

Attachment D

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NOTICE OF APPEAL

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

RECEIVED
MONTEREY COUNTY

2020 AUG 26 PM 12:47

CLERK OF THE BOARD

J Pablo
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Clerk of the Board
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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 8/31/2020 (10 days after written notice of the decision has been mailed to the applicant). Date of decision 8/21/2020.

1. Please give the following information:

- a) Your name Donald D. Chapin
- b) Phone Number (831) 449-4273
- c) Address 560 Crazy Horse Canyon Rd. City Salinas Zip 93907
- d) Appellant's name (if different) Donald D. Chapin and Barbara A. Chapin TRS

2. Indicate the appellant's 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.

	File Number	Type of Application	Area
a) Planning Commission:	<u>PLN170296</u>	<u>Use Permit</u>	<u>Greater Salinas AP</u>
b) Zoning Administrator:	_____	_____	_____
c) Subdivision Committee:	_____	_____	_____
d) Administrative Permit:	_____	_____	_____

5. What is the nature of the appeal?

a) Is the appellant appealing the approval or the denial of an application? (Check appropriate box)

b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

Conditions 1 (Consistency with Applicable Plans and Policies). Condition 2 (Site Suitability). Condition 3 (CEQA)

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for the 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 the appellant is appealing specific conditions, you must list the number of each condition and the basis for the appeal. (Attach extra sheets if necessary).

See attached

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). In order to file a valid appeal, you must give specific reasons why the appellant disagrees with the findings made. (Attach extra sheets if necessary).

See attached

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 will provide you with a mailing list.

9. Your appeal is accepted when the Clerk of the Board’s Office accepts the appeal as complete on its face, receives the filing fee (Refer to the most current adopted Monterey County Land Use Fees document posted on the RMA Planning website at http://www.co.monterey.ca.us/planning/fees/fee_plan.htm) and stamped addressed envelopes.

APPELLANT SIGNATURE

DATE 8-26-2020

ACCEPTED

(Clerk to the Board)

DATE 8-26-2020

Attachment to Appeal of Planning Commission Resolution No. 20-026

6. The findings or decision or conditions are not supported by the evidence, and the decision was contrary to law.

The Applicant sought to allow an additional agricultural product to the mix of agricultural products already being offered at the site. The site is entitled with existing use permits that allow the retail sale of nursery items. Over the years, the County of Monterey has affirmed this entitlement several times. Therefore, the findings and decision of the Planning Commission are not supported by the evidence because the long-standing use permits allow for the retail sale of agricultural product at the project site. Also, there is nothing in the record to support the County of Monterey has the right to limit the retail sale of agricultural products at the site. Indeed, the County of Monterey has affirmed this right each time it has granted a use permit or general development permit for the site. Because the site is entitled to use the site for the retail sale of agricultural products, the Planning Commission's decision not to extend that right to a new agricultural product was contrary to law.

7. Specific reasons why the Appellant disagrees with the findings made.

Finding 1: Incorrectly states the Application is not consistent with applicable plans and policies. However, the project site is entitled with a use permit that allows the retail sale of agricultural products at the site, and the Application merely seeks to add another agricultural product to the mix of current offerings. For this reason, the statement in Finding 1 that the proposed use would expand the legal non-conforming use is also incorrect.

Finding 2: Incorrectly states that the site is not suitable for the use proposed. Again, the Application will only result in adding an agricultural product to the already existing mix of agricultural products sold at the site. By virtue of issuing various use permits over the years allowing for the retail sale of agricultural products at the site, the County has acknowledged the site is suitable for retail nursery sales.

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