

Attachment C

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NOTICE OF APPEAL

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

RECEIVED
MONTEREY COUNTY

MAY 23 2025

11:34 A.M.
H.D.

CLERK OF THE BOARD
VICENTE RAMIREZ DEPUTY

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before May 27, 2025 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: April 29, 2025

1. Appellant Name: Samuel Reeves C/O Anthony Lombardo

Address: 144 West Gabilan, Salinas CA 93901

Telephone: 831-751-2330

2. Indicate your interest in the decision by placing a check mark below:

Applicant _____

Neighbor X

Other (please state) _____

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

Massy Mehdipour/Signal Hill, LLC

4. Fill in the file number of the application that is the subject of this appeal below:

Type of Application

Area

- a) Planning Commission: PC- PLN240077 Signal Hill, Pebble Beach, Coastal Zone
- b) Zoning Administrator: ZA- _____
- c) Administrative Permit: AP- _____

Notice of Appeal

5. What is the nature of your appeal?

- a) Are you appealing the approval or denial of an application? Approval

- b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing X

The findings or decision or conditions are not supported by the evidence X

The decision was contrary to law X

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

See attached Points of Appeal

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

See attached Points of Appeal

9. You must pay the required filing fee of \$3,572.00 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board or mailed and postmarked by the filing deadline to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and postmarked by the deadline.

APPELLANT SIGNATURE Drew H. for J. Reeves Date: 5/23/25

RECEIVED SIGNATURE [Signature] Date: 5/23/25

**APPEAL OF SAM REEVES TO THE DECISION OF THE PLANNING
COMMISSION APPROVING A DESIGN APPROVAL (PLN240077) FOR
CONSTRUCTION OF A TWO STORY, 8,290 SF HOUSE INCONSISTENT WITH
THE DIRECTION AND DECISION OF THE BOARD OF SUPERVISORS**

(PLN100338) SIGNAL HILL, LLC/MASSY MEHDIPOUR

BACKGROUND

On June 27, 2023, the Board of Supervisors adopted Resolution 23-237 which included the following language:

- a) Coastal Administrative Permit to allow the demolition of an existing 4,124 square foot single family residence;
- b) Coastal Administrative Permit for the construction of a new single-family residence of similar size, in concept, as the existing residence (page 1).

Finding 1, evidence i: The Reduced Project is anticipated to be no taller or larger than the existing dwelling. A Design Approval shall ensure that colors and materials will blend with the natural surroundings.

Finding 1, evidence m: Maximum allowable height is 30 feet, and the Reduced Project maximum height is anticipated to be approximately 22 feet from average natural grade.

In approving the Resolution, the Board of Supervisors was specific that the new house was to be built in footprint of the Connell House. Supervisor Church stated the replacement house was to be “within the same footprint of the Connell House as it was...” In the discussion following the motion, both County Counsel Girard and Craig Spencer confirmed that was their understanding of the motion was the new house was to be in the footprint of the Connell house “as it was.”

That is not what the staff recommended to the Planning Commission nor is it what the Planning Commission approved.

THE PLANNING COMMISSION APPROVAL

THERE WAS A LACK OF FAIR AND IMPARTIAL HEARING

- 1 • The applicant made numerous misstatements of the fact of the application, past actions and Board’s decision which were not corrected. The staff also made several misstatements, particularly relative to the history of illegal tree removal and failure to replace the trees, the size of the home in relation to other homes in the neighborhood and the decision of the Board in Resolution 23-237.

THE FINDINGS ARE NOT SUPPORTED BY THE EVIDENCE

Planning Commission Resolution 25-012 was prepared by the staff after the Planning Commission decision. The Resolution has not been reviewed by the Planning Commission to

assure it accurately reflects their decision. There are numerous factual errors in the Resolution, including, but not limited to:

- 2
- Finding 1, a: “No public comment was provided during project review that indicated the project is inconsistent with the text, policies, and regulations in these documents on various grounds.”

EVIDENCE: Anthony Lombardo, Kent Seavey and Denise Estrada all spoke in opposition to the application. Mr. Lombardo wrote two separate letters and did a Power Point presentation to the Planning Commission opposing the application.

- 3
- Finding 1, b: “The Proposed Project is for construction of an approximately 8,290 square foot two-story single-family dwelling inclusive of a three-car garage with colors and materials of light brown stucco body and black metal clad wood accents and a gravel roof, with an approximately 180 square foot outdoor stair well and 693 square feet of terrace [is](the “Reduced Project,” Alternative 6 of the Final EIR).”

FACT: The project described is not Alternative 6. The FEIR presented a concept in Alternative 6 which was approved. No specific project, as stated in Evidence b, was presented to or approved by the Board. In fact, the Board’s Resolution states “The Reduced Project is anticipated to be no taller or larger than the existing dwelling.” The project purportedly approved by the Planning Commission is twice the square footage and with a wall facing Seventeen Mile Drive 8 feet taller than the Connell House.

- 4
- Finding 1, e: “the Board of Supervisors also prohibited the replacement single family dwelling from expanding beyond the building footprint of the previous dwelling. The proposed dwelling is constrained to the previous building footprint and hardscaped areas, as illustrated in Exhibit B to the April 30, 2025 staff report to the Planning Commission. As proposed, the replacement residence is within the previous structural footprint, including roof overhangs and upper-level deck (4,630 square feet) and the hardscape indoor/outdoor living areas of the Connell House (911 square feet)...The proposed structure ... proposes to develop the former courtyard. Developing this former courtyard with a new structural footprint (emphasis added)...” is approximately equal to the hardscape area on the northwest corner of the previous development, which will no longer exist with the implementation of this project.”

EVIDENCE: The use of including roof overhangs and upper-level decks was not considered in the FEIR or approved by the Board. The FEIR unequivocally states the Connell House was 4,124 SF. No other figure was presented to or discussed at the Board.

