

Attachment J
Notice of Appeal

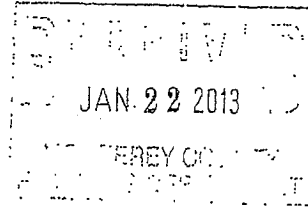
California-American Water Company
PLN120817

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NOTICE OF APPEAL

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



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 1.22.13 (10 days after written notice of the decision has been mailed to the applicant). Date of decision 1.7.13.

1. Please provide the following information:

- a) Your name Constance Murray
- b) Phone Number 831.659.0147
- c) Address 10 Oak Meadow Lane, Carmel Valley, CA 93924
- d) Appellant's name (if different) _____

2. Indicate appellant's interest in the decision by checking the appropriate box:

- Applicant
- Neighbor
- Other (please state) Owner of the real property subject of the application

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

California American Water

4. What is the file number of the application that is the subject to this appeal?

Indicate the file number of the application that is the subject of the appeal and the decision making body (i.e., Zoning Administrator, Director of Planning, Minor Subdivision Committee).

- a) File Number PLN120817
- b) Decision Making Body Monterey County Planning Department

Appellant has attached the application subject of the appeal.

JAN 22 2013
MURFREESBORO
PLANNING COMMISSION

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).

Not applicable

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 Planning Commission 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 your appeal. (Attach extra sheets if necessary).

See Attachment 6

7. As part of the application approval or denial process, findings were made by the decision making body (Director of Planning, Zoning Administrator, or Minor Subdivision Committee). 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 Attachment 7

8. Your appeal is accepted when the Secretary of the Planning Commission accepts the appeal as complete on its face, receives the filing fee, and places the appeal for public hearing on the Planning Commission agenda.

APPELLANT SIGNATURE

E. J. Smith, attorney for Constance Murray

DATE

1.22.13

ACCEPTED

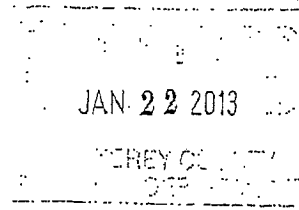
H.L. Moore

SECRETARY OF THE PLANNING COMMISSION

DATE

1/22/13

ATTACHMENT 6



Lack of Fair of Impartial Hearing

The notice requirements set forth in the Monterey County Code were not followed. Ms. Murray never received notice from the County or from the applicant, California American Water.

California American Water filed the application for the permit without notifying Ms. Murray although she was the owner of the real property subject of the application and it was fully aware that the antenna was the subject of a pending legal action. California American Water was served with a Complaint, Monterey County Case No. M120057 on October 19, 2012 which included causes of action seeking to have the antenna removed from the easement in question. California American's legal counsel had communicated with Ms. Murray's counsel after the filing of the Complaint and at no point was Ms. Murray's counsel advised that it had applied for a permit for the antenna on December 7, 2012. On November 30, 2012 California American Water did file a demurrer to the Complaint stating that the County of Monterey, the agency issuing the Compliance Order, was an indispensable party to the lawsuit. Despite this contention, it failed to notify the County of the lawsuit.

Accordingly, although Ms. Murray is the owner of the real property subject of the application, she received no notification of the application from the County of Monterey or from California American Water. In this regard, the application was misleading as California American Water signed the application as the "Property Owner/Agent" when in fact it was neither.

As Ms. Murray had no knowledge of the application until after it had been approved she was entirely denied of any hearing on the application. Clearly, Ms. Murray as the owner of the real property subject of the easement should have input into the installation or design of any structure built on her property.

For these reasons, the application should be denied.

The Decision to Approve the Application is Not Supported By The Evidence

The real property burdened by the easement is also burdened by a Scenic Easement, which was created on September 16, 1980 by a Conservation and Scenic Easement Deed recorded on September 19, 1980. The County of Monterey is the grantee of the Scenic Easement. The installation of the monopole antenna in the easement violates the restrictions of the Scenic Easement. A review of the application file reveals that no determination was made by the County as to the Scenic Easement. As the installation of the monopole pole violates the Scenic Easement, the application should be denied.

