

# Attachment B

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# NOTICE OF APPEAL

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

RECEIVED  
MONTEREY COUNTY

2017 JUN 23 AM 8:36

CLERK OF THE BOARD

*(Handwritten initials)*

DEPUTY

Hand delivered

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 5-16-17.

1. Please give the following information:
  - a) Your name Tracy Alford (c/o Fenton & Keller, Attn: John Bridges)
  - b) Phone Number 373-1241
  - c) Address P.O. Box 791 City Monterey Zip 93942
  - d) Appellant's name (if different) Tracy Alford

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:  
Bardis / Lombardo

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:	_____	_____	_____
b) Zoning Administrator:	_____	_____	_____
c) Subdivision Committee:	_____	_____	_____
d) Administrative Permit:	<u>PLN170482</u>	<u>(Design Approval)</u>	_____

\* Informed of decision on 6-14-17

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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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](http://www.co.monterey.ca.us/planning/fees/fee_plan.htm)) and stamped addressed envelopes.

APPELLANT SIGNATURE Cheryl Ford DATE 6-23-17

ACCEPTED \_\_\_\_\_ DATE \_\_\_\_\_

(Clerk to the Board)

**REASONS FOR THE APPEAL  
(PARAGRAPHS 6 & 7)**

Findings and decision are not supported by the evidence/specific reasons why appellant disagrees with the findings made/the basis of appeal are as follows:

The applicant misrepresented the project in the project description. The project was not for “replacement” of an existing wall of the same length and in the same location (see Exhibit A).

The existing length and location of the wall purportedly being replaced is the subject of a separate pending appeal (PLN140715-AMD1) and a pending code enforcement complaint (17CE00153). The project should not have been acted upon until resolution of the pending appeal and code enforcement action (see Exhibit B).

Appellant has a standing written request for notification of all matters regarding the Bardis property (see Exhibit C) yet was not notified of either the application nor the approval of it. This appeal is filed within 10 days of appellant’s actual notice of the approval, which was received on June 14, 2017.

**EXHIBIT A**

**Kristie M. Campbell**

---

**From:** John S. Bridges  
**Sent:** Tuesday, June 20, 2017 12:11 PM  
**To:** 'spencerc@co.monterey.ca.us'  
**Cc:** Bowling, Joshua x5227 (BowlingJ@co.monterey.ca.us)  
**Subject:** Bardis PLN 170482  
**Attachments:** Existing (00674433).pdf; Approved (00674435).pdf; Appealed (00674438).pdf

Craig: I think the attached may facilitate our conversation this afternoon at 3:30 p.m.

1. Existing house (existing retaining wall highlighted)
2. Approved house : PLN PLN140715 (existing retaining wall highlighted)
3. Appealed application : PLN140715-AMD1

The “existing” wall (yellow) purportedly “replaced” was not in the same location as the “replacement wood fence/wall” (orange). The replacement wood fence/wall extended significantly north of the existing wall creating additional living area and motor court area (blue; and likely resulting from unpermitted 30% slope cut).

Will look forward to our conversation.

Thanks...JOHN

**John S. Bridges**  
**FENTON & KELLER**  
Post Office Box 791  
Monterey, CA 93942-0791  
831-373-1241, ext. 238  
831-373-7219 (fax)  
[jbridges@fentonkeller.com](mailto:jbridges@fentonkeller.com)  
[www.FentonKeller.com](http://www.FentonKeller.com)

**FENTON & KELLER**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

EXPERIENCE INTEGRITY RESULTS

**CONFIDENTIALITY NOTICE**

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**PLOT PLAN**



**VICINITY MAP**



**PLANNING INFO**

- PROPERTY OWNER: [Name]
- PREPARED BY: [Name]
- DATE: [Date]
- PROJECT NUMBER: [Number]
- PROJECT LOCATION: [Address]
- PROJECT TYPE: [Type]
- PLANNING INFO: [Details]
- PERMITS REQUIRED: [List]
- OTHER NOTES: [Text]

**PLANNING INFO**

- LOT AREA: [Value]
- PERMITS REQUIRED: [List]
- OTHER NOTES: [Text]
- PLANNING INFO: [Details]
- PERMITS REQUIRED: [List]
- OTHER NOTES: [Text]

TYPE	AREA	PERCENTAGE
Lot Area	10,000	100%
Impervious Area	2,000	20%
Other	8,000	80%

PERCENTAGE CALCULATION (WEIGHTED)

LOT COVERED CALCULATION (WEIGHTED)

PERCENTAGE CALCULATION (WEIGHTED)

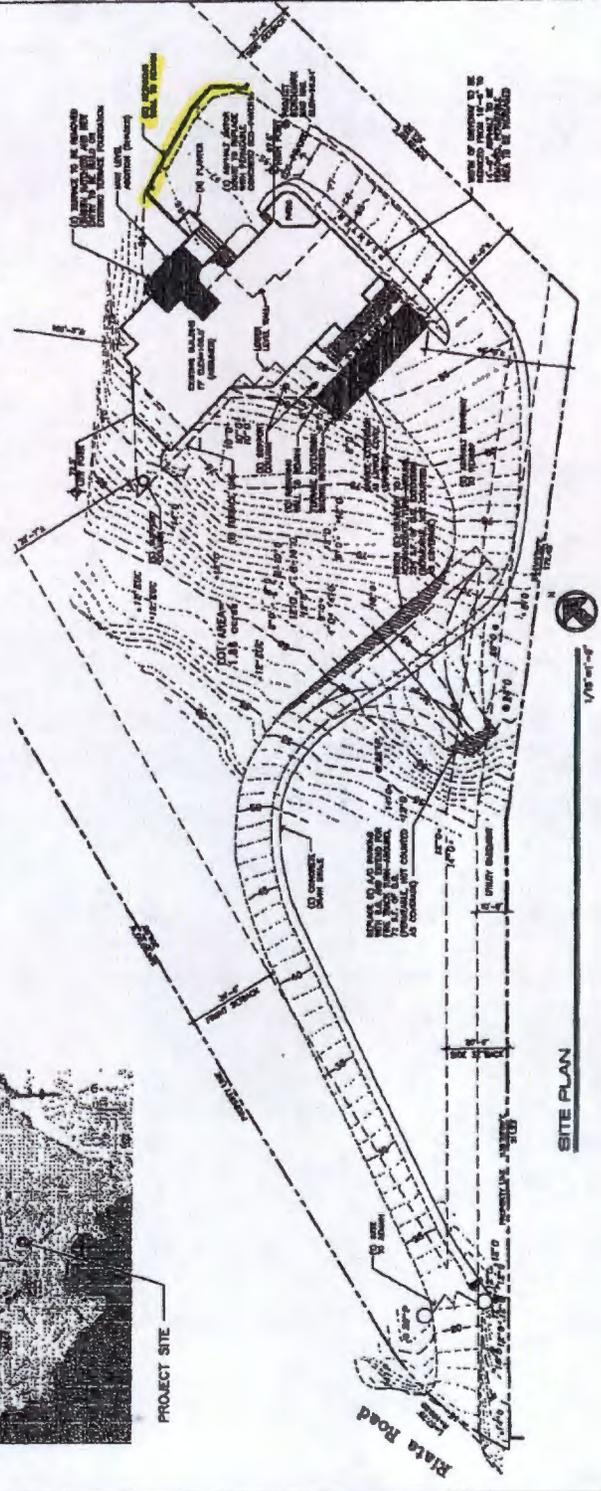
**JAN A. BELANDS, AIA**  
**IDA**  
 JOHN B. BARTON  
 THE LANDMARKERS AND  
 PLANNERS INC.

**PROJECT OWNER**  
**MR. & MRS. CHRIS BARDIS**  
 PROJECT ADDRESS  
**1835 RIATA ROAD PERDUE BEACH, CA.**  
 (PH) 650-911-028

**DATE** 08-12-12  
**BY** [Name]  
**SCALE** 1/8" = 1'-0"

**REVISIONS**

NO.	DATE	DESCRIPTION
1	08-12-12	ISSUED FOR PERMITS



**SITE PLAN**

1/8" = 1'-0"

**A1.0**





# 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 5-15-17 (10 days after written notice of the decision has been mailed to the applicant). Date of decision 4-26-17.

1. Please give the following information:

- a) Your name Tracy Alford (c/o Fenton & Keller, Attn: John Bridges)
- b) Phone Number 373-1241
- c) Address P.O. Box 791 City Monterey Zip 93942
- d) Appellant's name (if different) Tracy Alford

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:  
Bardis

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:	PLN140715-AMD1	Bardis, Coastal Dev. Permit,	Del Monte Forest Area
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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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](http://www.co.monterey.ca.us/planning/fees/fee_plan.htm)) and stamped addressed envelopes.

APPELLANT SIGNATURE Tracy Alford DATE 5-11-17

ACCEPTED \_\_\_\_\_ DATE \_\_\_\_\_  
(Clerk to the Board)

**REASONS FOR THE APPEAL**  
**(Paragraphs 6 & 7)**

Findings and decision are not supported by the evidence/specific reasons why appellant disagrees with the findings made.