- 5
- EVIDENCE: The drawing below is from Exhibit B referred to in the Resolution. It clearly shows the plan purportedly approved by the Planning Commission extending into patio and courtyard areas in front of the house which are clearly not within the footprint of the Connell House. This is amplified by the staff’s own statement that it would represent a “new structural footprint.”



ORIGINAL HOUSE OUTLINE		4,630 SF
ORIGINAL INDOOR/OUTDOOR LIVING AREA		911 SF
ORIGINAL HOUSE & LIVING SPACE		5,541 SF
ORIGINAL HARDSCAPE		2,324 SF
SUBTOTAL ORIGINAL IMPERVIOUS		7,865 SF
PROPOSED BUILDING FOOTPRINT		4,677 SF
PROPOSED DRIVEWAY		1,610 SF
PROPOSED TERRACE/OVERHANG/STAIRWELL		952 SF
SUBTOTAL PROPOSED IMPERVIOUS		7,239 SF
NET IMPERVIOUS (REDUCTION)		(626 SF)
PROPOSED PERVIOUS ENTRY/DECKING		660 SF
COURTYARD SUBSTITUTE AREA		712 SF < 740 SF

- 6
- Finding 1, Evidence 1:** “the height, flat roof, and use of natural colors and materials help blend the development into the surrounding environment (existing sand dune and trees around the site). LUP Policy 51 requires buildings developed on residential lots in the Visual Resources area to be “situated to allow the highest potential for screening from view...the staking and flagging presented a new (replacement) structure that would be on the larger end of the array of structural massing of single family dwellings currently permitted in the surrounding residential area...Although it will be larger in floor area than other Signal Hill area dwellings, the Proposed Project does not present exceptional bulk or height beyond the existing and permitted dwellings within the public viewshed (Fanshell Beach and 17 Mile Drive locations).

EVIDENCE: The proposed residence, as stated in the Resolution finding will be “on the large end of structural massing” and “larger than other Signal Hill area dwellings. The rendering below, prepared and submitted by the applicant and incorporated into the Resolution, is proof their finding regarding visual impact is not supported by evidence and is inconsistent with the Board’s resolution stating *“The Reduced Project is anticipated to be no taller or larger than the existing dwelling.”*”



Applicant Rendering



Staff Photo 2010

7

- Finding 4, Evidence a and c: “Three Monterey Cypress trees [T4, T5 and T12] will be removed as part of this Project (Evidence a)...The two other trees proposed for relocation with this project (identified in the Plans attached to this Resolution as T4 and T5) were involved in PLN100418 as trees that were “significantly pruned” and were required to be monitored for canopy decline (Evidence c).”
- EVIDENCE: Trees T4 and T5, in front of the house on Signal Hill Road, were not part of the violations which PLN100418 was intended to address. The trees which were “significantly pruned” (T8,9,10) were northwest of the Connell House. The trees which were illegally removed were on the west side of the Connell House and provided significant screening from Seventeen Mile Drive and Fanshell Beach. The pictures below from Google Earth shows the scope of the illegal tree removal and trimming. The relocation of T4, T5 and T12 will do nothing to screen the view of this project from the common public viewing areas of Seventeen Mile Drive and Fanshell Beach.

- 8 • Finding 6. Evidence b: “The previous single-family dwelling was an Historic Resource at the July 2007 federal level, but not the local level (September 2009 Code Chapter 18.85) prior agreement to local listing.”
- EVIDENCE: The Connell House was determined to be significant historic resource per the findings of the County Historic Resources Review Board. It was not listed due to the owner’s refusal to allow listing which does not reduce or invalidate its significance at local level.

THE DECISION WAS CONTRARY TO LAW

- 9 • The Planning Commission Approved a Variance with no notice to the public and no findings or evidence to support the variance. The Connell House was nonconforming as to setbacks. The staff presumed the Board direction to rebuild in the footprint of the Connell house was the equivalent to the granting a variance and so advised the Planning Commission. The Planning Commission, upon the recommendation of the staff approved expansion outside the footprint and approved a variance for that. However, no variance was requested by the applicant, neither the staff report nor the draft resolution included the findings and evidence required by Monterey County Code Section 20.78.040, 20.78.050 and by Government Code Section 65906.
- No public notice of the proposed variance was provided as required by Monterey County Code Section 20.78.050 (A). The variance was not included in the project description in the public notice or the agenda.
- 10 • The approval violates Monterey County Code Section 20.02.060 A “No building permit, grading permit, land use discretionary permit, coastal administrative permit, coastal development permit, exemption, categorical exclusion, or other permit relative to land use may be approved if it is found to be inconsistent with the Monterey County Local Coastal Program.” The project is clearly inconsistent with the policies of the DMFLCP, particularly relating to visual resources.
- 11 • The action of the Planning Commission fails to recognize that the applicant failed to comply with the prior action by the Board of Supervisors for PLN100418 to plant and maintain Monterey Cypress trees to screen the property from Seventeen Mile Drive and Fanshell Beach. The Board directed in 2012 that Monterey Cypress was to be planted to replace those illegally removed by the applicant. Those trees were planted but ultimately removed by the applicant and not replaced without benefit of a coastal development permit for the removal.
- 12 • The decision of the Planning Commission as described in Resolution 25-012 is contrary to the 2023 findings and decision of the Board of Supervisors:
- Finding 1, evidence i: *The Reduced Project is anticipated to be no taller or larger than the existing dwelling. A Design Approval shall ensure that colors and materials will blend with the natural surroundings.*

- 13 ○ Finding 1, evidence m: Maximum allowable height is 30 feet, and the Reduced Project maximum height is anticipated to be approximately 22 feet from average natural grade.
- At 8,290 SF it is nearly twice the size of the 4,124 SSF of the Connell House as it was described in the FEIR, staff reports and Board resolution.
 - At 25.5' above natural grade it is higher than the 22' above natural grade described in the FEIR, staff reports and Board resolution.
 - With a 30' high frontal view from Seventeen Mile Drive it is 8 feet higher than the approximate 22' high frontal view of the Connell House.
 - The plans do not incorporate the replacement of trees required by the Board of Supervisors in their decision January 2013 decision on PLN100418.