The May 31, 2011 Compliance Order issued by the County, Case Number 11CE00134 states that the antenna violates Monterey County Code Sections 18.02.130 and 21.84.040 as the monopole antenna was installed without permits. The stated required corrective action is to 1. Submit a permit application

and plans to obtain a construction permit for the antenna or remove and restore the property to its approved use, size and configuration and 2. Apply for and obtain a Design Approval for the antenna. The Design Permit subject of this appeal was obtained without first obtaining a construction permit as set forth in the Compliance Order issued by the County. For this reason, the application be denied.

The application should further be denied as it does not conform to the design requirements of location, size, configuration, etc. set forth in the Monterey County Code, does not conform with the 2010 Monterey County General Plan and is inconsistent with Title 21 of the Monterey County Code:

The Decision Was Contrary to Law

The real property burdened by the easement is also burdened by a Scenic Easement, which was created on September 16, 1980 by a Conservation and Scenic Easement Deed recorded on September 19, 1980. The County of Monterey is the grantee of the Scenic Easement. The installation of the monopole antenna in the easement violates the restrictions of the Scenic Easement. A review of the application file reveals that no determination was made by the County as to the Scenic Easement. As the installation of the monopole pole violates the Scenic Easement, the application should be denied.

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The application should further be denied as it does not conform to the design requirements of location, size, configuration, etc. set forth in the Monterey County Code, does not conform with the 2010 Monterey County General Plan and is inconsistent with Title 21 of the Monterey County Code.

Finally, the application must be made by the property owner or her agent. As California American Water is neither the owner of the property or an agent of the owner, it cannot apply for the application in its sole capacity as the easement owner.

JAN 22 2013

HEY C

ATTACHMENT 7

JAN 22 2013

There were no findings made by the Director of Planning. However, Appellant disagrees with the approval of the application for the reasons set forth in Attachment 6.

Notice of Approved Design Approval

Director of Monterey County RMA-Planning Department

Project Title: MURRAY CONSTANCE TR (CALIFORNIA AMERICAN WATER)
Project File No. PLN120817
Project Location: 10 OAK MEADOW LN CARMEL VALLEY

NOTICE IS HEREBY GIVEN that on Monday, January 7, 2013 the Director of the Monterey County Resource Management Agency – Planning Department approved the above referenced application for a Design Approval. The project allows the following development: Design Approval to correct a code enforcement violation (11CE00134) to allow the placement of a 20 foot high wireless communication facility. Colors and materials consist of: aluminum and grey (pole). The property is located at 10 Oak Meadow Lane, Carmel Valley (Assessor's Parcel Number 187-031-025-000), Carmel Valley Master Plan.

A COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON Wednesday, January 9, 2013.

Note: This project is not located in the Coastal Zone. It may be appealed to the Monterey County Planning Commission.

If anyone wishes to appeal this decision, an appeal form must be completed and submitted to the Secretary of the Planning Commission, along with the appropriate filing fee on or before 5:00 PM on Tuesday, January 22, 2013.

FOR ADDITIONAL INFORMATION CONTACT:
Ashley Nakamura, Land Use Technician
(831) 755-5892 or nakamura@co.monterey.ca.us

Monterey County Resource Management Agency - Planning Department
168 West Alisal St 2nd Floor, Salinas, CA 93901
(831) 755-5025

FILE # PL1120817



MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY
PLANNING DEPARTMENT
168 West Alisal, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-5025 Fax: (831) 757-9516
<http://www.co.monterey.ca.us/planning>