**Finding 1 and Evidence a and d:** The project is inconsistent with the Del Monte Forest Land Use Plan (Policy 78) and the Implementation Plan section 20.147.030.A.1.a and Chapter 20.64.230 (ref. Attachment 1). Numerous communications were received during the course of review of the project indicating inconsistencies with the LCP (ref. Attachment 1). The project will not further reduce total impervious surface coverage. The area calculated by staff as constituting a further reduction in impervious surface coverage was already designated and counted as pervious according to the original project approval (ref. PLN120663; Attachment 2). In fact, the project will actually result in an increase in impervious coverage in violation of 20.147.030.A.1.b

**Finding 3 and Evidence a and b:** The project is not in compliance with all rules and regulations pertaining to zoning and permits. As such, a code violation exists on the property and no action on the application can be taken (ref. Attachments 3 and 1). Staff was and is fully aware of violations existing on the property (ref. Attachments 3 and 1). Staff represented to the Planning Commission that the unpermitted patio/courtyard (which now illegally occupies previously approved parking area) had been approved as part of a May 2015 Design Approval. Said Design Approval was for a "cantilevered planter box;" not the patio/courtyard (ref. Attachment 2). A formal code enforcement complaint has now been filed (ref. Attachment 3; County file 17CE00153).

**Finding 4 and Evidence a, b, c and d:** CEQA Guideline section 15304 does not apply to 30-60% slope cuts. Moreover, the amount of grading (305 cubic yards of cut (not 15 cubic yards) into 30-60% slope requiring a 700 square foot retaining wall 12.5 feet high) is neither "slight" nor a minor alteration to land. In any event, whether section 15304 or any other categorical exemption purportedly applies, the fact of such a substantial cut into 30-60% slope (which circumstance is the subject of a special land use plan policy, requires a special permit, and requires special findings) constitutes an unusual circumstance evoking a reasonable possibility of erosion, slope and subjacent/lateral support failure, and requiring a 700 square foot retaining wall all of which give rise to an exception from any exemption. Inconsistency with LCP policies (see above) also constitute unusual circumstances (ref. Attachment 1).

**Finding 5 and Evidence a, b, c and d:** The proposed development (which simply enables the applicant to have a private patio/courtyard where parking is otherwise approved and required) does not better achieve the goals, policies, and objectives of the LCP. Adequate space for access (emergency vehicle and ADA) already exists as originally approved (PLN120663) and there is therefore no "need" for the 30% cut in order to accommodate access. The applicant does not have a right to construct a patio/courtyard in the approved parking area and therefore the feasible option to the 30% slope cut is the existing project (PLN120663). Turnaround space constraints are the same between the original project and the proposed amendment and access is actually

better under the original project rather than the proposed amendment (ref. Attachment 1). The minimal amount of 30% slope cut necessary to accommodate access in this case is zero (i.e., the original approved project; PLN120663) (ref. Attachment 1). A second feasible alternative also exists that would enhance turnaround space with no slope cut by modest expansion of the motorcourt to the west (ref. Attachment 1). The 30% slope cut cannot be justified to accommodate a private patio/courtyard (which staff admitted to the Planning Commission is the case here, i.e., the patio/courtyard is displacing parking and that is what is causing the need for the expansion into the 30% slope area). The project is inconsistent with LCP policies (see above). The 30% slope cut is not necessary to reduce impervious surface coverage and, in fact, does not (see above) (ref. Attachment 2).

ATTACHMENT 1

MARK A CAMERON  
JOHN S BRIDGES  
DENNIS G MCCARTHY  
CHRISTOPHER E PANETTA  
DAVID C SWEIGERT  
SARA B BOYNS  
BRIAN D CALL  
TROY A KINGSHAVEN  
JOHN E KESECKER  
ELIZABETH R LEITZINGER  
BHARILYN R PAYNE  
CAROL S HILBURN  
CHRISTINA J BAGGETT  
ELIAS E SALAMEH  
KENNETH S KLEINKOFF  
DERRIC G OLIVER  
LAURA L FRANKLIN  
EVAN J ALLEN  
ANDREW B. KREEFT

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LEWIS L. FENTON  
1925-2805

OF COUNSEL  
CHARLES R. KELLER  
THOMAS H. JAMISON

April 25, 2017

JOHN S. BRIDGES

JBridges@FentonKeller.com  
ext. 238

VIA U.S. MAIL AND EMAIL (nickersonj@co.monterey.ca.us)

Monterey County Planning Commission  
c/o Jackie Nickerson  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: Bardis Project (PLN140715-AMD1)  
Our File: 34238.32387

Dear Planning Commissioners:

We submit this letter on behalf of our client Tracy Alford who is the owner of the property adjacent to and east of the applicant's property. Our client objects to the proposed permit amendment and asks the Planning Commission to deny it because:

1. There is an existing code violation on the property.
2. The proposed 30% slope cut is inconsistent with the LCP.
3. The mandatory findings required to approve a 30% slope cut cannot be made in this case.
4. CEQA review is required.

The County approved the original Bardis project in 2013. At that time the project was found consistent with the LCP and compliant with all necessary access requirements. As construction began the approved project began to morph. In many cases changes were constructed before permit amendments were processed as Bardis opted to pursue the "ask for forgiveness after the fact rather than permission" approach to development. Sadly, the County was not able to effectively monitor these numerous changes and it fell to Ms. Alford to become the project monitor. The most egregious change came in the form of an 873 foot rooftop party deck which Alford had to engage legal counsel to force to a public hearing and then later appeal. The parties settled the appeal before it was heard by way of a private agreement but that

agreement was thereafter breached by Bardis. A lawsuit ensued and another settlement was reached.

The most recent unpermitted project change has come in the form of converting a substantial portion of the approved driveway into a private landscaped courtyard. When this was brought to the County's attention Ms. Alford was told the change was not permitted. As such, it constitutes a code violation under section 20.90.050 which says permits must be "strictly complied with" and failure to do so "shall constitute a violation of this Title and is declared to be a public nuisance." Despite the fact that section 20.90.120 says that when a code violation exists no permit shall be issued or approved for the property, staff now, curiously, recommends approval of the present application. To justify this "look the other way," staff asserts they are "not aware" of any violations on the property (ref. proposed Finding 3.a) notwithstanding the fact that they have personally seen the courtyard construction and affirmatively informed Ms. Alford that the courtyard construction is not allowed under the approved permit (which fact is self-evident; compare the approved plans with the as built condition; ref. Exhibit A photo on pg. 3).

To justify accommodation of his illegal courtyard, Bardis endeavors to shift the focus by arguing the proposed 30% slope cut amendment is somehow "needed" to accommodate ADA access and emergency access. In fact, no such need exists. The current project is only "needed" to accommodate the illegally constructed courtyard. The original design provided for adequate emergency access (or it wouldn't have been approved). As far as ADA access is concerned: first, it is not required for a single family residence; and second, even if desired for personal reasons, the original design better accommodates ADA access than the proposed 30% slope cut amendment would (see Congleton opinion attached as Exhibit A).

When the 30% slope cut project idea was first presented to the County, planning department senior supervising planner John Ford opined that it could not be approved because it was inconsistent with the LUP. Planner Dan Lister concurred (see Exhibit B). Recently, Chief of Planning Jacqueline Onciano also agreed with Mr. Ford's email (see Exhibit C). As noted above, these staff opinions were all correct. The 30% slope cut project is clearly not legally "necessary." The approved design addresses all access issues equal to or better than the proposed 30% slope cut amendment would. In light of this record, it is hard to fathom how staff now represents (in proposed Finding 1.a) that "no communications were received" indicating LCP inconsistencies when such communications came from the County planning department itself and have since been repeatedly asserted by Ms. Alford.

The first proposal to undertake the substantial 30% slope cut did not include a retaining wall.<sup>1</sup> This was obviously a serious concern to Ms. Alford as her above/adjacent land would have been put at serious risk. Ms. Alford was forced to hire a geotechnical engineer to prove that a retaining wall was necessary (see Exhibit F) and staff concurs that the 30% slope cut would "necessitate the construction of a retaining wall" (ref. staff report pg. 3 and proposed Finding 5.d). Faced with this reality, Bardis reached out to Ms. Alford and offered to design and construct the necessary retaining wall. Several iterations of the wall design were reviewed by Alford's technical team (geotechnical engineer, structural engineer, and architect) and eventually a design satisfactory to both parties was achieved. Ms. Alford does not object to the wall design. Her objection is based on the illegality of the overall project in the first instance.

In addition to the existing code violation (that should preclude any approval of the project), and the County determined inconsistency with the LCP, the project must also be denied because the requisite finding to approve a 30% slope cut cannot be made in this case. There are only two reasons a 30% slope encroachment can be approved. The first is if there are no other feasible alternatives. Obviously, the already approved project is a feasible alternative. The second basis is if the 30% slope cut would "better" achieve the LCP's goals, policies and objectives. In this case, not only does the project not better achieve any LCP goal, policy or objective, it is actually inconsistent with the LCP. Moreover, how can allowing a nearly vertical 30% slope cut that necessitates a 13.5 foot high engineered retaining wall in order to accommodate the Bardis' private landscaped courtyard (which is the only thing really accomplished by the proposed amendment) possibly better achieve the goals, policies and objectives of the LCP? The answer is simple ... it doesn't and it can't.<sup>2</sup>

With regard to the LUAC recommendation in favor of the project, it was based on two important misrepresentations. The LUAC was told the project was consistent with the LCP and 30% slope findings requirements; not true. The LUAC was told the retaining wall was offered as a concession to the neighbor even though it is not really needed; not true.

Finally, the proposed 30% slope cut amendment's acknowledged inconsistency with the LCP constitutes a potentially significant environmental impact necessitating CEQA review (i.e., the amendment cannot be processed on the basis of a Categorical Exemption).

---

<sup>1</sup> The project would involve approximately 300 cubic yards of material, not just 15 as the staff report suggests; see original plan (Exhibit D) showing the cut materials and thus enabling this calculation; note: this detail was conveniently deleted from later plan iterations including the one attached to the staff report. See also original application (Exhibit E).