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

RECEIVED
MONTEREY COUNTY

MAY 27 2025

CLERK OF THE BOARD

Emmanuel H. Santos

DEPUTY

EMMANUEL H. SANTOS

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before May 27, 2025 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: April 29, 2025

1. Appellant Name: Alliance of Monterey Area Preservationists

Address: PO Box 2752, Monterey CA 93940

Telephone: 831-324-0186

2. Indicate your interest in the decision by placing a check mark below:

Applicant ☐

Neighbor ☐

Other (please state) Advocate

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

Massy Mehdipour/Signal Hill, LLC

4. Fill in the file number of the application that is the subject of this appeal below:

Type of Application

Area

a) Planning Commission: PC- PLN240077 Signal Hill, Pebble Beach, Coastal Zone

b) Zoning Administrator: ZA- _____

c) Administrative Permit: AP- _____

Notice of Appeal

5. What is the nature of your appeal?

a) Are you appealing the approval or denial of an application? Approval

- b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)
-

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing _____

The findings or decision or conditions are not supported by the evidence X

The decision was contrary to law X

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

See attachment

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

See attachment

9. You must pay the required filing fee of \$3,572.00 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)
10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board or mailed and postmarked by the filing deadline to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and postmarked by the deadline.

APPELLANT SIGNATURE Maria Shendai president Date: 5/27/2025

RECEIVED SIGNATURE _____ Date: _____

NOTICE OF APPEAL
TO THE PLANNING COMMISSION APPROVAL (PLN240077) FOR
CONSTRUCTION OF A HOUSE INCONSISTENT WITH THE DECISION
OF THE BOARD OF SUPERVISORS
(PLN100338) SIGNAL HILL LLC/MEHDIPOUR

The findings are NOT supported by the evidence.

Finding: The proposed project is consistent with the Board of Supervisors Resolution 23-237 allowing demolition of an existing residence and construction of a new residence of similar size, in concept, to the existing residence.

- The proposed project is not in compliance with the project approved by the Board of Supervisors. It is not Alternative 6 (the Reduced Project in the Final EIR), which was “anticipated to be no taller or larger than the existing dwelling.” In fact, the proposed project is nearly twice as large (8,290 square feet versus 4,124 square feet) as the original dwelling. The west façade is 8 feet taller than the original dwelling.
- The new residence was supposed to be within the original footprint, while the proposed project extends into the original patio and courtyard areas.
- The project’s is noticeably taller and larger than neighboring houses. Its increased size and height significantly degrade the historic public viewshed from Seventeen Mile Drive and Fanshell Beach.

The decision was contrary to law.

- The applicant removed the Monterey Cypress trees that screened the original residence from the historic viewshed. The decision does not recognize that the applicant failed to comply with Board of Supervisors direction in 2013 (PLN100418) to replant and maintain these trees; they were replanted but later removed again. The approved project does not include this required mitigation.

- Planning Commission Resolution 25-012 conflicts with the 2023 findings and decision of the Board of Supervisors (Resolution 23-237). That decision anticipated a structure no taller or larger than the original building, and within the original footprint. However, the approved project is nearly twice as large and 8 feet taller with a larger footprint.

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Title 21 (Zoning)

MAY 23 2025

CLERK OF THE BOARD

DEPUTY

VICENTE RAMIREZ

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before May 25, 2025 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: April 30, 2025 (Hearing), May 15, 2025 (Decision mailed to Applicant)

1. Appellant Name: Signal Hill LLC, Massy Mehdipour

Address: 1170 Signal Hill Road, Pebble Beach, CA

Telephone: 650-380-3187

2. Indicate your interest in the decision by placing a check mark below:

Applicant ☒

Neighbor ☐

Other (please state) _____

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

4. Fill in the file number of the application that is the subject of this appeal below:

Type of Application

Area

a) Planning Commission: PLN 240077 Signal Hill Road, Pebble Beach, Coastal Zone

b) Zoning Administrator: PLN _____

c) Administrative Permit: PLN _____

Notice of Appeal

5. What is the nature of your appeal?

a) Are you appealing the approval or denial of an application? Condition 10 - see b below and attached details.

- b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

The appeal is of Condition Number 10 (Conservation Easement) only. See attached details.

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing ☒
The findings or decision or conditions are not supported by the evidence ☒
The decision was contrary to law ☒

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

The appeal is of Condition Number 10 (Conservation Easement) only. See attached details.

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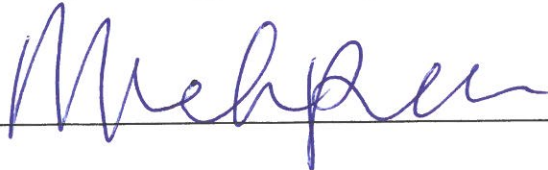
The appeal is of Condition Number 10 (Conservation Easement) only. See attached details.

9. You must pay the required filing fee of \$3,716.10 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

This project is in the Coastal Zone.

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

The appeal and applicable filing fee must be delivered to the Clerk to the Board by the deadline. A mailed copy of the appeal and filing fee will be accepted only if it is received by Clerk of the Board by the deadline. The appeal and applicable filing fee should be mailed to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and received by Clerk of the Board by the deadline.

APPELLANT SIGNATURE  Date: 05/22/2025

RECEIVED SIGNATURE _____ Date: _____

Appeal of Signal Hill LLC to Condition Number 10 of the County of Monterey Planning Commission's Resolution No. 25-012 (PLN240077)

This appeal is at request of the Applicant on the sole issue of Condition Number 10, the Conservation Easement, from the County of Monterey's Planning Commission's Resolution No. 25-012 (PLN240077) that was the result of the County of Monterey Planning Commission Hearing held on April 30, 2025.