RECEIVED
DEC 07 2012
MONTEREY COUNTY
PLANNING DEPARTMENT

DESIGN APPROVAL REQUEST FORM

ASSESSOR'S PARCEL NUMBER: 187-031-025

PROJECT ADDRESS: 10 OAK MEADOW LANE, CARMEL VALLEY CA
(EASEMENT) APPLICANT/AGENT

PROPERTY OWNER: CALIFORNIA AMERICAN WATER Telephone: 831 646 3230
Address: 511 FOREST LODGE RD Fax: 831 375 4367
City/State/Zip: PAZAPIC GROVE CA Email: julie.gonzalez@camwater.com

OWNER OF APN MURRAY CONSTANCE Telephone: _____
Address: 10 OAK MEADOW LN Fax: _____
City/State/Zip: CARMEL VALLEY CA 93924 Email: _____

AGENT: _____ Telephone: _____
Address: _____ Fax: _____
City/State/Zip: _____ Email: _____

Mall Notices to: Owner Applicant Agent
(Check only one)

PROJECT DESCRIPTION: (Attach Scope of Work) ... CORRECTION OF VIOLATION - INSTALLATION
OF COMMUNICATION ANTENNAE (20 FEET TALL)

MATERIALS TO BE USED: ALUMINUM (BASE CONSTRUCTED TO CALTRANS STDS.)

COLORS TO BE USED: OLIVE GREEN

I acknowledge that I will need a building permit and must comply with the Monterey County Building Ordinance. Additionally, I acknowledge that the Zoning Ordinance states that no building permit be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit. I further acknowledge that this approval is for design of the structures and compliance with zoning regulations only.

PROPERTY OWNER/AGENT SIGNATURE: J. Murray DATE: 12-7-12

FOR DEPARTMENT USE ONLY

ZONING: LDR15 (C.V.M.P.)
GENERAL/AREA PLAN: C.V.M.P.
ADVISORY COMMITTEE: C.V. LUAC
RELATED PERMITS: 11000124
PLANNER: _____
LUAC REFERRAL: YES NO
DOES THIS CORRECT A VIOLATION? YES NO
WITHIN ARCH BUFFER ZONE? YES NO
ON SEPTIC SYSTEM? (REFER TO EHB) YES NO
DECISION: ADMINISTRATIVE PUBLIC HEARING

LEGAL LOT: _____ YES NO
GIVEN OUT BY: _____ DATE: _____
ACCEPTED BY: M. Lopez DATE: 12/7/12
COMMENTS: Parcel located within a violation
expansive area (C.V.)

ADVISORY COMMITTEE RECOMMENDATION

APPROVAL DENIAL

For: _____ Against: _____ Abstain: _____ Absent: _____

Was the Applicant Present? YES NO

Recommended Changes: _____

Signature: _____
Date: _____

APPROPRIATE AUTHORITY: DIRECTOR OF PLANNING ZONING ADMINISTRATOR PLANNING COMMISSION
ACTION: APPROVED DENIED

CONDITIONS: _____

APPROVED BY: [Signature] DATE: 01/07/13
PROCESSED BY: [Signature] DATE: 1/8/13
COPY TO APPLICANT: IN PERSON OR MAILED [Signature] DATE: 1/9/13

It is unlawful to alter the substance of any official form or document of Monterey County. DA Request Form (Inland) Rev. 07-19-2012
* nearest scenic road is C.V. Rd.
* previous conversations w/ Director of planning.



**GENERAL PLAN POLICY CONSISTENCY CHECKLIST
FOR DESIGN APPROVALS (Inland Only)
To be completed by Applicants**

LAND USE DESIGNATION: <i>Residential</i>	APN: <i>187 031025</i>	PLANNING NUMBER: <i>PLN120817</i>
AREA PLAN: <input type="checkbox"/> Cachagua Area Plan <input checked="" type="checkbox"/> Central Valley Master Plan <input type="checkbox"/> Central Salinas Valley Area Plan <input type="checkbox"/> Fort Ord Master Plan <input type="checkbox"/> Greater Monterey Peninsula Area Plan <input type="checkbox"/> Greater Salinas Area Plan <input type="checkbox"/> North County Area Plan <input type="checkbox"/> South County Area Plan <input type="checkbox"/> Toro Area Plan <input type="checkbox"/> Agriculture & Winery Corridor Plan	PROJECT DESCRIPTION: <i>COMMUNICATION ANTENNAE FOR WATER TANKS</i>	