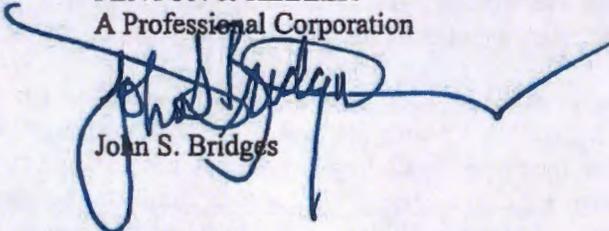
<sup>2</sup> The LCP contains no goal, policy or objective regarding private residence ADA access. In any event, as noted above and in Exhibit A the proposed 30% slope cut amendment actually hinders ADA access in comparison to the already approved project. With regard to other access (whether personal vehicle or emergency vehicle), both the approved design and the proposed 30% slope cut amendment result in the same turnaround constraints. Mr. Congleton proposes a design solution that would enable 3-point turnarounds without requiring a 30% slope cut.

Monterey County Planning Commission  
April 25, 2017  
Page 4

Simply put, Bardis has unilaterally created the alleged problem he now wants to solve (by way of an impermissible 30% slope cut), by illegally developing an unapproved courtyard in his driveway and his assertions of need for access accommodation are a ruse. The Planning Commission should deny the amendment, require compliance with the originally approved design, require the illegal courtyard be removed, and in doing so uphold the purposes and integrity of the LCP and the County's permitting and code enforcement processes.

Very truly yours,

FENTON & KELLER  
A Professional Corporation



John S. Bridges

JSB:kmc  
Enclosures

cc: (all via email)

Commissioner Jose Mendez (MendezJ@co.monterey.ca.us)  
Commissioner Ana Ambriz (ambrizana1@gmail.com)  
Commissioner Don Rochester (Chair) (RochesterD@co.monterey.ca.us)  
Commissioner Cosme Padilla (PadillaC1@co.monterey.ca.us)  
Commissioner Paul Getzelman (GetzelmanPC@co.monterey.ca.us)  
Commissioner Melissa Duflock (mduflock@gmail.com)  
Commissioner Amy Roberts (amyroberts@ymail.com)  
Commissioner Luther Hert (HertL1@co.monterey.ca.us)  
Commissioner Keith Vandevere (Vice Chair) (VandevereK@co.monterey.ca.us)  
Commissioner Martha Diehl (mvdiehl@mindspring.com)  
David Mack (MackD@co.monterey.ca.us)  
Jacqueline Onciano (oncianoj@co.monterey.ca.us)  
Carl Holm (HolmCP@co.monterey.ca.us)  
Wendy Strimling (strimlingw@co.monterey.ca.us)  
Tracy Alford (via email)

**EXHIBIT A**



April 25, 2017

John S. Bridges  
FENTON & KELLER  
1701 Monterey-Salinas Highway  
Monterey, California 93940

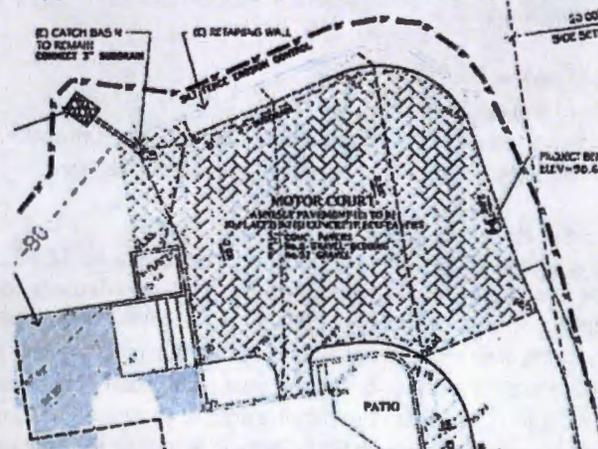
RE: Bardis Residence Coastal Development Permit Application – Entry/Parking Area proposed modifications

Dear Mr. Bridges:

At your request, I have reviewed elements of a request to Monterey County Planning Department, by representatives of the Bardis's, for a Coastal Development Permit for changes as defined:

*'Coastal Development Permit and Design Approval to allow development on slopes in excess of 30%; and Amendment to a previously approved Combined Development Permit (PLN120663 and subsequent permit PLN140715) to allow a driveway expansion to accommodate ADA and emergency vehicle access and construction of an approximate 13.5 foot retaining wall.*

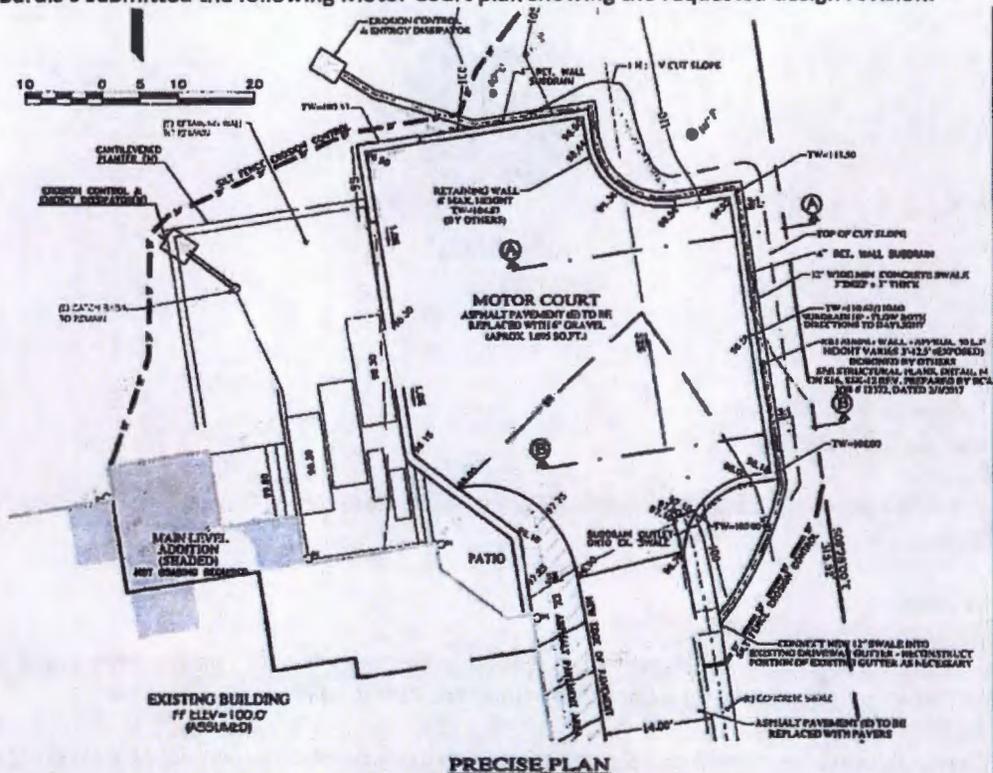
The Bardis's request is to relocate parking and turnaround areas from its original approved location at the front entrance, to a location on the east side of the driveway. The original (and approved) layout, as shown on sheet C1 of the approved civil drawings, dated revised 1/17/13, is shown below:



A. The motor court is shown in this drawing in front of the main entrance to the residence.

**Congleton Architect AIA**  
Post Office Box 4118-Office at Eighth & San Carlos-Carmel, California 93921  
831-628-1928 fax 831-628-1929  
Email: brian@congletonarchitect.com

The Bardis's submitted the following Motor Court plan showing the requested design revision:



B. Proposed reconfiguration of entry area March 2016

This drawing shows the proposed change of the motor court from a turnaround/parking area to a landscaped entry courtyard. The portion to the left of the double line in the center of the drawing shows the area originally intended as motor court but now to be the courtyard. The area proposed on the right has been added to provide parking in the setback area on the east side of the driveway (Unknown whether parking is intended to be straight-in or parallel), and to accommodate ambulance and van access and turn-around.

You have requested that I review the following:

- ADA component of the application.
- Ambulance and van turnaround of both the original design and proposed revision.
- Application in relation to elements of the Del Monte Land Use Plan.

First, the ADA component of the application:

*Was the driveway/parking approved with the original project adequate for ADA?*

Yes. The driveway and parking area originally approved were adequate for ADA. The area would have had only minimal slopes for drainage (1%), thus complying with requirements for an essentially level parking area and path of access. In addition, the parking located adjacent to the entrance would allow access without having to cross a vehicular lane. However, the original approved design included steps from the parking area to the house, thus interrupting the path of access. There is no proposed change to that element, meaning that the proposed design would still not meet ADA requirements.

***Is the proposed revision an improvement from the original project in relation to accessibility requirements?***

No. The original layout with parking located adjacent to the entrance would allow access for persons with disabilities without having to cross a vehicular lane. The design revision proposed in the application would locate the parking on the opposite side of the driveway - requiring a much longer path of access, crossing the vehicle traffic lane, thus creating a safety hazard not created in the original configuration. In addition, the introduction of a wall bifurcating the motor court limits the turnaround area to the same extent as the parking area on the east side increases it (see turnaround pattern sketches below). This photo shows the already-constructed wall:

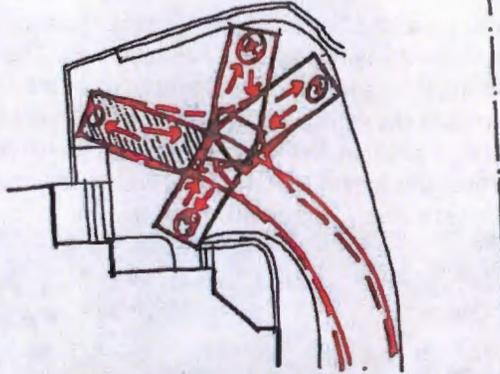


There is not a code requirement for provision of ADA access to a single-family residence, unless it is part of a multi-unit project and is the specified accessible unit (which the Bardis residence is not). So the accessibility element is an owner-preferred element. While provision for accessibility is a good idea, and may be needed by either the owners or their guests, it is not required to make the project code-compliant.