Lack of Fair and Impartial Hearing Related to Condition Number 10

The agenda of the Planning Commission Hearing on April 30, 2025 was to approve the design of a new house, not to revise a previously agreed upon conservation easement, which the Board of Supervisors had agreed to and documented in their Board Resolution No. 23-237, and which the Coastal Commission had not appealed.

The following was the full description of the Planning Commission Hearing agenda for this item: "Public hearing to consider design approval for the construction of an approximately 8,290 square foot two-story single family dwelling with an attached three car garage with light brown stucco exterior, black metal clad wood accents, and a gravel roof, an approximately 180 square foot stairwell, and approximately 695 square feet of terrace (identified as the "Reduced Project," Alternative 6 in the Final EIR) and the relocation of three Monterey Cypress trees."

Furthermore, the words "easement" and "conservation" do not appear anywhere in the staff report (Legistar File Number: PC 25-041 - Agenda Item No.4)

In the hearing, one of the Planning Commissioners proceeded to suggest revising the conservation easement, which became Condition 10 of the Planning Commission's Resolution, and the subject of this appeal. The reason the hearing was not fair or impartial is that the Applicant was not allowed to speak on the topic of the conservation easement in the hearing. An individual Planning Commissioner introduced the subject late into the meeting, which was after the Chair of the Planning Commission had explicitly instructed the Applicant not to make any further comments. None of the Planning Commissions asked whether they wanted to hear from the Applicant on the conservation easement topic or whether the Applicant would agree to a substantially revised and onerous conservation easement. Staff also did not ask the Planning Commission whether they wanted to hear from the Applicant on the conservation easement topic or whether the Applicant would agree to a substantially revised and onerous conservation easement. The Applicant was not asked whether she would agree to such a major infringement on her property rights in a manner that was exceedingly above and beyond what the Board of Supervisors had agreed to via its Board of Resolution No. 23-237.

Condition Number 10 is Not Supported by the Evidence

The Board of Supervisors did not direct staff or the Planning Commission to consider the scope of the conservation easement as part of the hearing. The scope of the hearing was to review the design plans of the Reduced Project, "which is approved in concept by the Board of Supervisors with the understanding that the applicant shall return to County for a Design Approval of the project plans, which have not yet been developed." (From Board of Supervisor's Resolution No. 23-237 - Page 3).



As described, the scope of the hearing and the Planning Commission's directive was to review the project design plans that were submitted. The conservation easement was not part of the design plans.

Condition Number 10 Was Contrary to Law

The Board of Supervisors is the primary and highest-level governing body for Monterey County, holding both legislative and executive authority. The scope of the conservation easement was fully agreed to and memorialized in the Board Resolution through the Conditions of Approval via 23. BIO/MM-3.1 -- CONSERVATION AND SCENIC EASEMENT as follows:

"the applicant shall permanently protect Environmentally Sensitive Habitat Areas located outside the construction area by establishing deed restrictions or a permanent open space conservation and scenic easement to be granted to the Del Monte Forest Foundation. The deed restrictions/easement shall encompass an area of 2:1 ratio to developed area on the property and shall be located within the areas proposed for dune scrub restoration shown in Figures 2-3 and 4.2-2."

The area allocated for a conservation easement by the Board of Supervisors (described above) is orders of magnitude less than what the Planning Commission put in their resolution. The law and public reliance on the Board of Supervisors decisions do not allow for the Planning Commission to contradict the Board of Supervisors nor allow the Planning Commission to restrict an individual's property rights beyond the restrictions previously imposed by the Board of Supervisors. In fact, the Planning Commission's resolution is not actually binding on the Applicant because the Board of Supervisors resolution takes precedence.



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Clerk of the Board
County of Monterey
PO Box 1728
Salinas, CA

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ATTACHMENT C-4

APPEAL AND COUNTY RESPONSES

The applicant, Massy Mehdipour, Samuel Reeves, and the Alliance of Monterey Area Preservationists (AMAP) all assert that there was a lack of fair and impartial hearing (contention no. 1), the findings made by the Planning Commission are not supported by the evidence (contention nos. 2-8), and the decision was contrary to law (contention nos. 9-14). The applicant's contention is focused on a single condition of approval imposed by the Planning Commission, so those contentions are addressed separately below. The contentions of the neighbor and AMAP are similar, and so are addressed together. Each of the contentions are numbered, summarized, and followed by staff's analysis and response to each contention.

Appeal by the Applicant (Mehdipour)

The applicant appealed the Planning Commission's decision because of a condition applied to the Design Approval that amended the requirement for a Conservation and Scenic Easement Deed (CSED). Prior approvals for this project imposed differing CSED requirements (Board Reso. No. 23-317). The applicant also contends that the Planning Commission hearing was not fair or impartial because the Commissioners did not request agreement from the applicant before adding the expanded CSED condition to the motion and voting on it, and because such a change was not noticed as part of the hearing.

Staff reviewed the contention and concluded that it has merit. The Planning Commissioners expressed a wish for a CSE boundary over the entire site and up to the edge of the building. Prior easement requirements were developed to address impacts to habitat at a ratio of 2 to 1 for a sub-area of the 1.67 acres of habitat to be protected, as a ratio typical for development that does not create new permanent impacts (Condition 23 of Board Resolution 23-237). The full-sized project that was the original proposal for PLN100338 would have created new permanent impacts that would have been offset by the full 1.67-acre area to be in CSED. The Planning Commission expanded the CSE beyond that of the full-sized project's CSE, although the proposed project reduces the impacts on habitat that were previously analyzed. It is also true that the Planning Commission did not reopen the hearing and provide an opportunity for the applicant to comment on its final motion, including the expanded CSED requirement.

After the appeal, the applicant offered to commit the full 1.67-acre area of restored sand dune to a CSED. Staff recommends the Board review the applicant's voluntary adjustment to Condition No. 23, aligning it with the full project BIO/MM-3.1, when the applicant brings forward the redesign that the Board requires.

