos@gmail.com)>; Carol Gianos <[carol@gianos.com](mailto:carol@gianos.com)>; Tony Lombardo <[tony@alombardolaw.com](mailto:tony@alombardolaw.com)>; Cody Phillips <[cody@alombardolaw.com](mailto:cody@alombardolaw.com)>; Gail Hatter <[gail@alombardolaw.com](mailto:gail@alombardolaw.com)>  
**Subject:** Re: Gianos PLN170246- Mitigation and Monitoring Agreement and NOD Filing Fee

Hi Maira,

Thanks for the draft conditions. Just a few comments:

1. It appears that you are recommending approval of the project. This is great.
  
2. Conditions #3, 8 and 9 shouldn't be included, because we had TWO different archaeological reports and they were both NEGATIVE.  
At the least, condition #10 should be removed; this would add another monitor to the arch monitor of condition 8, for a total of two monitors.  
Typically, the extra monitor would be involved only if the first monitor finds anything.
  
3. Our attorney said that the signed agreement is only needed after the project is approved; the PC might change the conditions, and we don't want an erroneous agreement.

Thanks,

-Terry Latasa, architect

Begin forwarded message:

**From:** "Blanco, Maira x5052"  
<[BlancoM@co.monterey.ca.us](mailto:BlancoM@co.monterey.ca.us)>  
**Date:** July 3, 2018 at 1:33:02 PM CDT  
**To:** terence latasa  
<[tlatasa@sbcglobal.net](mailto:tlatasa@sbcglobal.net)>  
**Cc:** Cody Phillips  
<[cody@alombardolaw.com](mailto:cody@alombardolaw.com)>, Tony  
Lombardo <[tony@alombardolaw.com](mailto:tony@alombardolaw.com)>  
**Subject: Gianos PLN170246-  
Mitigation and Monitoring Agreement  
and NOD Filing Fee**

Good morning Terry,

Please take a moment to read through the attached letter and proposed mitigation measures. The IS circulation period is from July 6, 2018 to August 6, 2018- comments received will be addressed at the August 8th Planning Commission hearing.

Thank you,

Maira

<MND\_Cover Letter\_PLN170246\_070218.pdf>  
<Gianos Conditions\_MM.pdf>

**Nason Campbell**

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