The original design, as shown in Image 'A' above, shows accommodation in the motor court for accessible parking and a short access path. As shown in 'B', with the new landscape entry area, accessibility is not as well addressed, requiring a longer path conflicting with vehicular movements. The most appropriate way to address the owner requirement is to adhere to the approved design.

Second, the proposed design revision in relation to ambulance or handicap van access and turnaround: ***Did the original design accommodate a three-point turnaround for ambulance or van?***

In the LUAC committee meeting last week, it was discussed that the original design failed to provide emergency vehicle access and turnaround, stating that a 6-point turn would be required. The drawing below shows my calculation that a 5-point turn would be required:

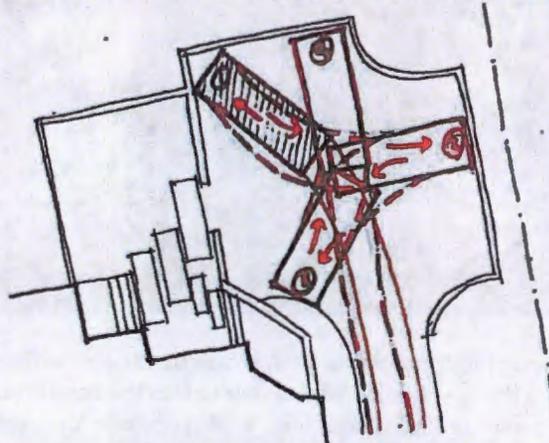


*Turnaround pattern – approved design (5-point turn)*

The applicant's claim that the original approved design fails to meet turnaround standards appears to be accurate in concept.

*Does the revised driveway configuration provide an improved turnaround for ambulance or van access?*

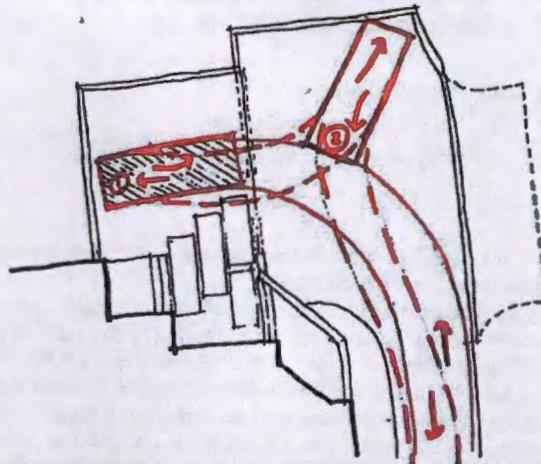
The turnaround pattern as applied to the proposed revised layout, with deletion of the parking area adjacent to the entry steps on the west side, and replacement with a parking area on the east side of the driveway (in the 20-foot setback area with retaining wall), shows the following pattern:



*Turnaround pattern – requested design revision (5-point turn)*

The revised design appears to have the same 5-point turn, the same as the original design.

However, it appears that the three-point turn could be accomplished by eliminating the wall separating the parking area from the proposed entry landscape area and making the landscape area able to structurally support an emergency ambulance or van:



*Turnaround pattern – modification to proposed revision (3-point turn)*

By opening the entry area for emergency vehicle turnaround, the required 3-point turn could be achieved, without the need for projection into the side setback, cut into the hill, and retaining wall.

Third, the proposed design revision in relation to the Land Use Development Element of the Del Monte Forest Land Use Plan:

*Does the proposed revision better address LUP objectives, over the original design?*

The first basic goal of the Coastal Act (as listed in the Land Use and Development Element, page 24) states as follows:

*Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.*

The text of the introduction follows on this first basic goal:

*The Forest is also home to a vibrant residential community which has been melded with the forest resource over time . . . new development and redevelopment must be sited and designed to protect the Forest's built and natural environments consistent with the Coastal Act.*

Two LUP policies are relative to the above goal:

*68. New development shall incorporate mitigation measures to avoid, and where unavoidable, to minimize and reasonably mitigate potential adverse environmental impacts.*

*78. Development on slopes of 30% or more is prohibited unless such siting better addresses LUP objectives as a whole when compared to other possible siting alternatives on slopes of less than 30% associated with projects and/or sites.*

The proposed revised design, to replace a sloping hillside with a parking area and a tall retaining wall (eight-to-fourteen foot height over a thirty-two foot length) tend to violate the basic goal of protection of the natural resources and the policies for implementation of that protection. When compared to the original approved design, the proposed design revision appears to impose a significant impact on the natural environment. As stated in the application, the proposal is for a cut of 305 cubic yards, and construction of a retaining wall to replace that hill. This type of intrusion into the hillside environment appears to be the reason development on slopes of 30% or more is prohibited.

I am including in this report a memo from Dan Lister on January 15, 2016, which directly defines the areas in which the proposed revision does not meet LUP policies:

**From:** Lister, Daniel M. x6617 [mailto:listedm@co.monterey.ca.us]  
**Sent:** Friday, January 15, 2016 5:18 PM  
**To:** Anatoly  
**Subject:** RE: Bardis (PLN 15205, 13CP0059) - motor court for ambulance turn around

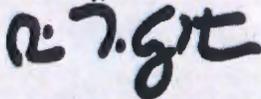
Anatoly,

Based on review by John Ford, the proposed driveway adjustment is not necessary and is inconsistent with policies in the Del Monte Forest Land Use Plan, such as:

- Section 20.147.030.A.1.(a): The driveway adjustment disturbs man-made and natural slopes which does not minimize site disturbance or sedimentation issues created by the existing driveway. The adjustment adds additional parking area which is not necessary to meet daily (not occasional) needs. (see Section 20.147.090.A.2 - Land Use and Development Chapter, driveways/ vehicle surfaces design).
- Section 20.147.030.A.1.(b): The site exceeds impervious surface coverage. The structural and site improvements are limited to 9,000 square feet of impervious surface. The existing development is legal non-conforming and all future improvements must comply with this provision.

I trust the above answers your questions regarding the proposed design revision of the Bardis project. Please let me know if you need additional information or wish to discuss this matter.

Sincerely,



Brian T. Congleton AIA

EXHIBIT "B"

**From:** Lister, Daniel M. x6617 [mailto:[listedm@co.monterey.ca.us](mailto:listedm@co.monterey.ca.us)]  
**Sent:** Friday, January 15, 2016 5:18 PM  
**To:** Anatoly  
**Subject:** RE: Bardis (PLN 15205, 13CP0059) - motor court for ambulance turn around

Anatoly,

Based on review by John Ford, the proposed driveway adjustment is not necessary and is inconsistent with policies in the Del Monte Forest Land Use Plan, such as:

- Section 20.147.030.A.1.(a): The driveway adjustment disturbs man-made and natural slopes which does not minimize site disturbance or sedimentation issues created by the existing driveway. The adjustment adds additional parking area which is not necessary to meet daily (not occasional) needs. (see Section 20.147.090.A.2 – Land Use and Development Chapter, driveways/vehicle surfaces design).
- Section 20.147.030.A.1.(b): The site exceeds impervious surface coverage. The structural and site improvements are limited to 9,000 square feet of impervious surface. The existing development is legal non-conforming and all future improvements must comply with this provision.

If the applicant wishes to continue with the driveway improvements, please submit an Application Request to amend the approved Combined Development Permit. Contact me if you have any questions.

Sincerely,

Dan Lister - Assistant Planner  
RMA - Planning Department  
(831) 759-6617  
[listedm@co.monterey.ca.us](mailto:listedm@co.monterey.ca.us)

**EXHIBIT C**

**John S. Bridges**

---

**From:** Onciano, Jacqueline x5193 <oncianoj@co.monterey.ca.us>  
**Sent:** Monday, February 20, 2017 2:38 PM  
**To:** John S. Bridges  
**Cc:** Tracy Alford <Golfrgrl1@cox.net> (Golfrgrl1@cox.net)  
**Subject:** Re: Bardis driveway expansion (PLN 140715-AMD1)

Hi John:

While I agree with the email. I need to make sure that Carl is in agreement. I will run it by him this week along with the proposal and get back to you by weeks end. For your information, the County had a power outage and so the Government Center closed at around 10:00 on Friday, February 17th. However, I did return a call to Tracy, but was not able to speak with her; I left a message.

Jacque O.

---

**From:** John S. Bridges <jbridges@fentonkeller.com>  
**Sent:** Wednesday, February 15, 2017 11:21:34 AM  
**To:** Onciano, Jacqueline x5193  
**Cc:** Tracy Alford <Golfrgrl1@cox.net> (Golfrgrl1@cox.net)  
**Subject:** Bardis driveway expansion (PLN 140715-AMD1)

Hi Jacqueline. Just checking in to see if you located that 1-15-16 Dan Lister email we discussed (re project inconsistency with the LUP) and, if so, what your thoughts are.

Please advise.

Thanks...JOHN

**John S. Bridges**  
**FENTON & KELLER**  
Post Office Box 791  
Monterey, CA 93942-0791  
831-373-1241, ext. 238  
831-373-7219 (fax)  
[jbridges@fentonkeller.com](mailto:jbridges@fentonkeller.com)  
[www.FentonKeller.com](http://www.FentonKeller.com)

**FENTON & KELLER**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

EXPERIENCE INTEGRITY RESULTS

**CONFIDENTIALITY NOTICE**

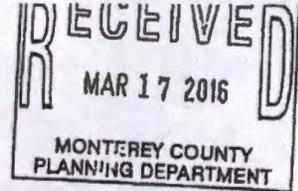
This is a transmission from the Law Firm of Fenton and Keller. This message and any attached documents may be confidential and contain information protected by the attorney-client or attorney work product privileges. They are intended only for the use of the addressee. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you received this transmission in error, please immediately notify our office at 831-373-1241. Thank you.