Appeals from Reeves and AMAP

Lack of Fair and Impartial Hearing:

Contention No. 1: (Reeves) The applicant made numerous misstatements of the fact of the application, past actions and Board's decision which were not corrected. The staff also made several misstatements, particularly relative to the history of illegal tree removal and failure to replace the trees, the size of the home in relation to other homes in the neighborhood and the decision of the

Board in Resolution 23-237.

County Response No. 1: Staff attempted to make clear the closed tree removal code enforcement case as it related to the proposed trees for relocation in written documents and oral presentation to the Planning Commission. Staff has corrected a minor error in calculations of the square footage of neighborhood homes in the staff report and presentation for the July 8, 2025 hearing.

Contentions 2-8 purport that the findings are not supported by the evidence:

Contention No. 2: (Reeves) Planning Commission Resolution 25-012 was prepared by the staff after the Planning Commission decision. The Resolution has not been reviewed by the Planning Commission to assure it accurately reflects their decision. There are numerous factual errors in the Resolution, including, but not limited to:

Finding 1, a: "No public comment was provided during project review that indicated the project is inconsistent with the text, policies, and regulations in these documents on various grounds."

Anthony Lombardo, Kent Seavey and Denise Estrada all spoke in opposition to the application. Mr. Lombardo wrote two separate letters and did a Power Point presentation to the Planning Commission opposing the application.

County Response No. 2: Staff assessed the evidence for Finding 1, Evidence "a" and found that the appellant is correct. Post-hearing edits should have been made to this section of the staff report. The resolution before the Board will reflect comments received during review of this project.

Contention No. 3: (Reeves) Finding 1, b: "The Proposed Project is for construction of an approximately 8,290 square foot two-story single-family dwelling inclusive of a three-car garage with colors and materials of light brown stucco body and black metal clad wood accents and a gravel roof, with an approximately 180 square foot outdoor stair well and 693 square feet of terrace [is]*(the "Reduced Project," Alternative 6 of the Final EIR)." *appellant added the bracketed verb.

The project described is not Alternative 6. The FEIR presented a concept in Alternative 6 which was approved. No specific project, as stated in Evidence b, was presented to or approved by the Board. In fact, the Board's Resolution states "the Reduced Project is anticipated to be no taller or larger than the existing dwelling." The project purportedly approved by the Planning Commission is twice the square footage and with a wall facing Seventeen Mile Drive 8 feet taller than the Connell House.

(AMAP) The proposed project is not in compliance with the project approved by the Board of Supervisors. It is not Alternative 6 (the Reduced Project in the Final EIR), which was anticipated to be no taller or larger than the existing dwelling." In fact, the proposed project is nearly twice as large (8,290 square feet versus 4,124 square feet) as the original dwelling. The west facade is 8 feet taller than the original dwelling.

County Response No. 3: This contention has some merit.

Alternative 6 is not described in the EIR as no taller or larger than the existing dwelling. Instead, the EIR describes Alternative 6 as: *“This alternative would include completely demolishing the Connell House, but would reduce the size of the proposed single-family residence to stay within the existing developed footprint and to avoid building heights that extend above the ridgeline. The remainder of the parcel would be restored to native dune habitat.”* The proposed single-family dwelling that was considered in the EIR included a 11,993 square foot, 30-foot-tall single-family dwelling. The reduced project alternative was an alternative to that original proposal. Alternative 6 was found to reduce visual and biological impacts compared with the original project by avoiding ridgeline development (reduced height) and limiting new development within the dune habitat (existing developed footprint).

The appellant’s quoted text (*“The Reduced Project is anticipated to be no taller or larger than the existing dwelling”*) is from Finding 1, Evidence “i” of Board Reso. No. 23-237. This Resolution approved the demolition of the Connell House and approved Alternative 6 in concept. The quoted text from the Board report was prepared at a time when plans for a new house, reflecting the “reduced project alternative,” were not available; hence the term “anticipated.” Although staff, LUAC members, and the Planning Commission believed that they were following the intent of the Board’s motion to “stay within the footprint of the Connell House as it was” by limiting impacts on dune habitat while also providing some design flexibility for the new construction, the discussion of the Board at their July 8, 2025 hearing clarified that the design approved by the Planning Commission was too broad an interpretation of the Board’s motion. Therefore, this contention has merit.

Attachment D to the July 8, 2025 staff report included a color-coded site plan prepared by Whitson Engineers overlaying the Connell House footprint with the proposed footprint. Staff have reviewed these plans, aerial imagery of the Connell House footprint, the appeal contentions, and other information in the record, and determined that the proposed house extends beyond the Connell House footprint and that there appear to be discrepancies in the square footages listed in that Attachment. Since the July 8, 2025 hearing, the Applicant caused a redesign of the proposed dwelling and, as a result, a new comparison of building footprint comparison to be prepared. The Connell House footprint, depicted in a red dotted line in the new Attachment D to the August 26, 2025 staff report, is limited to structural footprint. Connell House. Attachment D also shows the proposed building footprint entirely within the Connell House footprint (heavy black outline). Even a proposed second floor terrace on the west side of the structure is now within the previous Connell House footprint.

The Board required the proposed design be modified to further reduce development that extends beyond the footprint of the former Connell House. The PLN240077 redesign as attached to the staff report with Attachment B and presented in the August 26, 2025 hearing is consistent with the Board’s direction.

Contention No. 4: (Reeves) Finding 1, e “the Board of Supervisors also prohibited the replacement single family dwelling from expanding beyond the building footprint of the previous dwelling. The proposed dwelling is constrained to the previous building footprint and hardscaped areas, as illustrated in Exhibit B to the April 30, 2025 staff report to the Planning Commission. As proposed,

the replacement residence is within the previous structural footprint, including roof overhangs and upper-level deck (4,630 square feet) and the hardscape indoor/outdoor living areas of the Connell House (911 square feet). The proposed structure does not mimic the U-shape of the Connell House . . .proposes to develop the former courtyard. Developing this former courtyard with a new structural footprint (emphasis added) is approximately equal to the hardscape area on the northwest corner of the previous development, which will no longer exist with the implementation of this project.”

