

# Attachment D

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# NOTICE OF APPEAL

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

RECEIVED  
MONTEREY COUNTY

2021 JAN -4 PM 2:06

CLERK OF THE BOARD

*[Signature]*  
DEPUTY

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 January 4, 2021 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: October 28, 2020

1. Appellant Name: Fred Miranda  
Address: 3067 Forest Way, Pebble Beach, CA. 93953  
Telephone: Cell (408) 807-6471

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

Applicant            

Neighbor            

Other (please state)           

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

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- <u>20-037</u>	<u>PLN 190097 and PLN 190098</u>
b)	Zoning Administrator: ZA- <u>          </u>	<u>          </u>
c)	Administrative Permit: AP- <u>          </u>	<u>          </u>

## Notice of Appeal

5. What is the nature of your appeal?

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

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 \_\_\_\_\_  
The decision was contrary to law \_\_\_\_\_

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)

\_\_\_\_\_

See attached sheets

\_\_\_\_\_

\_\_\_\_\_

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)

\_\_\_\_\_

See attached sheets

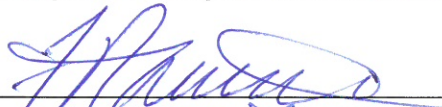
\_\_\_\_\_

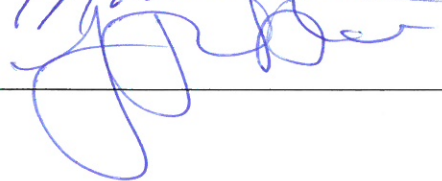
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9. You must pay the required filing fee of \$3,540.00 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

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  Date: 12/29/20

 Date: 1/4/2021

RECEIVED SIGNATURE \_\_\_\_\_

**Notice of Appeal**  
**Walnut Cove LLC (PLN 19007 and PLN 190089)**  
**Resolution No. 20-037**  
**Dr. Fred Miranda**

7. Brief and specific statement in support of the appeal (see #6)

PLN 190097 (for 24418 San Juan Road) and PLN 190098 (for 24424 San Juan Road) were presented October 2019 to the Carmel LUAC and one project (PLN 190098 for 24424 San Juan Road) to the Planning Commission. (PLN 190097 for 24418 San Juan Road was pulled due from consideration at the October 2019 meeting to the amount of negative criticism from the local neighbors).

Both projects were subsequently significantly amended, to meet the neighbors objections, and brought back October 2020 to both the Carmel LUAC and the Planning Commission. Unfortunately, the neighbors took no notice of the substantial alterations that had been made and continued to object using their 2019 arguments.

At the October 28, 2020 Planning Commission meeting, only 8 of the 10 members were present. After 4 hours of discussion and 6 motions, there was an unbreakable tie vote which is considered a defacto denial of both projects.

In an effort to understand the neighbors continued concerns, a "zoom" call was held with three of them on December 18, 2020. The hope was that the neighbors would appreciate the revisions made and they would withdraw their objections and both projects could be approved. Unfortunately, no progress made other than to agree to meet again "mid-January" 2021.

I will continue to try and meet with the neighbors to ascertain specifically their objections to these two homes. If I am unable to assuage their concerns within the next 60 days, prior to the Board of Supervisors meeting, I request a continuance of the project without prejudice until such time as the neighbor's complaints can be remedied.

8. Six findings were made by Planning Commission at their October 28, 2020 and cited for denial of the project in Section 2K of the meeting summation. The following are specific reasons why I disagree with the findings:

A. Finding: Potential impact caused by construction of the single-family dwellings on slopes exceeding 30%

Basis for Appeal: The property slopes steeply away from San Juan Road and contains large areas of slopes in excess of 30% at both front and middle sections of the property. Accessing the property from San Juan Road is not feasible without encroaching into a slope of greater than 30%. Both homes are situated on the lots to minimize construction impact. Due to the topography of both lots, there are no other feasible alternative building sites that would completely avoid development on a slope that exceeds 30%. PLN 19007 has 529 square feet and PLN 19008 has 80 square feet of development on a slope that is greater than 30%.