**EXHIBIT E**



COUNTY OF MONTEREY  
RESOURCE MANAGEMENT AGENCY - PLANNING  
168 WEST ALISAL, 2ND FLOOR, SALINAS, CA 93901  
OFFICE: 831.753.5025 FAX: 831.757.9516



**DEVELOPMENT PROJECT APPLICATION**

This application is for:

- |   |   |
|---|---|
| <input type="checkbox"/> Combined Development Permit                      | <input type="checkbox"/> Tentative Parcel Map [Minor Subdivision] |
| <input type="checkbox"/> Rezoning   | <input type="checkbox"/> Tentative Map [Standard Subdivision]     |
| <input type="checkbox"/> Administrative Permit [Coastal/Non-Coastal]      | <input type="checkbox"/> Vesting Tentative Map                    |
| <input type="checkbox"/> Use Permit                                       | <input type="checkbox"/> Preliminary Map                          |
| <input type="checkbox"/> Variance   | <input type="checkbox"/> Preliminary Project Review Map           |
| <input type="checkbox"/> Design Approval                                  | <input type="checkbox"/> Lot Line Adjustment                      |
| <input type="checkbox"/> General Development Plan                         | <input type="checkbox"/> Revised Final Map                        |
| <input type="checkbox"/> Coastal Development Permit                       | <input type="checkbox"/> Revised Parcel Map                       |
| <input type="checkbox"/> Modification of Conditions                       | <input type="checkbox"/> Amended Final Map                        |
| <input type="checkbox"/> Local Coastal Plan Amendment [L.U.P. or C.I.P.]  | <input type="checkbox"/> Amended Parcel Map                       |
| <input type="checkbox"/> General Plan Amendment                           | <input type="checkbox"/> Subdivision Extension Request            |
| <input checked="" type="checkbox"/> Minor Amendment [Coastal/Non-Coastal] | <input type="checkbox"/> Other _____                              |

1. Owner[s] Name: Chris & Sara Bardis  
 Address: 1525 Riata Road City: Pebble Beach State: CA  
 Telephone: \_\_\_\_\_ Zip Code: \_\_\_\_\_
2. Applicant's Name: Anthony Lombardo & Associates/Attn: Gail Hatter-Crawford  
 Address: 144 W. Gabilan Street City: Salinas State: CA  
 Telephone: 831-751-2330 Zip Code: 93901
3. Applicant's interest in property [Owner, Buyer, Representative, etc.]  
Representative
4. Property address and nearest cross street: 1525 Riata Road, Pebble Beach (17 MILE DRIVE)

5. Assessor's Parcel Number(s): 008-341-026-000
6. Current Zoning: HDR/15-D(CZ)
7. Property area [acres or square feet]: 1.86 acres

8. Describe the proposed project: Minor amendment to PLN120663 (CDP) to allow extension of the motorcourt area to address accessibility (ADA) access to front entrance via van access and turnaround in this area. Provides accessibility for ADA guests and/or residents, which is not provided in original configuration

9. REZONING OR AMENDMENT ONLY: The applicant wishes to amend Section \_\_\_\_\_ of the Monterey County Code, from a \_\_\_\_\_ Zoning District to a \_\_\_\_\_ Zoning District or some other classification.

10. GENERAL PLAN AMENDMENT OR COASTAL PLAN AMENDMENT ONLY: Describe the proposed amendment:  
 \_\_\_\_\_

11. SUBDIVISION INFORMATION ONLY: Number of Lots: \_\_\_\_\_  
 Purpose of Subdivision: Split  Lease  Financing  Other: \_\_\_\_\_

12. LOT LINE ADJUSTMENT INFORMATION ONLY: What is the purpose of the adjustment: \_\_\_\_\_

WILL THE ADJUSTMENT RELOCATE THE BUILDING AREA? Yes  No

ADJUSTED PARCEL SIZE(S): \_\_\_\_\_

Owner's Signature \_\_\_\_\_ Owner's Signature \_\_\_\_\_

Owner's Name (Please Print) \_\_\_\_\_ Owner's Name (Please Print) \_\_\_\_\_

Assessor's Parcel Number \_\_\_\_\_ Assessor's Parcel Number \_\_\_\_\_

13. VARIANCES ONLY: Describe the proposed variance:  
 \_\_\_\_\_

Relocate a portion of existing ret. wall. Add grading of 305 cu yd Cut/10 cu yd fill. Colors & materials for relocated wall to match existing.

**EXHIBIT F**

**HARO, KASUNICH AND ASSOCIATES, INC.**

---

CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

Project No. M11055

31 October 2016

MR. JOHN S. BRIDGES  
c/o Fenton & Keller  
P. O. Box 791  
Monterey, California 93942-0791

Subject: Geotechnical Review

Reference: Bardis Motor Court Project  
PLN140715-AMD-1  
APN 008-341-026  
1525 Riata Road  
Pebble Beach, California

Dear Mr. Bridges:

As requested, we have reviewed the geotechnical aspects of a proposed excavation on the referenced property. The excavation will be adjacent to the west property line of the Alford property, located at 1496 Bonifacio Road (APN 008-341-026) in Pebble Beach, California. The excavation is proposed to widen an existing driveway to create a motor court on the project site, located at 1525 Riata Road. The purpose of our review is to evaluate the impact of the proposed ¼:1 gradient (horizontal to vertical), 9.8 to 13.7 foot high excavation on the upslope Alford property.

The scope of our work included two site visits to the Alford property; review of the Geotechnical Report dated 14 January 2013 and a Parking Lot Expansion letter dated 22 September 2016 for the project, prepared by Grice Engineering; and review of the Grading, Drainage and Erosion Control Plan for the 1525 Riata Road Motor Court Expansion, revised 6 January 2016, prepared by Landset Engineers.

The grading plan indicates the backyard of the Alford property slopes down to the adjacent Bardis property at gradients of 4:1 to 5:1. On the Bardis property, slope gradients steepen to 2:1 as they approach the top of the existing driveway cut slopes.

Cross Sections A-A and B-B on the grading plan indicate a 36 foot long portion of the existing driveway on the Bardis property will be widened to create the proposed motor court by excavating 15 feet into the hillside on the south end and 23 feet into the hillside on the north end. The excavations will leave a 9.8 foot high to 13.7 foot high unsupported cut with very steep ¼:1 gradients. At the base of the cut slope,

Mr. John Bridges  
Project No. M11055  
Bardis Motor Court Project  
1525 Riata Road  
31 October 2016  
Page 2

a 3 foot high concrete slough wall with a concrete swale is planned, presumably to protect the motor court from erosion, soil slumps or spalls emanating from the cut slope and collect rainwater from the cut slope and upslope runoff that overflows the earth drainage swale.

The top edge of the cut slope will be 3 feet from the Alford property line and about 30 feet downslope of backyard patios at the Alford residence. We understand several large cypress trees were planted in recent years on the Alford property. The trees are located about 12 feet upslope of the property line between the Bardis property and the Alford property.

The grading plan also indicates a 2 foot wide by 6 inch deep earth drainage swale will be constructed 1 foot from the edge of the slope to collect upslope runoff and divert it from flowing over the steep cut.

The Geotechnical Report states the project site is underlain by dense weathered granite mantled by topsoil and fill and further states 2:1 gradients are satisfactory for cut and fill slopes. The Parking Lot Expansion letter states the proposed area to be excavated exposes moderately to slightly weathered granite mantled by .5 feet to 2 feet of brown medium dense silty sand (presumably topsoil) and the proposed cut slope (at a gradient of ¼:1) will be stable and a retaining wall will not be necessary. The plan review letter states the plans essentially comply with their geotechnical recommendations.

Based on our review, we present the following conclusions and recommendations:

1. The proposed excavation will leave a high ¼:1 slope in weathered granite. The quality, stability, and erodibility of the weathered granite and thickness of topsoil along the excavation will not be known until the excavation is complete. If the excavation exposes loose topsoil and/or very weathered or fractured granite, there is significant potential for erosion, slumping and/or spalling of the upper portions of the very steep unsupported cut. The planned 3 foot high wall at the base of the excavation is a "slough" wall to protect the proposed motor court from soil and weathered granite sloughing from the very steep cut. The proposed 3 foot setback of the top of the cut from the Alford property line leaves virtually no margin of safety against spalling or slumping on the cut to extend onto the Alford property.
2. Over time, there is significant potential for the top of the proposed unsupported very steep cut on the Bardis property to slump, spall, and/or erode and undermine the Alford property. In our opinion, a retaining wall is necessary to support the cut slope and prevent slope failures from

Mr. John Bridges  
Project No. M11055  
Bardis Motor Court Project  
1525 Riata Road  
31 October 2016  
Page 3

extending onto the Alford property. The wall should extend high enough that the wall has a maximum back slope gradient of 2:1, as was recommended originally in the Geotechnical report.