EVIDENCE: The use of including roof overhangs and upper-level decks was not considered in the FEIR or approved by the Board. The FEIR unequivocally states the Connell House was 4,124 SF. No other figure was presented to or discussed at the Board.

(AMAP) The new residence was supposed to be within the original footprint, while the proposed project extends into the original patio and courtyard areas.

County Response No. 4: The Board selected Alternative 6 “in concept” when approving the permit for the demolition of the Connell House which included the new house staying within the developed footprint. In the EIR Chapter 5, Alternatives, the definition of a Reduced Project is also conceptual: *“This alternative would include completely demolishing the Connell House, but would reduce the size of the proposed single-family residence to stay within the existing developed footprint and to avoid building heights that extend above the ridgeline.”* (EIR Chapter 5, page 5-9.) Neither of these concepts limit the new dwelling to the same floor area, which is inclusive of multiple floors rather than “footprint” either interpreted as the area of the Connell House seen from a birds-eye view or the foundation footprint.

At the time of the decision, the applicant had proposed, and the EIR analyzed, a proposed project that included a new single-family dwelling that was 11,933 square feet and 30 feet tall from Average Natural Grade. The “reduced project alternative” was created in the EIR as a project alternative to compare potential environmental impacts with the “proposed project” at the time. The reduced project alternative would reduce visual and biological impacts by reducing 1) the height of the new house so that it would not be considered “ridgeline development”; and 2) the footprint of the house within the sand dune habitat.

Past references to the size of the Connell House (4,124 square feet) in the EIR and Board Report were estimates. No survey of the existing house was available as the basis for these estimates. Submitted with the application for the new house was a plan prepared by Whiston Engineers showing the footprint of the Connell House to be 4,630 square feet. Staff reviewed the plans and determined that the current calculation, resulting in a total of 4,630 square feet, appeared to include the footprint of the house from a bird’s eye view which includes roof overhangs and decks. The prior estimate of square footage was based on the size of the Connell House, not including roof overhangs and decks, so two different things are being measured.

As discussed in County Response No. 3, the Applicant caused a redesign of the proposed dwelling and, as a result, a new comparison of building footprint comparison to be prepared since the July 8, 2025 hearing. Whiston Engineers confirmed building footprint included the lower-level structural element which was directly below a hardscaped patio in the western

edge of the Connell House internal courtyard. The updated measurement of previous structural footprint, depicted in a red dotted line in the new Attachment D to the August 26, 2025 staff report, was therefore updated to 4,889 square feet in size.

In any event, the graphical representations of the “footprint” of the Connell House is shown in Attachment D (in red dotted outline). On Attachment D, which is updated from the version considered by the Planning Commission in their decision, the proposed project is overlain on the historic “footprint” and does not extend beyond it. .

Contention No. 5: (Reeves) The plan purportedly approved by the Planning Commission clearly shows the footprint extending into patio and courtyard areas in front of the house which are clearly not within the footprint of the Connell House. This is amplified by the staff’s own statement that it would represent a "new structural footprint."

(AMAP) Planning Commission Resolution 25-012 conflicts with the 2023 findings and decision of the Board of Supervisors (Resolution 23-237). That decision anticipated a structure no taller or larger than the original building. and within the original footprint. However, the approved project is nearly twice as large and 8 feet taller with a larger footprint.

County Response No. 5: It is acknowledged that the proposed structure that was reviewed by the Planning Commission and presented in the July 8, 2025 Board of Supervisors hearing included a footprint that extended beyond the footprint of the Connell House in the front courtyard area. The applicant requested the ability to exchange the area of development to accommodate a new house design that is not exactly the same as the former U-shaped house design. The proposal increased continuous dune habitat area in the back yard in exchange for filling in an area that was previously disturbed in the front courtyard area.

Contention No. 6: (Reeves) Finding 1, Evidence I: "the height, flat roof, and use of natural colors and materials help blend the development into the surrounding environment (existing sand dune and trees around the site). LUP Policy 51 requires buildings developed on residential lots in the Visual Resources area to be "situated to allow the highest potential for screening from view ... the staking and flagging presented a new (replacement) structure that would be on the larger end of the array of structural massing of single family dwellings currently permitted in the surrounding residential area ... Although it will be larger in floor area than other Signal Hill area dwellings, the Proposed Project does not present exceptional bulk or height beyond the existing and permitted dwellings within the public viewshed (Fanshell Beach and 17 Mile Drive locations)."

EVIDENCE: The proposed residence, as stated in the Resolution finding will be "on the large end of structural massing" and "larger than other Signal Hill area dwellings." The rendering below, prepared and submitted by the applicant and incorporated into the Resolution, is proof their finding regarding visual impact is not supported by evidence and is inconsistent with the Board's resolution stating, "The Reduced Project is anticipated to be no taller or larger than the existing dwelling. "

IMAGES: Applicant Rendering of the proposed design, shown in Attachment A, and Staff Photo of the subject parcel, given date of 2010

(AMAP) The project's is noticeably taller and larger than neighboring houses. Its increased size and height significantly degrade the historic public viewshed from Seventeen Mile Drive and Fanshell Beach.

County Response No. 6: (Reeves) Finding 1, Evidence “m” includes straightforward clear statements. LUP Policy 51 does not require new construction to match other construction in the area. The Board required a redesign and instructed where to site that design. Additionally, the County certified an EIR for the project which included an analysis of all impacts. The EIR discussed this potential impact in the consistency determination of the Aesthetic Resources Chapter, and prescribed mitigation measures to reduce long-term visual impacts such as habitat restoration, permanent maintenance, and tree replacements. With these conditions and mitigations applied, impacts related to Policy 51 were found to reduce impacts to a less-than-significant level.