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PLN 19007 (24418 San Juan Road) initial development plan (presented October 2019 to the Planning Commission) was amended in preparation for October 2020 Planning Commission review by

1. Reducing footprint of home to 2423 square feet
2. Cantilevering a portion of the deck/residence which allowed for
  - a. A reduction from 1900 square feet to 529 square feet of development that would be done on a slope of greater than 30%
  - b. Reduction of fill from 720 cubic feet to 200 cubic feet
3. Reduction of retaining wall from 17 feet to 4 feet

PLN 19008 (24424 San Juan Road) initial development plan (presented October 2019 to the Planning Commission) was amended in preparation for October 2020 Planning Commission review by

1. Reducing footprint of home from 4355 square feet to 3455 square feet
2. Reducing side-by-side width of home by 5 linear feet
3. Reducing front to rear length of home by 9 linear feet
4. Moving the front set-back of the home (from street) from 36 to 20 feet which allowed for
  - a. Reduction from 600 square feet to 80 square feet of development that would be done on a slope of greater than 30%

B. Finding: Potential impact of proposed development on an adjacent drainage easement

Basis for appeal: Due to the location of the property, any development would result in development within 100 feet or less of the Pescadero Canyon. A Biological Assessment (LIB 190216) report was prepared for the property by Thompson Wildland Management of Monterey, CA dated August 3, 2019 which concluded that the site does not support any federally and/or state protected special status species and/or sensitive habitat and that the proposed development would not result in potential impact to sensitive habitat or species. Also, the property has been previously disturbed by the construction, landscaping and subsequent demolition of a single-family dwelling.

Site development would be subject to current regulations regarding control of drainage. Storm-water Control Plan and Winter Inspections will be done to address post-construction requirements and runoff reduction and to ensure contaminants are not discharged into Pescadero Canyon and the Carmel Bay Area of Special Biological Significance.

C. Finding: Compatibility of proposed development with neighborhood character (eg external design and colors and size)

Basis for appeal: The homes in Carmel Woods have a variety of architectural styles, so there is no specific design that defines the neighborhood or surrounding area. This project's proposed exterior colors, materials and finishes would blend with the surrounding residential neighborhood character and are consistent with other dwellings in the neighborhood. Due to the small lot size in this area,

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most homes are two or three story structures. Both of the proposed project designs are for a two story home. Due to the shape and slope of the lot, both homes will be built below street level, with the resulting visual appearance from the street of a single story home.

PLN 19007 (24418 San Juan Road)

1. There are 110 homes within 900 foot radius of this project, of which 23% are greater than 2,500 square feet. This proposed home is 2,423 square feet.
2. The primary exterior colors and materials include grey metal and cedar roofing, limestone and off-white stucco siding finishes and black trim doors and windows.
3. The proposed architectural style is a contemporary cottage aesthetic

PLN 19008 (24424 San Juan Road)

1. There are 100 homes within 900 foot radius of this project of which 4% are greater than 3,000 square feet. This proposed home is 3,455 square feet.
2. The primary exterior colors and materials include brown composite tile roofing, a light beige stucco siding finish and dark brown trim doors and windows.
3. The proposed architectural style is a modern Spanish/Mediterranean aesthetic

Summary of changes made to designs

	24418 San Juan		24424 San Juan	
	Height (ft) (Above natural grade)	Square Footage	Height (ft) (Above natural grade)	Square Footage
10/9/19	28	2865	30	4485
10/28/20	28	2865	24	3917

D. Finding: Consistency of proposed projects with applicable Carmel Land Use Plan policies & zoning regulations

Basis for Appeal: Both projects are consistent with the policies of the

1. Monterey County 1982 General Plan
2. Carmel Area Land Use Plan
3. Carmel Area Coastal Implementation Plan Part 4
4. Monterey County Zoning Ordinance – Coastal (Title 20)
5. Other County health, safety and welfare ordinances related to land use development.

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The proposed developments are consistent with established residential use of the property within a residential zoning district. The properties are located within the coastal Zone, therefore the 2010 Monterey County General Plan does not apply.

E. Finding: Applicability of California Environmental Quality Act (CEQA) categorical exemption

Basis for Appeal: Both projects are categorically exempt pursuant to Section 15303 of CEQA. Both projects involve the construction of a single-family dwelling and accessory structure (garage) on a residentially-zoned parcel within a developed neighborhood. The project does not involve a designated historical resource; a hazardous waste site; development located near or within view of a scenic highway.

F. Finding: affordability of proposed development

Basis for Appeal: This finding does not apply. I intend to live in the home at 24424 San Juan Road and my daughter and her family will live in the home at 24418 San Juan Road.



