

ATTACHMENT H



NOTICE OF APPEAL

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

RECEIVED
MONTEREY COUNTY

2014 FEB 24 AM 11:50

CLERK OF THE BOARD

JbP

DEPUTY

No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before 2/24/14 (10 days after written notice of the decision has been mailed to the applicant).
Date of decision * 2/12/14

1. Please give the following information:

- a) Your name Sam Reeves c/o Anthony Lombardo & Associates
- b) Address 450 Lincoln Ave., Ste. 101 City Salinas Zip 93901
- c) Phone Number (831) 751-2330

2. Indicate your interest in the decision by checking the appropriate box:

- Applicant
- Neighbor
- Other (please state) _____

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

4. Indicate the file number of the application that is the subject of the appeal and the decision making body.

5.

	File Number	Type of Application	Area
a) Planning Commission:	<u>REF 140015/PLN100418</u>	<u>Coastal Permit</u>	<u>Pebble Beach</u>
b) Zoning Administrator:	_____		
c) Subdivision Committee:	_____		
d) Administrative Permit:	_____		

5. What is the nature of your appeal?

a) Are you appealing the approval or the denial of an ~~application~~^{appeal}? (Check appropriate box)

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 sheets if necessary).

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for your appeal:

There was a lack of fair or impartial hearing; or

The findings or decision or conditions are not supported by the evidence; or

The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Board of Supervisors will *not* accept an application for 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).

See attached points of appeal.

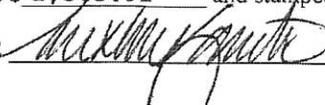
7. As part of the application approval or denial process, findings were made by the decision making body (Planning Commission, Zoning Administrator, Subdivision Committee or Director of Planning and Building Inspection). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary).

See attached points of appeal.

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Resource Management Agency - Planning Department will provide you with a mailing list.

9. Your appeal is accepted when the Clerk to the Board's Office accepts the appeal as complete on its face, receives the filing fee \$ 1,565.91 and stamped addressed envelopes.

APPELLANT SIGNATURE



DATE

2/24/14

ACCEPTED

(Clerk to the Board)

DATE

POINTS OF APPEAL

Appeal of Planning Commission Decision Denying the Appeal of Sam Reeves to the Decision of the Planning Director Finding the Mehdipour Restoration is in Substantial Compliance with the Conditions of Approval (Mehdipour; PLN100418/REF140015)

In February 2013 the Board of Supervisors on appeal approved a Coastal Development Permit (PLN100418) for a restoration of Ms. Mehdipour's illegal tree removal, excessive tree pruning and disruption of the dune habitat on Signal Hill in the Pebble Beach area. Ms. Mehdipour's clear goal is to demolish the Connell House and build a large new house (PLN100338). The trees that were illegally removed were in the way. The application for the new house was held in abeyance pending resolution of PLN100418. The Board's February 2013 approval was subject to several conditions.

The condition at issue reads:

"The applicant/owner shall adhere to all 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 be 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."

There are two points of the Board approval that have not been met and are the subject of this appeal:

- Replacement Canopy: The condition is to "...restore the visual screening of the home from 17-Mile Drive and other public viewing areas..." and required monitoring for "...five years or until such time as the tree canopy of the replacement trees approximates the 2007 tree canopy, whichever is longer." These requirements were discussed and agreed to by Ms. Mehdipour's representatives John Bridges and David Armanasco. We were told in Mr. Novo's determination that "it is unlikely that the replacement trees will ever replicate the screening that was provided by the original trees." This is in direct contradiction to the Board's requirements.

The Planning Commission found, contrary to the Director's earlier statements that it was "... premature to make the determination that they [the trees] will never provide screening for the house or that the project is not in compliance with the condition. The trees will not look the same, but monitoring will not be complete until the performance criteria are achieved." There is however no performance criteria other than approximation of the 2007 canopy. That canopy is clearly shown in aerial photographs and photographs from 17 mile drive. The "performance criteria" is apparently an agreement between the staff and that the owner to use some sort of a volumetric calculation rather than the screening and canopy replacement criteria required by the Board.