Contention No. 7: (Reeves) Finding 4, Evidence a and c: "Three Monterey Cypress trees [T4, TS and T12] will be removed as part of this Project (Evidence a) ... The two other trees proposed for relocation with this project (identified in the Plans attached to this Resolution as T4 and TS) were involved in PLN100418 as trees that were "significantly pruned" and were required to be monitored for canopy decline (Evidence c)."

EVIDENCE: Trees T4 and TS, in front of the house on Signal Hill Road, were not part of the violations which PLN100418 was intended to address. The trees which were "significantly pruned" (T8, 9, 10) were northwest of the Connell House. The trees which were illegally removed were on the west side of the Connell House and provided significant screening from Seventeen Mile Drive and Fanshell Beach. The pictures below from Google Earth shows the scope of the illegal tree removal and trimming. The relocation of T4, TS and T12 will do nothing to screen the view of this project from the common public viewing areas of Seventeen Mile Drive and Fanshell Beach.

IMAGES: Tree Relocation and Protection Plan, found attached to Exhibit A, and two aerial images of the Connell House, before and after tree pruning and removals with labels “June 2007” and “September 2009.”

(AMAP) The applicant removed the Monterey Cypress trees that screened the original residence from the historic viewshed. The decision does not recognize that the applicant failed to comply with Board of Supervisors direction in 2013 (PLN100418) to replant and maintain these trees; they were replanted but later removed again. The approved project does not include this required mitigation.

County Response No. 7:

There are two different tree removal/relocation permits at issue here.

First, in 2009, a code enforcement case (CE090288) was initiated as a result of the unpermitted removal of 2 large Cypress trees. To address that code enforcement case, a Tree Resource Evaluation/Construction/Impact Analysis was prepared by a certified arborist in October 2010 (LIB100394). The report evaluated the eight trees on the site (7 Cypress and 1

Eucalyptus) and documented that two Cypress trees were removed without a permit. Additionally, in December 2011, the arborist documented a cluster of three Cypress trees that had been “excessively pruned” and recommended a 5-year monitoring period for survivability of those trees. On February 5, 2013, the Board of Supervisors approved an after-the-fact permit for the tree removal and required restoration of the site, replanting 2 large Cypress trees to screen the house from views, and monitoring of the trimmed trees, as a condition of approval of that permit (Resolution No. 13-021).

The applicant replanted the trees as required by the condition. One of the replacement trees, located west of the house, did not survive. That tree is required to be replanted again and monitored in accordance with the approved conditions. A second tree was replanted south of the proposed house near the existing driveway. That tree survived and is alive today. However, that tree was proposed to be relocated approximately 20 feet south in the PLN240077 application. The trees that were trimmed have been monitored and have survived. The trimmed trees are subject to the conditions imposed as part of Resolution No 13-021 and are not the subject of the proposed new house design.

Included in the permit now before the Board (PLN240077), Applicant proposed to relocate two trees as part of the new construction, excluding the one tree that was required to be planted by Resolution 13-021. The two trees proposed for relocation are in the front yard and would need to be removed for development of the proposed new home and new walkway location. The third tree, located near the existing driveway, was one of the trees required to be replanted to clear the prior code compliance case. The plans, in the experienced opinion of staff, do not suggest that the proposed construction would require the relocation of this tree, 4-inches in diameter. Staff recommended that the relocation of this tree not be included in the applicant’s redesign. Applicant has agreed to protect the tree, rather than relocate.

Contention No. 8: (Reeves) Finding 6. Evidence b: "The previous single-family dwelling was an Historic Resource at the (July 2007) federal level, but not the local level (September 2009) Code Chapter 18.851(illegible) agreement to local listing."

EVIDENCE: The Connell House was determined to be s significant historic resource per the findings of the County Historic Resources Review Board. It was not listed due to the owner's refusal to allow listing which does not reduce or invalidate its significance at local level.

County Response No. 8: Staff understands the contention is a quote of Finding 6, Evidence “b” of the Planning Commission Reso. No. 25-012 about the listing of the former Connell House as an historic resource. Monterey County Code section 18.26.060.A does not allow the Historic Resources Review Board to list an historic resource on the County’s local register without property owner permission. The evidence does not misconstrue the establishment of the Connell House as an historic resource at the levels that it was listed. This point is moot, however. Demolition of the Connell House was evaluated in the EIR, approved by the Board of Supervisors, and completed.

Contention Nos. 9-14 contend that the decision was contrary to law:

Contention No. 9: (Reeves) The Planning Commission Approved a Variance with no notice to the public and no findings or evidence to support the variance. The Connell House was nonconforming as to setbacks. The staff presumed the Board direction to rebuild in the footprint of the Connell House was the equivalent to the granting a variance and so advised the Planning Commission. The Planning Commission, upon the recommendation of the staff approved expansion outside the footprint and approved a variance for that.

However, no variance was requested by the applicant, neither the staff report nor the draft resolution included the findings and evidence required by Monterey County Code Section 20.78.040, 20.78.050 and by Government Code Section 65906.

No public notice of the proposed variance was provided as required by Monterey County Code Section 20.78.050 (A). The variance was not included in the project description in the public notice or the agenda.

County Response No. 9: The variance was not granted without the proper notice. When the applicant proposes a redesigned project, a variance may be justified and noticed because the Board of Supervisors, in adopting a resolution to conceptually approve a new house that reflects Alternative 6 of the EIR, limited new development to the footprint of the former residence. The footprint of the former residence was non-conforming to front setback requirements, so rebuilding a home in the footprint would include new construction within the required front setback.