**Project Information for PLN190098**

<b>Application Name:</b> Walnut Cove Llc	
<b>Location:</b> 24424 San Juan Rd, Carmel	
<b>Applicable Plan:</b>	<b>Primary APN:</b> 009-013-012-000
<b>Advisory Committee:</b>	<b>Coastal Zone:</b>
<b>Permit Type:</b> Combined Development Permit	<b>Final Action Deadline (884):</b> 11/8/2019
<b>Environmental Status:</b> Categorical Exemption	
<b>Zoning:</b>	<b>Land Use Designation:</b> none

**Project Site Data:**

<b>Lot Size:</b> 9965	<b>Coverage Allowed:</b> 3487
<b>Existing Structures (sf):</b> 2775	<b>Coverage Proposed:</b> 3319
<b>Proposed Structures (sf):</b> <u>4355</u>	<b>Height Allowed:</b> 30
<b>Total Sq. Ft.:</b> 4355	<b>Height Proposed:</b> <u>24</u>
<b>Special Setbacks on Parcel:</b>	<b>FAR Allowed:</b> 4484
	<b>FAR Proposed:</b> 4353

**Resource Zones and Reports:**

<b>Seismic Hazard Zone:</b> III UDT	<b>Soils Report #:</b> LIB190169
<b>Erosion Hazard Zone:</b> moderate	<b>Biological Report #:</b> LIB190216
<b>Fire Hazard Zone:</b> none	<b>Forest Management Rpt. #:</b> LIB190167
<b>Flood Hazard Zone:</b> x	<b>Geologic Report #:</b> NA
<b>Archaeological Sensitivity:</b> moderate	<b>Archaeological Report #:</b> NA
<b>Visual Sensitivity:</b> none	<b>Traffic Report #:</b> NA

**Other Information:**

<b>Water Source:</b> PUBLIC	<b>Grading (cubic yds.):</b> 760
<b>Water Purveyor:</b> CAL-AM	<b>Sewage Disposal (method):</b> SEWER
<b>Fire District:</b> Cypress FPD	<b>Sewer District Name:</b> CAWD
<b>Tree Removal:</b> 1 MONTEREY PINE	

EXHIBIT A

PC 10/9/19

**Project Information for PLN190097**

**Application Name:** Walnut Cove Llc  
**Location:** 24418 San Juan Rd, Carmel  
**Applicable Plan:** Carmel LUP **Primary APN:** 009-013-011-000  
**Advisory Committee:** Carmel/Carmel Highlands Advisory Committee **Coastal Zone:** No  
**Permit Type:** Combined Development Permit **Final Action Deadline (884):** 11/8/2019  
**Environmental Status:** Categorical Exemption  
**Zoning:** MDR/2-D(CZ) **Land Use Designation:** none

Project Site Data:

<b>Lot Size:</b> 9340	<b>Coverage Allowed:</b> 3269
<b>Existing Structures (sf):</b> 0	<b>Coverage Proposed:</b> 1922
<b>Proposed Structures (sf):</b> 2865	<b>Height Allowed:</b> 30
<b>Total Sq. Ft.:</b> 2865	<b>Height Proposed:</b>
<b>Special Setbacks on Parcel:</b>	<b>FAR Allowed:</b> 4203
	<b>FAR Proposed:</b> 2865

Resource Zones and Reports:

<b>Seismic Hazard Zone:</b> III UDT	<b>Soils Report #:</b> LIB160169
<b>Erosion Hazard Zone:</b> moderate	<b>Biological Report #:</b> LIB190216
<b>Fire Hazard Zone:</b> none	<b>Forest Management Rpt. #:</b> LIB190168
<b>Flood Hazard Zone:</b> X	<b>Geologic Report #:</b> NA
<b>Archaeological Sensitivity:</b> moderate	<b>Archaeological Report #:</b> NA
<b>Visual Sensitivity:</b> none	<b>Traffic Report #:</b> NA

Other Information:

<b>Water Source:</b> PUBLIC	<b>Grading (cubic yds.):</b> 720
<b>Water Purveyor:</b> CAL-AM	<b>Sewage Disposal (method):</b> SEWER
<b>Fire District:</b> Cypress FPD	<b>Sewer District Name:</b> CAWD
<b>Tree Removal:</b> 2 Oak	