

Attachment D

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NOTICE OF APPEAL

Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)

RECEIVED
MONTEREY COUNTY

FEB 21 2023

CLERK OF THE BOARD

DEPUTY

VICENTE RAMIREZ

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before _____ (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: Feb 9, 2023

1. Appellant Name: The Open Monterey Project, concerned property owners and residents

Address: Molly Erickson, attorney, Box 2448, Monterey, CA 93942

Telephone: 831-373-1214

2. Indicate your interest in the decision by placing a check mark below:

Applicant _____

Neighbor _____

Other (please state) Appellant in underlying action to appeal permit; concerned property owners and residents

3. If you are not the applicant, please give the applicant's name:

Isabella 2 LLC

4. Fill in the file number of the application that is the subject of this appeal below:

	Type of Application	Area
a) Planning Commission: PC-	_____	_____
b) Zoning Administrator: ZA-	<u>PLN180523-AMD1</u>	<u>CARMEL AREA</u>
c) Administrative Permit: AP-	_____	_____

Notice of Appeal

5. What is the nature of your appeal?

a) Are you appealing the approval or denial of an application? Approval

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing _____
The findings or decision or conditions are not supported by the evidence X
The decision was contrary to law X

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary) County board took final action. TOMP appealed the action. TOMP has not withdrawn its appeal.

The code/regulations do not authorize the County to withdraw a FLAN where an appeal has been filed.
Zoning Administrator does not have authority to amend a Board approval that has been designated a final action and that has been suspended.
The MND should not have been relied on because the MND and project are on appeal to the CCC and the appeal has not been withdrawn.

The variance allowing a 51% FAR in the Carmel Area where the max FAR is 45% is not supported and would have significant and unmitigated project and cumulative effects in light of the many nonconforming parcels/lots. The FAR is a percentage; smaller lots get smaller houses. Built access to flat roof should be prohibited due to foreseeable use as roof deck.

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)
County may not amend an approval whose effectiveness has been suspended by an appeal by a third party. (see Finding 1/evidence)

Inconsistent with 45% maximum FAR; variance is not supported under these circumstances. Would set precedent. (Findings 2, 9, 10)
All property owners get 45% and no other variance for new construction has been allowed. The other variances cited in Findings 9/10 were for decreases to nonconforming existing structures. The County production of records confirmed that. There are many nonconforming parcels/lots on Carmel Point/in immediate area; if they were allowed 51% FAR there would be significant unanalyzed and unmitigated impacts.

9. You must pay the required filing fee of \$3,572.00 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)
Located in Coastal Zone

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board or mailed and postmarked by the filing deadline to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and postmarked by the deadline.

APPELLANT SIGNATURE /s/ Molly Erickson *Molly Erickson* Date: Feb. 20, 2023

RECEIVED SIGNATURE _____ Date: _____