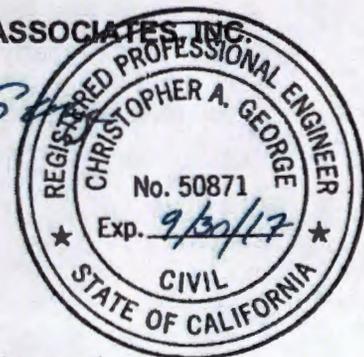
3. In our opinion, the proposed earth drainage swale at the top of the slope will not be effective in intercepting and diverting upslope runoff and preventing erosion over time. Vegetation in the ditch, animal burrows and eroded soil in the swale will reduce the capacity of the swale over time. Storm water may flow through the swale and erode the cut slope below. A concrete v-ditch, setback a minimum of 2 feet from the top edge of the slope, is necessary to intercept and divert storm runoff from the cut slope. The v-ditch should be designed so that it has the capacity to convey all storm water from upslope. The concrete v-ditch should be embedded sufficiently that the top edge of the concrete is below existing grade. The concrete v-ditch will be easy to inspect and clean after storms and will protect the slope from erosion over time.

If you have any questions concerning this letter, please contact our office.

Very truly yours,

HARO, KASUNICH & ASSOCIATES, INC.

  
Christopher A. George  
C.E. 50871



CAG/sr

Copies: 3 to Addressee + email (jbridges@fentonkeller.com)  
1 to Brian Congleton + email (brian@congletonarchitect.com)

HARO, KASUNICH AND ASSOCIATES, INC.

---

CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

Project No. M11055  
25 April 2017

MR. JOHN S. BRIDGES,  
c/o Fenton & Keller  
P. O. Box 791  
Monterey, California 93942-0791

Subject: Retaining Wall

Reference: Bardis Motor Court Project  
PLN140715-AMD-1  
APN 008-341-026  
1525 Riata Road  
Pebble Beach, California

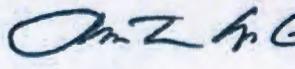
Dear Mr. Bridges:

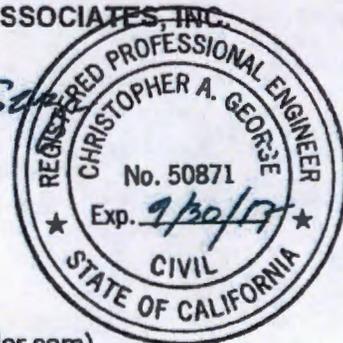
As requested, we have reviewed geotechnical information contained in an Addendum Geotechnical Report for the referenced project. The report, dated 5 April 2017, was prepared by Grice Engineering Inc.

Based on our review, site drainage improvements and the retaining wall are still necessary to prevent erosion and/or spalling of the steep slope and undermining of the Alford property.

If you have any questions concerning this letter, please contact our office.

Very truly yours,  
HARO, KASUNICH & ASSOCIATES, INC.

  
Christopher A. George  
C.E. 50871



CAG/  
Copies: 2 to Addressee + email (jbridges@fentonkeller.com)

**ATTACHMENT 2**



May 10, 2017

John S. Bridges  
FENTON & KELLER  
1701 Monterey-Salinas Highway  
Monterey, California 93940

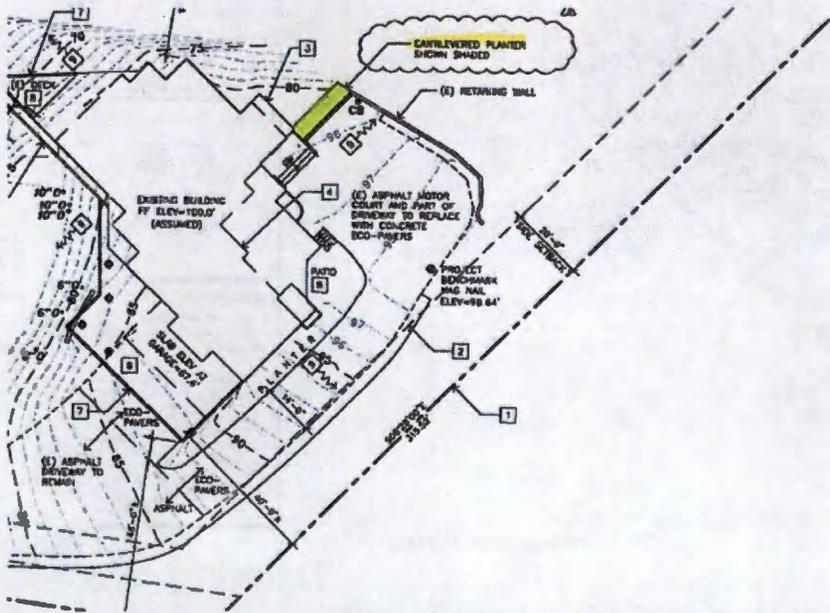
RE: Questions regarding April 26, 2017 Planning Commission testimony

Dear Mr. Bridges:

At your request, I have reviewed two items you requested from the April 26, 2017 Planning Commission hearing:

1. Was the courtyard wall dividing the motor court from the newly proposed landscape area part of the May 2015 plan referred to by the planner during the April 26 Planning Commission hearing?

No. The May 7, 2015 drawing shows the enlargement of the motor court by cantilevering the edge of the court beyond the existing retaining wall. This drawing shows on Acela as approved on July 8, 2015.



PROJECT ADDRESS
1525 RIATA ROAD, PEBBLE BEACH, CA
APN: 008-341-028
REGISTERED ARCHITECT CONGLETON ARCHITECT AIA 5 630PS 5 STATE OF CALIFORNIA
DATE: 05-02-14 BY: ARCHITECT
REVISIONS
NO-15-14

May 7, 2015 drawing – application on Acela July 8, 2015.

**Congleton Architect AIA**  
Post Office Box 4116·Office at Eighth & San Carlos·Carmel, California 93921  
831-626-1928 fax 831-626-1929  
Email: brian@congletonarchitect.com

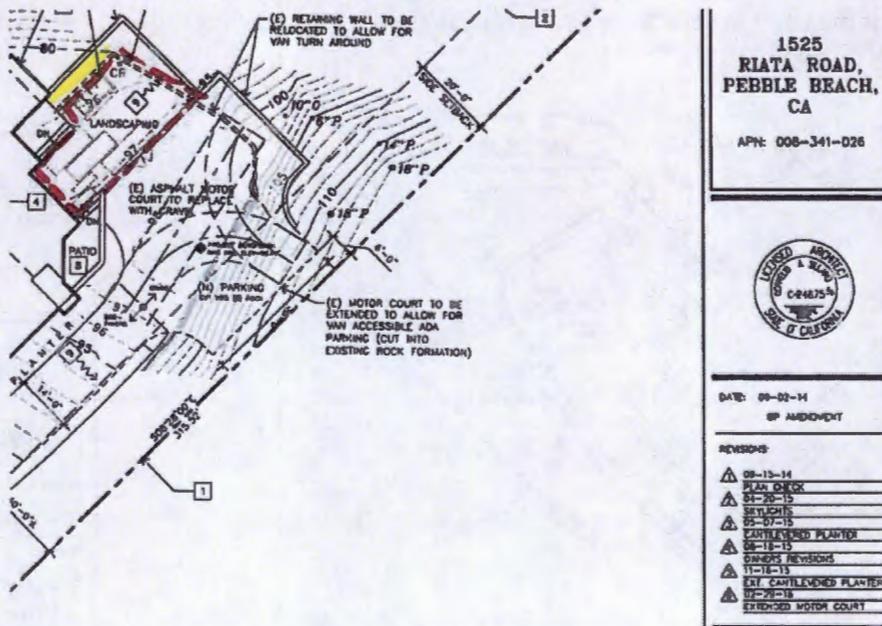
The September 2015 drawing still shows only the cantilevered planter.



September 2015 drawing.

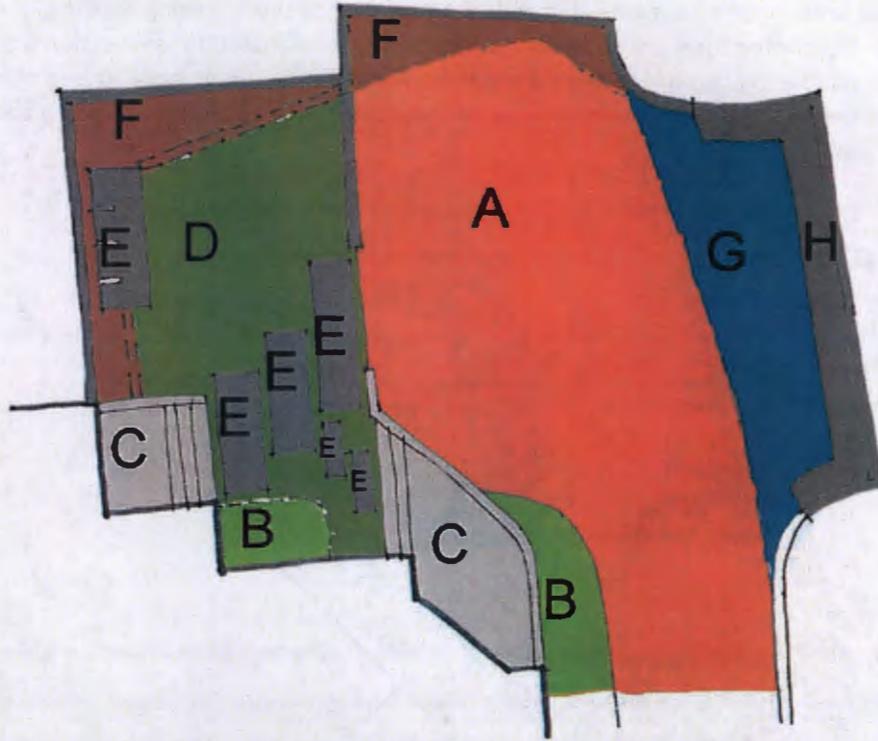
Neither of those earlier drawings shows a wall dividing the motor court from the courtyard/landscape area.