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The project is for: <input checked="" type="checkbox"/> Residential use <input type="checkbox"/> Commercial use <input type="checkbox"/> Agricultural use <input type="checkbox"/> Public or Quasi-Public use <input type="checkbox"/> Industrial use
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The project proposes a cell-site, telecom (digital) communication facility/site: <i>WATER UTILITY COMMUNICATION</i>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The project includes the construction of a new structure?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The project includes the enlarging, altering, repairing, moving, improving, or removing of existing structures? If "yes", describe
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The project includes demolition work? If "yes", describe
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes the use of roofing materials that are different in type and/or color from the original materials?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes replacement and/or repair of (50%) or more of the exterior walls of a structure?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes historical structure or a structure more than fifty (50) years old?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes an accessory structure(s)? If "yes", describe:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes the placement of a manufactured home, mobile home, modular or prefabricated unit? <input type="checkbox"/> Private property <input type="checkbox"/> Park installation (mobile home park)
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes retaining walls?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves new, change or modifications to existing utilities and/or power lines?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project is change or modification to an approved application.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project propose a lot line adjustment or subdivision?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project include subdivision creating five or more lots, or new commercial/industrial use that creates intensity equal to or greater than five residences?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project located near an incorporated area (City)?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project located within a Community Area or Rural Center?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project located within 1/4 mile of a public airport?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this the first residence on a property?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project propose a secondary unit?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Would native vegetation be removed with this project?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Would proposed development occur within 100 feet a creek/drainage (including seasonal) or river?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project propose any tree removal? If "yes" Type _____ Size _____ Number _____
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project includes grading, dirt importation, dirt removal, and/or drainage changes.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Would the project be connected to an existing well or private water system?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The project includes constructing, enlarging, altering, repairing, moving, improving or removing a well.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Project is associated with a new or improvements to a water system. <i>CAL-AM</i> water system <i>± 30</i> <i>PATRICIA PRESTA</i> number of connections
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project include a new individual or existing wastewater system (e.g. septic)?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The project includes constructing, enlarging, altering, repairing, moving, improving or removing a septic tank/system?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project propose development on slopes over 25%?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project 50 feet from a bluff?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project is located within 100 feet of seasonal or permanent drainage, lake, marsh, ocean, pond, slough, stream, wetlands. If "yes", describe
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project include cultivation of land that is currently not cultivated?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project propose non-agricultural uses adjacent to agricultural uses?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project located within the winery corridor?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Would any portion of the proposed development be visible from a public road, designated vista point, or public park? If yes, is it located on a slope or near the top of a hill? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>LAISE</i>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project propose or require affordable housing?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the project require a General Plan Amendment?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project located within a Special Treatment Area?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the project located within a Study Area?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves or includes an existing or proposed trail or easement.

