

# MEMORANDUM

## PLANNING & BUILDING INSPECTION

County of Monterey

**Date:** September 17, 2004

**To:** P&BI Staff

**From:** Dale Ellis

**Subject:** Restoration

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

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

What is restoration? Restoration is the "...the revegetation of native plants and trees and the reconstruction of natural features of the land which have been removed or changed in violation of County ordinances regulating grading, vegetation removal or tree removal." (See Section 21.84.130, paragraph two).

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

What if restoration is impractical or may be more damaging than not restoring? "Alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant or the property owner." (See Section 21.84.130, paragraph two). It is incumbent upon the owner/applicant to show that an alternative to restoration is more appropriate. For the purpose of our operations, alternatives to restoration plan may be only be

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

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

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

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

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

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

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