

Attachment C

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NOTICE OF APPEAL

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

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MONTEREY COUNTY

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CLERK OF THE BOARD

dh 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 February 20, 2018. (10 days after written notice of the decision has been mailed to the applicant). Date of decision: February 8, 2018.

1. Please give the following information:

- a) Your name: BRUCE TICHININ.
- b) Phone Number: (408) 429-8415.
- c) Address: 17150 Wedgewood Ave. City: Los Gatos. Zip: 95032
- d) Appellants' names(if different): Joel & Dena Gambord.

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

Neighbor:

3. If you are not the applicant, please give the applicant's name: Frank & Michelle Hervdejs

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.	PLN170535	Combined Development Permit	Coastal Zone/Del Monte Forest
c.	Subdivision Committee: _____		
d.	Administrative Permit: _____		

5. What is the nature of the appeal?

a. Is the appellant appealing the approval XX 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).

N/A

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).

THE DECISION WAS CONTRARY TO LAW ON THE FOLLOWING BASES:

Basis One

At the Del Monte Forest Land Use Advisory Committee Meeting Due Process of Law Was Denied to Joel Gambord When He Was Prevented from Presenting His Proposal to Mitigate the Visual Impact of the Proposed Residence by Regulating Its Location.

Basis Two

The Variances Cannot Be Granted On A "Net Reduction Of Site Coverage" Theory - Because The Theory Requires "Legal, Nonconforming" Status For The Existing House And Lot, And This Status Has Expired Under County Ordinance.

Basis Three

Even If The "Legal, Nonconforming" Status Still Existed, The "Net Reduction" Theory Fails To Make The Legally-Required Showing That "Strict Application" Of The 9,000 Square Feet "Maximum Site Coverage" Requirement Prevents Construction Of A House And

Driveway.

Basis Four

Even If A Zoning Variance Were Legally- Permissible The Zoning Administrator Erred By Approving The Project In Violation Of Policy 77 Of The Del Monte Forest Area Land Use Plan Of Monterey County Local Coastal Program, Which Requires That *“New Residential Development, Including Main And Accessory Structures... Shall Be Limited To A Maximum Of 9,000 Square Feet Of Site Coverage.”*

Basis Five

The Zoning Administrator Erred Under The Design Review Zoning Overlay (Cz), By Failing To Find Whether The “Neighborhood Character” Of Pebble Beach/Del Monte Forest Includes Residential Privacy.

Basis Six

The Zoning Administrator Further Erred Under The Design Review Zoning Overlay (Cz), By Failing To Consider Whether The Neighborhood Character Of Privacy Could Be Preserved For Project Neighbors Gambord By An On-Site Alternative Location For The Proposed Residence.

Basis Seven

The Zoning Administrator Erred Under §20.64.230 Of The Monterey County Coastal Implementation Plan By Finding - Without Any Substantial Supporting Evidence Showing Consideration Any Concrete, Feasible Alternative - That There Is No Feasible Alternative Which Would Allow Development To Occur On Slopes Of Less Than 30%.

Basis Eight

The Zoning Administrator Further Erred Under §20.64.230 Of The Monterey County Coastal Implementation Plan By Finding - Without Any Substantial Supporting Evidence Showing Consideration Any Concrete, Feasible Alternative - That The Proposed Development Better Achieves The Goals, Policies And Objectives Of The Monterey County Local Coastal Program Than Other Development Alternatives.

Basis Nine

The Zoning Administrator Erred In Approving The Hervdejs Application Because It Violates Intent Policy 35 Of The Del Monte Forest Area Land Use Plan Of Monterey County Local Coastal Program To Use Trees To “Screen The Development From ... View [Of] Neighboring Properties.”

Basis Ten

The Zoning Administrator Erred Under CEQA, Because The CEQA Guidelines “Unusual Circumstances” Exception Prohibits The “Single Residence” Categorical Exemption. The “Unusual Circumstances” Are Numerous Violations Of The Local Coastal Program Of Monterey County.

