

Attachment C
Notice of Appeal

PLN060603

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NOTICE OF APPEAL 2014 JAN 27 PM 1:49



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

CLERK OF THE BOARD

QTB 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 * (10 days after written notice of the decision has been mailed to the applicant).
Date of decision * .

1. Please give the following information:

- a) Your name Jeff Taylor
- b) Address 280 Corral de Tierra Rd City Salinas Zip 93908
- c) Phone Number 831-320-2228

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
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- a) Planning Commission: PLN 060603 minor subdivision C/M/P
- 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? (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).

1. 8 trees, within The Santa Lucia Preserve
9. Tree Removal
14. Openlands Conservation Easement 17. Homeland Limitation
45. Second Unit

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

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

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 [Signature] DATE 1/27/14

ACCEPTED _____ DATE _____
(Clerk to the Board)

**Heritage Development, LP
280 Corral de Tierra Road
Salinas, Ca 93908**

January 28, 2014

Monterey County Board of Supervisors
c/o Monterey County Clerk of the Board
168 West Alisal Street, First Floor
Salinas, CA 93901

Heritage Development Minor Subdivision: Appeal of Planning Commission Approval
(PLN060603)

Dear Clerk of the Board:

As required in the appeal form, this letter provides supplemental information indicated in Items #6 and #7, as follows:

Appeal Form Item #6.

A. There was lack of a Fair or Impartial Hearing.

The applicant presented evidence in support of project modifications that differed from the analysis presented by staff. Specifically:

1. Comprehensive Development Plan Restrictions. Staff presented an analysis indicating that the property must comply with the Santa Lucia Preserve requirements. Testimony presented by the applicant indicated that the Preserve Management entities and the Santa Lucia Conservancy do not have an interest in incorporating the property into the Santa Lucia Preserve, thus rendering the subdivision approval difficult to comply with. The Planning Commission did not acknowledge points made at the January 8, 2014 hearing and, without comment, sided with Planning Department staff in approving the project.
2. Building Envelopes. Testimony was presented at the October 30, 2013 and January 8, 2014 Planning Commission hearings that the proposed building sizes and configurations were similar to those approved in various subdivision phase

maps recorded for the Santa Lucia Preserve. The hearing body disregarded this evidence and approved building envelopes sizes and locations that limit proposed separation of equestrian and residential uses.

3. Tree Removal. The applicant had qualified professionals to develop arborist reports and road studies to estimate the number of trees proposed for removal. Based on these studies, 20 trees were requested for removal. Without any factual basis, Staff limited tree removal to no more than eight (8) trees. This requirement was not fair and not supported by any documents before the Planning Commission.
4. Second Units. The property currently consists of three (3) legal lots of record, each of which is eligible for a second housing unit. The subdivision asked for one more lot. The Planning Commission removed one lot of density for a second housing unit in their approvals (Condition #45), contrary to the applicant's request and appeal to retain the possibility of an additional affordable housing unit in the Carmel Valley Master Plan area.

B. The Findings or Decision... are not supported by the Evidence

- C. **Finding #2, Evidence a.** This states that no communications or evidence was received during the course of project review. The applicant has provided extensive correspondence and specific evidence confirming that staff's current interpretation is inconsistent with the previous and interpretations of the Comprehensive Development Plan by prior staff members over the past 6 years that the project has been in the review phases. The appellant further contended during the hearing and review that the property is outside of the gates of the Preserve.
- D. **Finding #2, Evidence d.** The Comprehensive Development Plan does not prohibit views from public roadways, but rather limits views. Planning staff prohibited the possibility of future homesites locations via this approval. Site visits and communications from the appellant clearly indicated that the upper sites could be developed with little to no visual impacts, with the review of specific architectural designs for those sites that would be required under the "S" District (Site Plan Review) permit process.
- E. **Finding #7, Evidence b.** The conditions of approval and changes noted were not based on study or detailed evaluations of the site, but rather a hunch that is upper building sites were eliminated 30% road impacts and tree removal would be less. This staff position was not based on a factual qualitative site analysis and unfairly limited wide, open areas of the lots that could be designated as "Homelands" (building envelopes) that could be developed in the future without tree removal and 30% slope development. Placing building envelopes in lower locations pushes potential development impacts closer to the Carmel River and the public Carmel River Trail.

- F. **Finding #10, Evidence b & e.** As noted above, there was no qualitative (civil engineering) analysis in the record that would support this “evidence” that fewer trees could be removed with some future reconfiguration. The review of this property was done not in the context of approval of the Santa Lucie Preserve, where some 18,000 acres were protected in exchange for the ability to develop 2,000 acres. In addition, earlier project approvals have already saved an estimated 550,000 trees on the 20,000 acre former Rancho San Carlos. There is no evidence in the record as to why staff must protect an additional 12 trees in the context of the overall approvals.

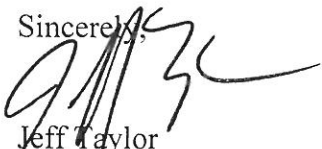
Appeal Form Item #7 Specific Reasons why we disagree with the Findings Made.

Finding #2 – Consistency. As noted above, we have presented documentation indicating that the proposed subdivision design requested by the applicant is consistent with applicable plans and policies. Specifically, building site (Homeland) configurations were demonstrated to be consistent with sizes and shapes/configurations and locations approved by prior Planning Department staff in various recorded Tract maps for the Santa Lucia Preserve.

Finding #7 – Development on Slope. The applicant provided testimony that prior approvals for the Santa Lucia Preserve (PC94067) allowed limited driveway and roadway access on 30 % slopes to access building sites free of slope and tree constraints. Again, without factual quantitative analysis and without putting this approval in the context of the preservation of 18,000 acres of open space, staff and the Planning Commission further restricted access potential for upper building sites. This action is inconsistent with the spirit and intent of Board of Supervisors Resolution No. 93-115 that allows development on 2,000 acres of the former Rancho San Carlos property.

Thank you for the opportunity to address these issues before the Board of Supervisors.

Sincerely,



Jeff Taylor
Heritage Development, LP

JT/Attachment: Notice of Appeal form & filing fee.

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