- Location of the Southernmost Tree: The Board's condition stated "...*in no case* may be 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." The planted trees fail to meet this requirement on two points:
 - The southernmost tree is farther south than approved by the Board. During the Board's hearings the Board was shown a plan with the north arrow parallel to the western walls of the house. The Board based their decision on that plan. Now the Department has agreed to use what we are told is "magnetic north" which is approximately 20 degrees off the north arrow on the Board's plan. Plans showing that polar shift are attached to this appeal.
 - The northernmost tree is clearly much farther west than the "...southernmost removed tree..." as approved by the Board.

In both cases, the Board of Supervisors were given assurances by staff and the applicant that the replacement trees would be located as directed by the Board and that the canopy and screening would be replicate that which was illegally removed. Now we are told that it will not. Nonetheless, Mr. Novo and the Planning Commission have determined the conditions are being met.

The condition is not and apparently cannot be met based on the tree location approved by staff. Therefore, the restoration required by the Code and Board has not and cannot be accomplished and the violation still exists on the site. We ask that the Board grant Mr. Reeves appeal and:

- Find that the conditions of PLN100318 have not been met and direct Mehdipour to do the restoration she committed to do and achieve the canopy and screening required by the Board; or
- Set a public hearing pursuant to Section 20.70.060 to consider revocation or modification of PLN100418.

We also ask that the Board find that the property has not been restored and direct that all work on PLN100318 be suspended until such time as the restoration occurs.

LOT 36

(278.85')



TV Table box
P.C. & E. box
P.C. & E. box

Found 1.2" pipe
S.E. 4247

high voltage
box

103

105

105

105

105

105

105

105

105

105

105

105

105

105

105

105

105

105

105

105

NEW N/S a

BOARD'S N/S

SIGNAL HILL ROAD

PLANTED AS BEAR
CORNER STAKE
AS MEASURED
IN FIELD



EXISTING HOUSE

ELECTRICAL LINE

STAKE AS MEASURED
IN FIELD

PLANTED AS BEAR
CORNER STAKE



(R= 530')
(L= 108 54')
(C= 117 44 04')

(153.45')
(5' 9" 16" E)

008-261-006-000
Kim Doo Jo/Pil Sun
5460 Emerywood Dr.
Buena Park CA 90621

008-261-002-000
Robert B and Maureen Feduniak
10 Wood Creek Ct.
Las Vegas, NV 89141

008-261-003-000
OSullivan Thomas E Tr of Est
c/o David Wilsey
P.O. Box 222238
Carmel, CA 93922

008-261-010-000
Samuel T. Reeves
12167 Turtle Beach Rd.
Palm Beach Gardens, FL 33408

008-272-012-000
Cypress Point Club
P.O. Box 466
Pebble Beach, CA 93953

008-261-007-000
(Owner)
Signal Hill, LLC
111 Independence Dr.
Menlo Park, CA 94301

008-261-001-000
Peters Geoffrey MacLean Tr
550 Lytton Ave.
Palo Alto, CA 94301-1542

008-261-005-000
Abercrombie Lebon G & Mary J
P.O. Box 1477
Pebble Beach, CA 93950

008-272-011-000 & 008-991-001-000
Pebble Beach Company
P.O. Box 1767
Pebble Beach, CA 93953-1767

Applicant
Mehdipour Massy
c/o Signal Hill LLC.
1425 Dana Ave.
Palo Alto, CA 94301

California Coastal Commission
725 Front St, Ste 300
Santa Cruz, CA 95060

John Bridges
Fenton and Keller
P.O. Box 791
Monterey, CA 93942

Anthony Lombardo & Associates
450 Lincoln Ave., Ste. 101
Salinas, CA 93901

The Open Monterey Project
Attn: Molly Erickson
479 Pacific St., Ste. 1
Monterey, CA 93940

Land Watch Monterey
Attn: Amy White
P.O. Box 1876
Salinas, CA 93902