The February 29, 2016 (PLN140715-AMD1) drawing that first shows the landscape elements plus the wall (and adds the cut into the hill for the replacement parking/turnaround area) was not approved until the April 26, 2017 Planning Commission hearing.



February 2016 Drawing

The sketch below shows the changes of coverage of the motor court, landscaped entry area, and hillside converted to DG parking with a retaining wall. Note that areas shown are conceptual and for comparison purposes.



- A. **Existing motor court area** already required to be permeable eco-pavers. Should not be considered as a reduction in coverage.
- B. **Existing landscape area** that remains as landscape area. Not included in measurements.
- C. Existing concrete entry steps, landing, and patio – no change from approved design. Not included in measurements.
- D. **Motor court area** converted from eco-pavers to courtyard/landscaping. Should not be considered as a reduction in coverage.
- E. **New stone** or concrete hardscape elements. These replace currently-required eco-pavers with non-permeable surfaces. Increase impervious coverage 205 square feet.
- F. **Cantilevered area.** Former hillside to be covered with concrete structure, removal of permeable surface. Increase impervious coverage 380 square feet.
- G. **Hillside area** converted to gravel parking. No reduction (possible increase) in impervious coverage.
- H. **New retaining wall** and footing extending into and under DG parking. Former hillside to be covered with concrete structure, removal of permeable surface. Increase impervious coverage 325 square feet.

The increased coverage area is as follows:  $E(205)+F(380)+H(325) = 910$  square feet converted from open to hard surface coverage.

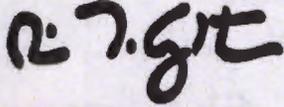
The decrease coverage area is as follows: None.

The net increase in coverage is 910 square feet.



I trust the above answers your questions regarding the proposed design revision of the Bardis project. Please let me know if you need additional information or wish to discuss this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "B.T. Congleton". The signature is stylized and written in a cursive-like font.

Brian T. Congleton AIA

ATTACHMENT 3

# MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY BUILDING SERVICES DEPARTMENT



PLEASE RETURN  
COMPLETED FORM TO:

SALINAS OFFICE  
168 W. ALISAL ST., 2<sup>ND</sup> FLOOR  
SALINAS, CA 93901  
(831) 755-5025 Fax (831) 757-9516

## BUILDING / GRADING / ZONING COMPLAINT FORM

**\* AREAS - REQUIRED INFORMATION TO PROCESS COMPLAINT \***

ASSESSOR'S PARCEL # OF COMPLAINT: 008-341-026 DISTRICT: 5TH  
\* ADDRESS OF COMPLAINT: 1525 PLATA ROAD, PEBBLE BEACH, CA 93953  
PROPERTY OWNER(S) NAME: BARDIS, CHRISTO AND SARA  
PROPERTY OWNER(S) ADDRESS: SAME AS ABOVE

**\*DETAILS OF COMPLAINT: (USE ADDITIONAL SHEETS OF PAPER IF NEEDED)**

(SEE ATTACHED)

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**STAFF NOTES:**

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PREVIOUS CASES: 14CE00267

DATE RECEIVED: \_\_\_\_\_ TIME: \_\_\_\_\_ COMPLAINT TAKEN BY: \_\_\_\_\_ PHONE #: \_\_\_\_\_  
REFERRED TO:  ENVIRONMENTAL HEALTH  PUBLIC WORKS  SHERIFF  WATER RESOURCES AGENCY  
 OTHER (SPECIFY): \_\_\_\_\_  
CHANNEL REPORTED \_\_\_\_\_ DATE REFERRED: \_\_\_\_\_ REFERRED BY: \_\_\_\_\_

**\*CONFIDENTIAL: THIS INFORMATION WILL NOT BE RELEASED PER EVIDENCE CODE 1040 B (2)**

\*COMPLAINANT'S NAME: JOHN S. BRIDGES / DERRIC G. OLIVER  
\*COMPLAINANT'S ADDRESS: PO BOX 791, MONTEREY, CA 93942  
\*HM #: \_\_\_\_\_ \*WK #: 831-375-1241 \*OTHER: \_\_\_\_\_

TYPE OF COMPLAINT:  ZONING  BUILDING  GRADING  COMBINED: \_\_\_\_\_ (LIST ALL TYPES)  
PLANNING AREA: DEZ MONTE FOREST / CZ ZONING DISTRICT: \_\_\_\_\_  
DATE OPENED: \_\_\_\_\_ OPENED BY: \_\_\_\_\_ ASSIGNED TO: \_\_\_\_\_ CASE #: \_\_\_\_\_

## **DETAILS OF COMPLAINT**

**RE: BARDIS / 1525 RIATA RD., PEBBLE BEACH, CA 93953 (APN 008-341-026)**

The in-progress construction on the above referenced Bardis property (APN 008-341-026) is not consistent with the construction plans approved under PLN120663. Specifically, the upper portion of the approved Bardis driveway has been displaced and converted into a private patio/courtyard consisting of more than mere "landscaping." (See attached plan and photographs.)

The aforementioned construction, which deviates substantially from the approved plans under PLN120663, constitutes a violation of PLN120663 condition 1 (PD001 – Specific Uses Only). That condition states, in relevant part: "Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. ... The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated." The deviation is obviously not in substantial conformance because the displaced parking area requires a major 300 cy cut into 30-60% slope to accommodate the displaced area.

The aforementioned construction also constitutes a violation of Monterey County Ordinance section 20.90.050. That section requires that all conditions of any County-issued permit under the authority of Title 20 "must be strictly complied with." Section 20.90.050 also provides that any "violation of any condition imposed" on any such permit "shall constitute a violation of this Title and is declared to be a public nuisance." Such is the case here. (See attached declaration of Tracy Alford.) Furthermore, Monterey County Ordinance section 20.90.120 prohibits Monterey County from issuing any additional permits on the Bardis property until said violations have been remedied.



Photo taken February 14, 2017

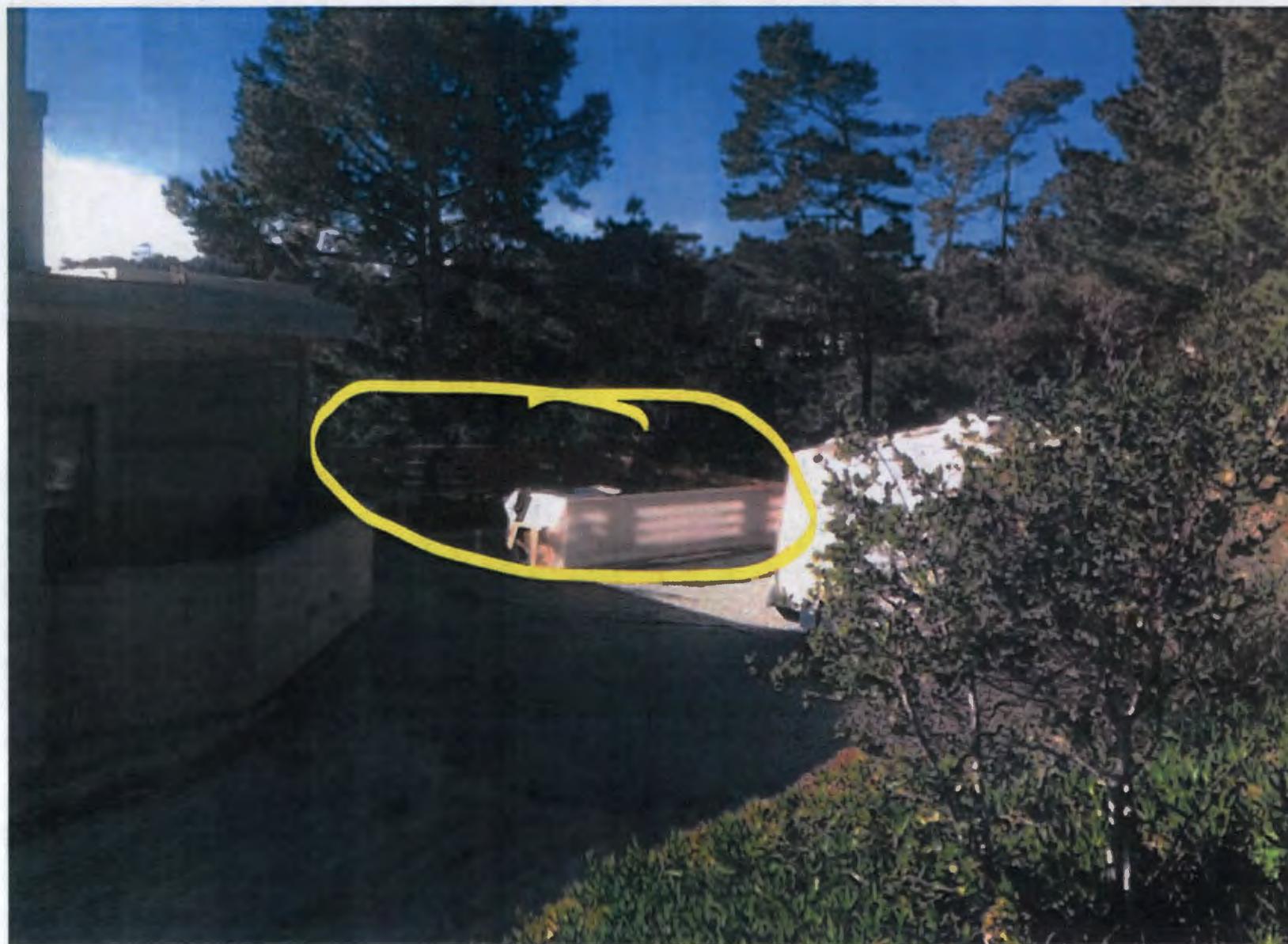
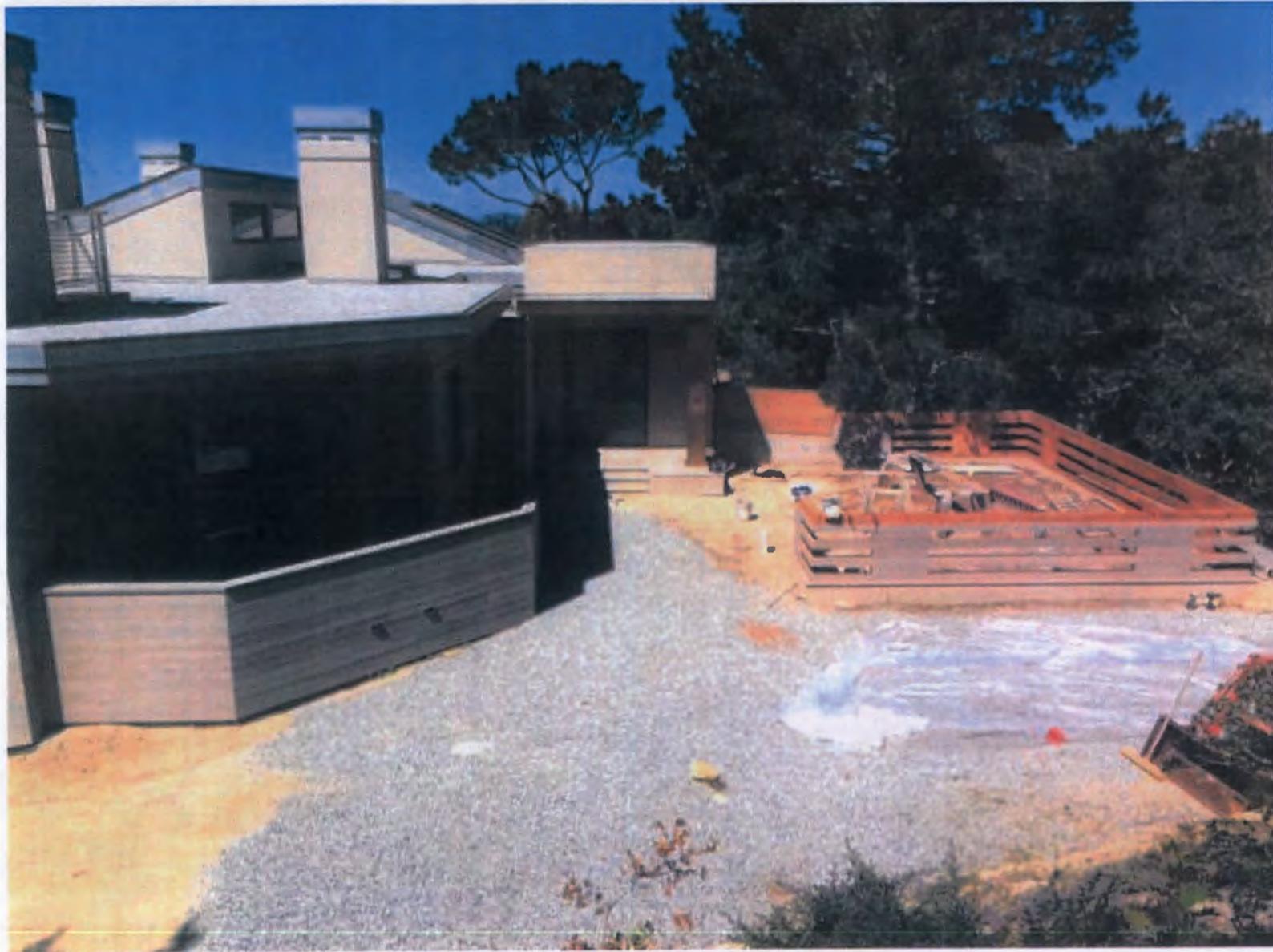