Contention No. 10: (Reeves) The approval violates Monterey County Code Section 20.02.060 A "No building permit, grading permit, land use discretionary permit, coastal administrative permit, coastal development permit, exemption, categorical exclusion, or other permit relative to land use may be approved if it is found to be inconsistent with the Monterey County Local Coastal Program." The project is clearly inconsistent with the policies of the DMFLCP, particularly relating to visual resources.

County Response No. 10: The Board requires the proposed design be modified to further reduce development that extends beyond the footprint of the former Connell House. The project will be reviewed for consistency with the policies of the Del Monte Forest Land Use Plan.

Contention No. 11: (Reeves) The action of the Planning Commission fails to recognize that the applicant failed to comply with the prior action by the Board of Supervisors for PLN100418 to plant and maintain Monterey Cypress trees to screen the property from Seventeen Mile Drive and Fanshell Beach. The Board directed in 2012 that Monterey Cypress was to be planted to replace those illegally removed by the applicant. Those trees were planted but ultimately removed by the applicant and not replaced without benefit of a coastal development permit for the removal.

(AMAP) The applicant removed the Monterey Cypress trees that screened the original residence from the historic viewshed. The decision does not recognize that the applicant failed to comply with Board of Supervisors direction in 2013 (PLN100418) to replant and maintain these trees; they were replanted but later removed again. The approved project does not include

this required mitigation.

County Response No. 11: The contention raises an issue with tree removal that has been resolved through subsequent permitting and that is subject to ongoing condition compliance and monitoring requirements. The evidence in the condition compliance record for PLN100418 in the form of tree status reports prepared by a qualified arborist indicate that replacement trees failed due to fungus infections, not due to deliberate removal of healthy trees. The conditions of approval on that restoration permit included replanting in the case of tree failure. The Board applied Condition No. 16, Tree Replanting and Protection, which requires the owner to. . .

“...cause a 48-inch box Cypress tree to be planted in a location that will provide screening of the new development when viewed from Fanshell Beach and 17-Mile Drive. The tree shall replace the large Monterey Cypress tree which was previously removed from the property and was not successfully replanted per the after-the-fact Planning Permit (PLN100418, Reso. No. 13-021) to clear a code violation for tree removal (CE090788).”

This condition was discussed in the Planning Commission hearing on PLN240077 during Commission deliberations. The tree was not drawn into the arborist’s tree replacement and protection plan that was submitted with the PLN240077 application, as this arborist (James Allen) was contracted to assess tree relocations related to this permit. However, when the final landscaping plan is received pursuant to conditions of approval of PLN100338, all relocation and replanting shall be included in the plan for review and approval.

Contention No. 12: (Reeves) The decision of the Planning Commission as described in Resolution 25-012 is contrary to the 2023 findings and decision of the Board of Supervisors:

Finding 1, evidence i: *The Reduced Project is anticipated to be no taller or larger than the existing dwelling. A Design Approval shall ensure that colors and materials will blend with the natural surroundings.*

(AMAP) The project's is noticeably taller and larger than neighboring houses. Its increased size and height significantly degrade the historic public viewshed from Seventeen Mile Drive and Fanshell Beach.

County Response No. 12: This comment is essentially the same as appellant’s contention No. 3, listed. The consistency findings of the draft Board Resolution for PLN240077 are supported by substantial evidence and no changes are required. See County Responses Nos. 3 and 4.

Contention No. 13: (Reeves) Finding 1, evidence m: Maximum allowable height is 30 feet, and the Reduced Project maximum height is anticipated to be approximately 22 feet from average. (2023 findings and decision of the Board of Supervisors)

- At 8,290 SF it is nearly twice the size of the 4,124 SF of the Connell House as it was

- described in the FEIR, staff reports and Board resolution.
- At 25.5' above natural grade it is higher than the 22' above natural grade described in the FEIR, staff reports and Board resolution.
- With a 30' high frontal view from Seventeen Mile Drive it is 8 feet higher than the approximate 22' high frontal view of the Connell House.
- The plans do not incorporate the replacement of trees required by the Board of Supervisors in their decision January 2013 decision on PLN100418.

County Response No. 13: As described in responses 3 and 4, review of the new dwelling design was reviewed for consistency with the adopted Local Coastal Plan regulations, the description of the reduced project alternative (alternative 6) in the EIR, and the Boards direction to stay within the footprint of the Connell House. Alternative 6 was compared to the original house design which included a 11,993 square foot single family dwelling. At 8,290 square feet, the design reviewed by the Planning Commission and the Board in the July 8, 2025 hearing was reduced in size from the original project. The proposed design was also approximately 4.5 feet shorter (25.5 feet tall) than the original design (30 feet tall). The proposed height would avoid “ridgeline development” which is the standard for measuring “reduced height,” not a comparison with the height of the now demolished Connell House.

The Board requires the proposed design be modified to further reduce development that extends beyond the footprint of the Connell House. Staff received a redesign since the July 8, 2025 hearing that further reduced the footprint of the proposed dwelling (now 7,690 square foot two-story single family dwelling inclusive of a two car garage). The height, colors and materials, and general position of the redesigned dwelling are the same. There is no “swapping” or infill of the courtyard. Staff finds that the redesign conforms with both the criteria expressed in the Final EIR for Alternative 6 and better conforms with the Board’s direction.

Contention No. 14: (Reeves) The plans do not incorporate the replacement of trees required by the Board of Supervisors in their decision January 2013 decision on PLN100418.

(AMAP) The applicant removed the Monterey Cypress trees that screened the original residence from the historic viewshed. The decision does not recognize that the applicant failed to comply with Board of Supervisors direction in 2013 (PLN100418) to replant and maintain these trees; they were replanted but later removed again. The approved project does not include this required mitigation.

County Response No. 14: The contention is acknowledged, and staff is recommending that the one tree located near the existing driveway be retained. This is one of the trees that was required to be planted in accordance with the Board’s prior decisions. The other tree that was required to be replanted was replanted did not survive. As required by the conditions of the prior approval, that tree must be replaced and monitored for survivability pursuant to the prior approvals.

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