

Attachment C

Notice of Appeal
(June 29, 2012)



ATTACHMENT C

RECEIVED
MONTEREY COUNTY
2012 JUN 29 PM 3:49
CLERK OF THE BOARD



NOTICE OF APPEAL

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

DEPUTY

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

1. Please give the following information:

- a) Your name BARRY & TRICIA SMITH
- b) Address 24515 S. SAN LUIS City CARMEL Zip: _____
- c) Phone Number (559) 967-0711

2. Indicate your interest in the decision by checking the appropriate box:

- Applicant
- Neighbor NEXT DOOR (ADJACENT) PROPERTY
- Other (please state) _____

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

MICHAEL & CHERYL MERRITT

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: | <u>PIN 120348</u> | <u>DESIGN APPROVAL</u> | <u>CARMEL</u> |
| b) Zoning Administrator: | _____ | _____ | _____ |
| c) Subdivision Committee: | _____ | _____ | _____ |
| d) Administrative Permit: | _____ | _____ | _____ |

5. What is the nature of your appeal?

a) Are you appealing the approval or the denial of an application? (Check appropriate box)

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

see attached

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for your appeal:

There was a lack of fair or impartial hearing; or

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

The decision was contrary to law.

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

see attached
COMBINED in statements under
ITEM 5.

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

1) Submitted plans incomplete - see above
AS A RESULT The concerns
in approval could not be addressed
accurately by the Planning department
2) see attached

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Resource Management Agency - Planning Department will provide you with a mailing list.

9. Your appeal is accepted when the Clerk to the Board's Office accepts the appeal as complete on its face, receives the filing fee \$ _____ and stamped addressed envelopes.

APPELLANT SIGNATURE BB Arzai SMITH DATE 6/27/2012

ACCEPTED _____ DATE _____
(Clerk to the Board)



EYE SURGICAL

AND MEDICAL ASSOCIATES INC.

RECEIVED
MONTEREY COUNTY

2012 JUN 29 PM 3:49

CLERK OF THE BOARD

DEPUTY

June 29, 2012

To Whom It May Concern:

Design approval – Section 20.44.030 B.1

1. The submitted design drawings appear to be incomplete. The plans do not show the elevations- front, side & rear as required. Please see our exhibit A. This will show an overall height of the proposed 6 foot fence to be in reality a 10 foot 6 inch from the street and 13 feet at rear of the fence. One can easily see why we are appealing this fence as our landscape would lose most of its sunlight. The landscaped part on this terraced area has been present for more than 50 years. This would be unacceptable to anyone in our position. A compromise between the County, the Smiths, and Merritt's should be sought since this affects two county homes owners and is being built on County land.

2. Section 20.44.030 B.3

The submitted design plan is incomplete. The location of current landscape and trees are not on plan. This is germane to this appeal. This terraced area has been landscaped for 50 plus years. The location of the fence would disrupt this landscape. The original fence was along the same line as the proposed fence BUT located approximately 6 feet to the west. We have no problem with this fence placed back to its original line. It should also be noted that the original fence was wire and only 3 feet high. We also have no problem if the Merritt's would like their fence higher than the original as long as it is placed on the original line (6 feet to the WEST of their current proposal.) We would be happy to provide details of the original location of the original fence. We respectfully request that the fence, where ever located, would at least match existing fence i.e., grapes stake. The proposed fence is a continuation of an existing fence but does not match.