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).

APPELLANTS DISAGREE WITH THE FOLLOWING-LISTED FINDINGS OF THE ZONING ADMINISTRATOR IN HEVRDEJS (PLN170535) RESOLUTION NO. 18-006 FOR THE FOLLOWING SPECIFIC REASONS:

FINDING NO. 1- CONSISTENCY WITH COUNTY POLICIES, ETC.

- Specific Reasons for Disagreement:
 - Specific reasons for disagreement with this general and conclusory finding will be under below-listed specific disagreements with more specific Findings listed by the Zoning Administrator to support it.

FINDING NO. 2 – PROJECT ASSURES PROTECTION OF NEIGHBORHOOD CHARACTER, ETC.

- Specific Reasons for Disagreement:
 - The Zoning Administrator failed to find whether, under Monterey County Coastal Implementation Plan Section 20.44.010, (1) neighborhood character in Pebble Beach includes privacy, and (2) whether the visual impacts of a privacy-invading line of sight from the proposed location of the project residence into Appellants residence can be adequately mitigated by regulating the location of the structure by changing it to: (1) either of the two alternative locations proposed by Appellant, or (2) any concrete feasible location, or (3) the “no project alternative” location, or (4) any feasible alternative location meeting the 9,000 square feet maximum site coverage requirement.

FINDING NO. 3 – CEQA EXEMPTION

- Specific Reasons for Disagreement:
 - The project has the following unusual circumstances:
 - Violation of Monterey County Coastal Implementation Plan Section 20.44.010 by not protecting the neighborhood character of privacy for Appellants by feasibly regulating the location of the project residence to avoid its privacy-invading line of sight as set forth above.
 - Violation of Policy 77 of the Del Monte Forest Area Land Use Plan of the Monterey County Local Coastal Program by site coverage in excess of its 9,000 square feet maximum.
 - Violation of Monterey County Coastal Implementation Plan Section 20.64.230 by allowing development to occur on slopes greater than 30% without any substantial supporting evidence to show that there is no feasible alternative that would allow development to occur on slopes of less than 30%. That is, there is no attempt in the record to consider: (1) the 2 feasible alternatives proposed by Appellant, or (2) any concrete feasible alternative, or (3) the “no project alternative” or (4) any alternative meeting the 9,000 square feet maximum site coverage requirement.

FINDINGS NOS. 6, 7, 8 & 9 – SITE COVERAGE (DEL MONTE FOREST WATERSHEDS), VARIANCE (Authorized Use, Special Circumstances, Special Privileges)

- Specific Reasons for Disagreement:
 - All the reasoning employed in these Findings is outlawed by the Coastal Commission Decision made on or about 9/14/17 in the matter of the application of Chris and Sara Bardis (PLN120663).

FINDING NO. 10 – DEVELOPMENT ON SLOPE

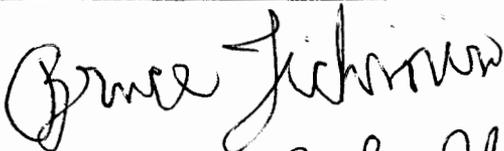
- Specific Reasons for Disagreement:
 - There is no substantial evidence to support the finding that there is no feasible alternative which better meets the objectives of the applicable land use plan, and would allow development to occur on slopes of less than 30%, in that: there is no attempt in the record to consider: (1) the 2 feasible alternatives proposed by Appellant, or (2) any concrete feasible alternative, or (3) the “no project alternative” or (4) any feasible alternative meeting the 9,000 square feet maximum site coverage requirement.

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 RJVLA Planning website at http://www.co.monterey.ca.us/planning/fees/fee_plan.htm) and stamped addressed envelopes.

APPELLANT'S SIGNATURE  DATE 02/20/18

APPELLANT'S SIGNATURE  DATE 02/20/18

ACCEPTED _____ DATE _____
(Clerk to the Board)


for + on behalf of