Photo taken May 1, 2017



1 STATE OF CALIFORNIA  
2 COUNTY OF MONTEREY  
3

4  
5 **DECLARATION OF**  
6 **TRACY ALFORD**

7 I, Tracy Alford, hereby declare:

8 1. On March 1 and March 15, 2017, conference calls were held between John  
9 Bridges, Jacqueline Onciano, David Mack and me. Numerous issues were discussed, including  
10 the fact that construction had taken place at the Bardis project at 1525 Riata that was not  
11 consistent with the permits and approved plans on file. The upper portion of the Bardis driveway  
12 had been converted into a private patio/courtyard thus displacing the approved driveway and  
13 parking area. When I mentioned this and asked why a code enforcement complaint had not been  
14 issued, David Mack admitted that he had been to the subject property a few weeks before and  
15 seen the unpermitted private patio/courtyard. John and I both asked why a code enforcement  
16 action had not commenced and Mack said, "Because code enforcement was not the purpose of  
17 my site visit." Mack was then told by Onciano that regardless of the purpose of his site visit if  
18 there was a code violation it was his duty and responsibility to file record of the violation (or  
19 words to that effect). John and I both asked Onciano and Mack if we needed to file the complaint  
20 or if they would. I recall Onciano saying they would deal with it.

21 2. On April 11, 2017, Jacqueline Onciano sent me an email stating, "The property  
22 does not have a "code violation." The applicant [Bardis] is not in compliance with the approved  
23 permit, because the area approved as a driveway is not being utilized as a driveway but rather is  
24 landscaped." (Emphasis added.) A true and correct copy of Ms. Onciano's email is attached  
25 hereto and incorporated herein by reference as **Exhibit A**.

26 I declare under penalty of perjury under the laws of the State of California, that the  
27 foregoing is true and correct, except as to those matters based on information and belief, and as to  
28 those matters I believe them to be true, and that if called as a witness I could and would  
{JSB-00658298;2 }

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competently testify thereto.

Executed on this 3 day of May, 2017, at Oklahoma City, Oklahoma.

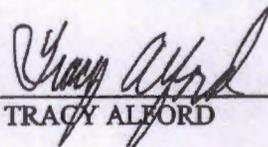
By:   
\_\_\_\_\_  
TRACY ALFORD

EXHIBIT A

**From:** Onciano, Jacqueline x5193 [<mailto:oncianoj@co.monterey.ca.us>]  
**Sent:** Tuesday, April 11, 2017 5:36 PM  
**To:** 'Tracy Alford'  
**Cc:** John S. Bridges; Mack, David x5096  
**Subject:** RE: Bardis

Good evening, Tracy:

The property does not have a "code violation". The issue is non-compliance. The applicant is not in compliance with the approved permit, because the area approved as a driveway is not being utilized as a driveway but rather is landscaped. The current state of the property will be disclosed in staffs analysis as presented to the hearing authority.

Jacqueline Onciano

*~Jacqueline R. Onciano  
RMA Interim Chief of Planning  
Monterey County Resource Management Agency*

*168 W. Alisal St. 2nd Floor  
Salinas, CA 93901  
Office: (831) 755-5193  
Fax: (831) 757-9516  
[oncianoj@co.monterey.ca.us](mailto:oncianoj@co.monterey.ca.us)*

**EXHIBIT C**

**FENTON & KELLER**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY

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1925-2005

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BRIAN D. CALL  
TROY A. KINGSHAVEN  
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SHARILYN R. PAYNE  
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CHRISTINA J. BAGGETT  
ELIAS E. SALAMEH  
KENNETH S. KLEINKOPF  
DERRIC G. OLIVER  
ROXANA E. KHAN  
LAURA L. FRANKLIN  
EVAN J. ALLEN  
ANDREW B. KREEFT

March 21, 2017

JOHN S. BRIDGES

JBridges@FentonKeller.com  
ext. 238

Monterey County RMA Planning Department  
168 W. Alisal Street, 2nd Floor  
Salinas, CA 93901

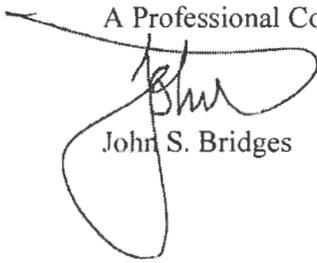
Re: Bardis Project (APN 008-341-026)  
Our File: 34238.32387

Dear RMA Planning Department:

I am writing this letter to request that we continue to be included on the list of interested parties to receive all information/documentation regarding the above mentioned property including, but not limited to, applications, meeting notices, staff reports, memorandums, etc. Thank you.

Very truly yours,

FENTON & KELLER  
A Professional Corporation

  
John S. Bridges

JSB:kmc

{JSB-00639767}

Announcements

Planning Reports (4) ▼

008-341-026



Search by permit number, parcel or address in the box to the right.

Home Building Code Compliance Cases Planning Public Records Requests

Search Applications

Permit Number PLN170482:

Minor

Current Permit Status: Cleared

Record Info ▼

Payments ▼

Conditions 1

A notice was added to this record on 06/05/2015.

Condition: PRIOR TO ANY PERMIT APPROVAL OR ISSUANCE!!! Severity: Notice

Total Conditions: 1 (Notice: 1)

### Conditions

Showing 1-2 of 2

Default - 1 On-Going, 1 Not Met

Planning

PERMIT NOTIFICATION - JOHN BRIDGES

Please notify John Bridges of any planning and building permits submitted on this property.

PRIOR TO ANY PERMIT APPROVAL OR ISSUANCE!!!

PRIOR TO ANY PERMIT APPROVAL OR ISSUANCE FOR THIS PROPERTY, JOHN BRIDGES AT FENTON AND KELLER REQUESTS TO BE NOTIFIED. CONTACT DAN LISTER (X6617) IF YOU HAVE ANY QUESTIONS.