3. Item 6 on appeal form– see above.

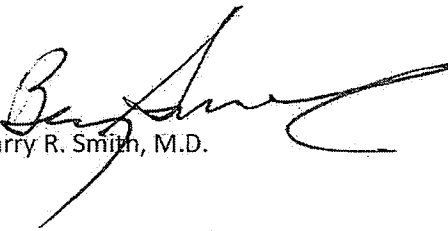
4. Item 7 on appeal form

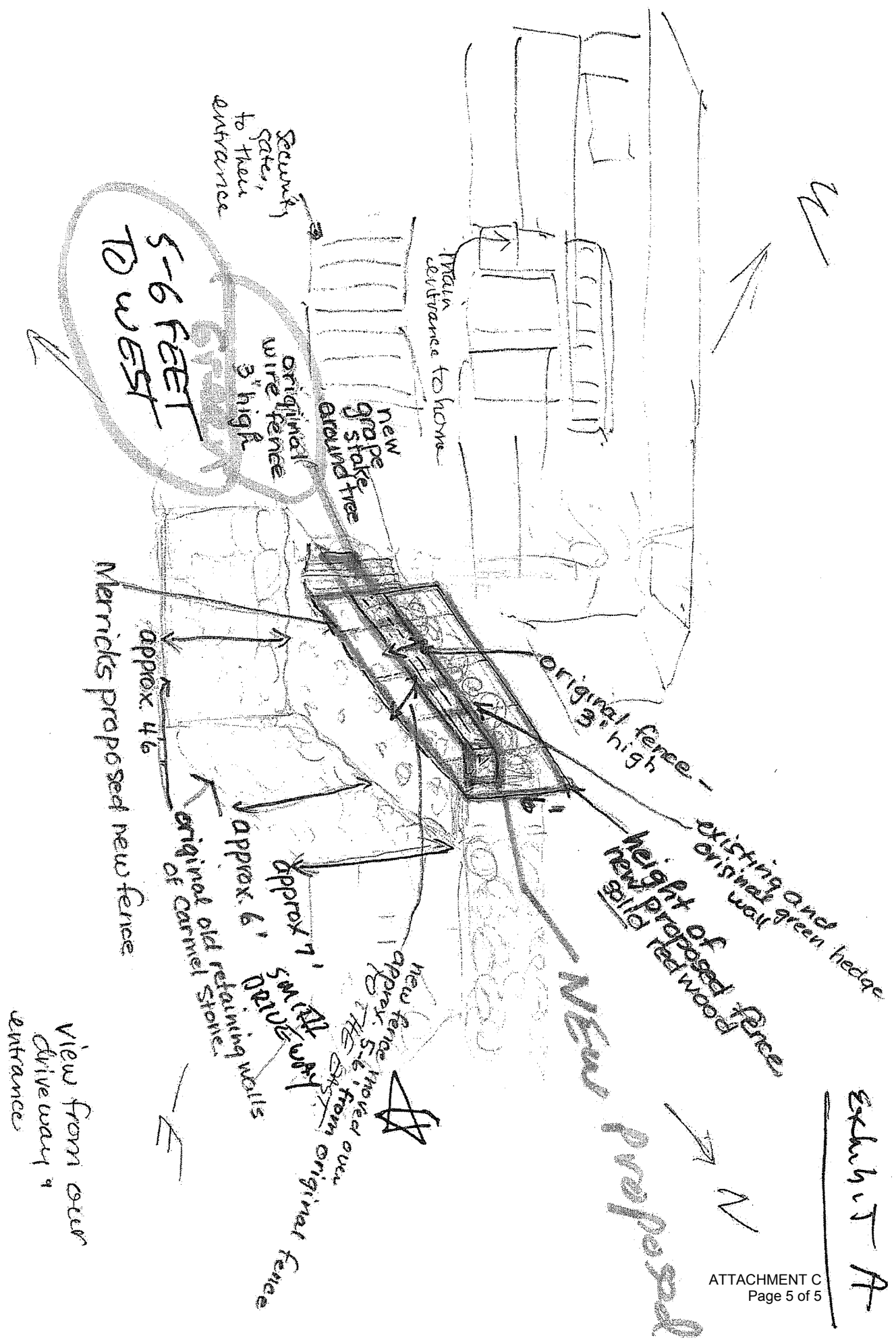
The plan states the Merritt's are replacing a portion of fence. This is deceiving as they want to create a new fence line 6 feet away from the fence they say they want to replace. This statement of replacing previous existing fence is totally misleading. What the Merritt's have failed to disclose is that the previously existing fence was 3 feet high and made of wire and barely noticeable and located 6 feet to the WEST. The aforementioned fence had been in existence for more than 50 years. The Merritt's removed this fence. Now they want to replace it 6 feet to the EAST thru an established landscaped terrace. Their plan does not show where the previous fence was located. We have no problem with them replacing the prior existing fence as long as it is on the same lines as the original.

PAGE 1 of 2

Finally, we are curious as to why the Merritt's are proposing a fence on county property when they can follow their east-west property line to their driveway gate. This gives them the security they seek and would not encroach on county property or our landscaped garden. The fence as proposed would not secure their property as designed. We would be happy to discuss this issue with who ever will listen. It seems to us that whenever there is a proposal seeking structures on county property that consideration is given to each property owner's concern(s). Compromise is always the best means of resolution when a dispute occurs. Decisions made favoring one party over another would not be fair. Another proposal may be that we submit a fence plan of our own so that each party has some say as to where the fence is placed. And if compromises cannot be reached then nothing should change. Please call Barry Smith at 559-967-0711 to answer questions or interview.

Thank you for your consideration on this matter.


Barry R. Smith, M.D.



W

5

5-6 FEET
TO WEST

Security
Sater,
to their
entrance

Main
entrance to home

original
wire fence
3' high

new
grape
stake
around tree

original fence
3' high

existing and
original green hedge

height of
proposed fence
new solid red wood

Merricks proposed new fence
approx 4'6"

approx 7'

approx 6'

original old retaining walls
of carnival stone

new fence moved over
approx 5-6' from original fence



New proposed

View from over
driveway
entrance

Exhibit A