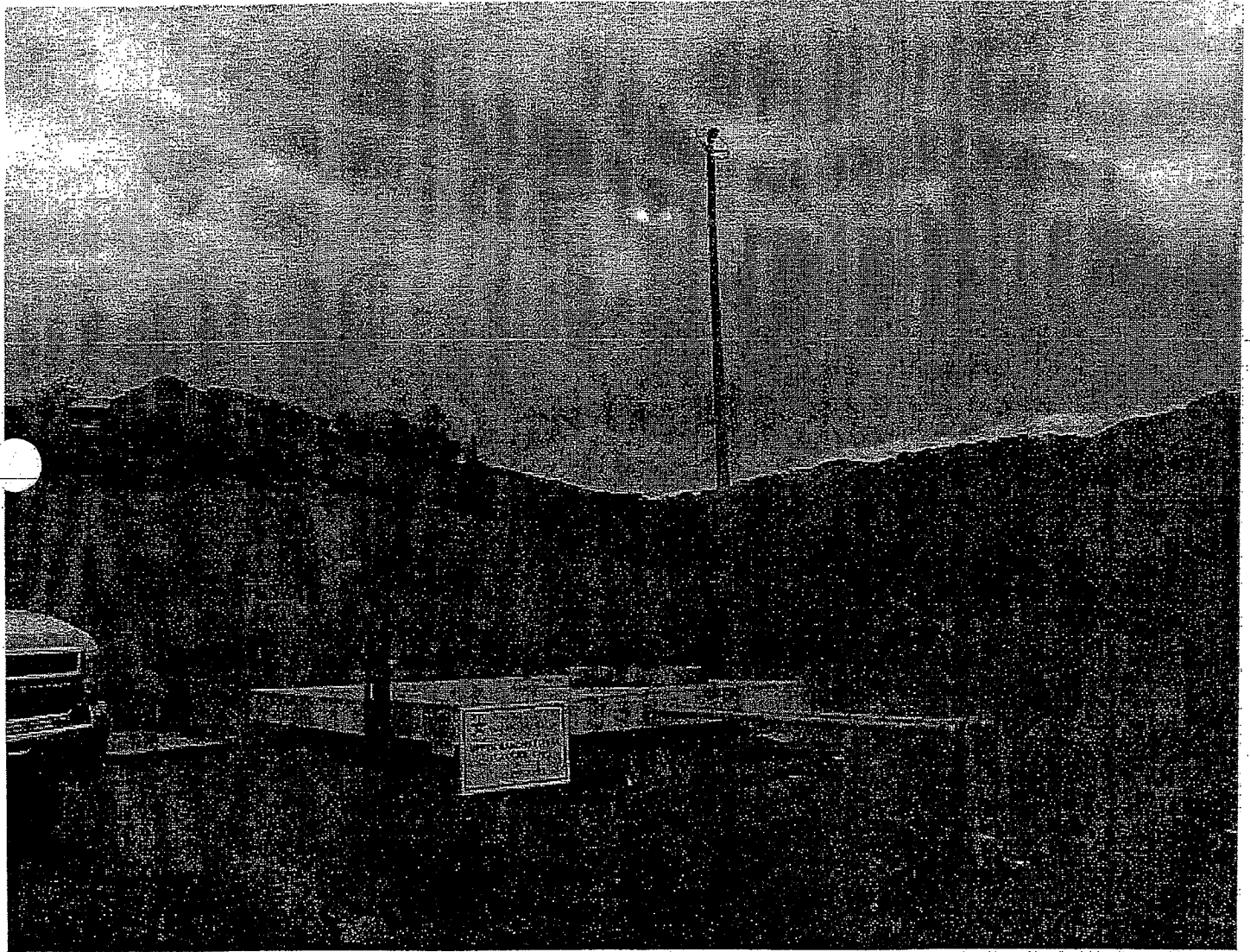
I, the undersigned, have authority to submit application for a permit on the subject property. I have completed this questionnaire accurately based on the proposed project description. It is my interpretation that the project is consistent with the 2010 Monterey County General Plan. I understand that Monterey County may require project changes or some other permit/entitlement if the project is found to be inconsistent with any General Plan policy.

Signature: *[Signature]*
Print Name: *J. AMAN GONZALEZ*

Date: *12-7-12*

SCOPE OF WORK: APPROVAL OF A 30 FOOT RADIO ANTENNA REQUIRED TO PROVIDE COMMUNICATION BETWEEN BOB EX PUMPS AND A WATER STORAGE TANK. ONLY LOCATION ABLE TO PROVIDE SAID COMMUNICATION.

RECEIVED
JAN 07 2013
MONTEREY COUNTY
PLANNING DEPARTMENT



APPROVED PURSUANT TO
RESOLUTION NO. PLN120817
CONDITION NO.
APPROVED BY [Signature]
TITLE: Land Use Fee
DATE: 01/07/2013

PLN120817

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