

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

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LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

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MEMORANDUM

Date: June 16, 2017

To: Monterey County Board of Supervisors

From: Joseph Sidor, Associate Planner, RMA-Planning x5262

A handwritten signature in blue ink, appearing to be 'JS', is written over the 'From' line.

Subject: Land Use Appeal of PLN160348/Black Crow LLC

Mr. John Bridges, the Appellant's attorney, submitted the attached letter to RMA-Planning on June 14, 2017. County staff received the letter after completion of the Board staff report for the subject appeal, which is scheduled before the Board on June 27, 2017; therefore, staff will review and respond to the letter in a separate memo to the Board.

Received by RMA-Planning
on June 14, 2017.

FENTON & KELLER

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June 14, 2017

JBridges@FentonKeller.com
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JOHN S. BRIDGES

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

Monterey County Board of Supervisors
c/o Clerk to the Board
168 W. Alisal Street, 1st Floor
Salinas, CA 93901

Re: Meyer Appeal of PLN160348
Our File: 34910.33559

Dear Supervisors:

This letter is submitted on behalf of our client, Courtney Meyer, appellant in the above referenced matter. Please accept this letter as a supplement to Ms. Meyer's appeal filed May 8, 2017. In addition to the grounds for appeal previously stated, Ms. Meyer appeals the Zoning Administrator approval for the following reasons:

1. Noise: Neither staff nor the Zoning Administrator gave any consideration to the potential noise impacts to the Meyer residence resulting from the proposed rooftop deck, which is proximate to the Meyer's master bedroom wing. Noise associated with unfettered use of the rooftop deck will have a significant impact on the Meyer property (see Attachment 1: report from architect Brian Congleton; and Attachment 2: report from WJV Acoustics). According to the consultant, a 5 dB increase in noise levels is perceived as a "definitely noticeable change" and a 10 dB increase is perceived as a "doubling" in noise level. The rooftop deck in this case will result in a 15 dB increase, which will be dramatic and significant.

2. Light and Privacy: Proximity of the proposed rooftop deck to the Meyer's master bedroom wing will also have significant impacts on the Meyer's reasonable enjoyment of light and privacy (ref. Attachment 1).

3. Neighborhood Character: Although a few other residences in Carmel Meadows have rooftop or second story decks (not "many" as suggested in Finding 1.k), the character of the neighborhood is such that when rooftop decks are permitted in the past they were located and designed sensitively so as to minimize neighbor impacts related to noise, light, and privacy, and to reasonably share views of Point Lobos and/or the Pacific Ocean, which views are profoundly

{JSB-00670863}

valuable and unique in the Carmel Meadows neighborhood. Unlike other permitted rooftop decks, the proposed project deck conflicts with this neighborhood character theme of sensitive location and design, which creates significant impacts. The proposed deck also includes (unique from all others in the area and thus precedent setting) an outdoor stairwell immediately adjacent to the side yard setback, which will exacerbate the noise impacts (see Attachment 3: report prepared by Ms. Meyer on rooftop/second story decks in Carmel Meadows evidencing the neighborhood character theme of sensitive location and design).

4. CEQA: The above referenced potentially significant impacts, each of which is supported by substantial evidence, combined with the unique circumstances of this case (including the close proximity to the Meyer's master bedroom wing and the unique characteristics of the Carmel Meadows neighborhood) as well as the potentially significant cumulative impacts associated with allowing unfettered and insensitive rooftop deck location and design in the future based upon the precedence this project would establish, represent exceptions to categorical exemption status under CEQA and require an Initial Study be prepared and mitigations be defined to address the impacts.

5. Alternative Designs: Numerous alternative designs/locations for the rooftop deck exist that would, in fact, reduce the above described significant impacts (ref. Attachments 1 & 2). Implementation of any of these alternatives would not compromise the programmatic objectives of the applicant in terms of achieving an outdoor space with a panoramic view of Point Lobos.

Ms. Meyer has, in good faith, diligently reached out to her neighbor in an effort to discuss amicable resolution by design but the applicant has refused to even allow a discussion to occur between the architects Mr. Congleton and Mr. Rhodes. We hope the Board of Supervisors will assist these neighbors to find a fair and equitable compromise.

Very truly yours,

FENTON & KELLER
A Professional Corporation



John S. Bridges

JSB:kmc

cc: Courtney Meyer
Supervisor Luis Alejo
Supervisor John M. Phillips
Supervisor Simon Salinas
Supervisor Jane Parker
Supervisor Mary Adams
Joe Sidor

ATTACHMENT 1



June 4, 2017

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

RE: Proposed Roof Deck – 2874 Pradera Road, Carmel Meadows

Dear Mr. Bridges:

You have requested my input regarding a proposed roof deck to be constructed as part of a new house at 2874 Pradera Road in Carmel Meadows. You represent Courtney Meyer, the neighbor to the immediate north of the proposed new residence. You have asked me to explore options for the deck location which would pose less of an impact on Ms. Meyer's property than the proposed location.

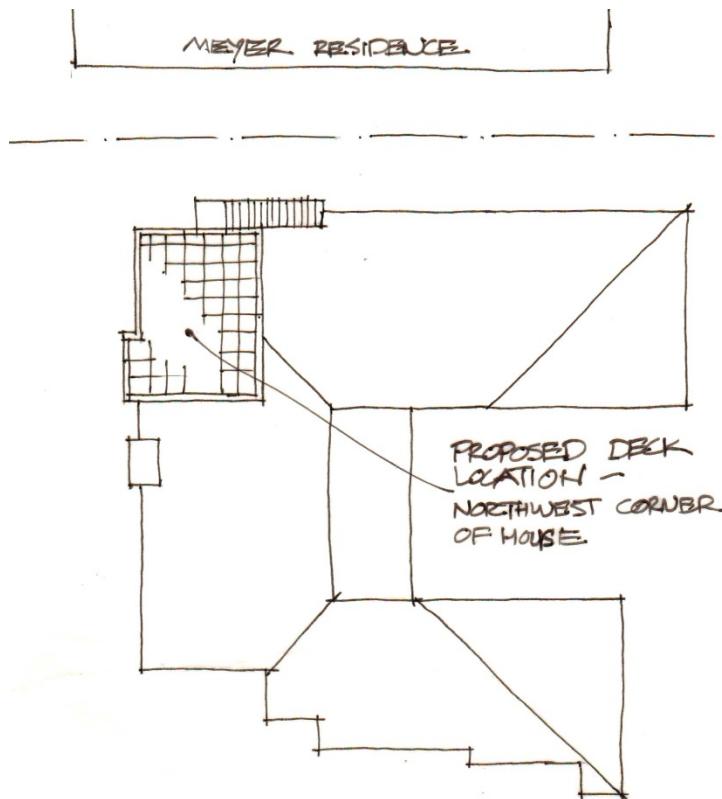
The proposed roof deck is located very close to the master bedroom of Ms. Meyer's home. The impact of this proposed deck takes several forms:

1. Intrusion of Privacy: The deck, and stair accessing the deck, are approximately ten feet from the bedroom windows, at a level just above the windows. Persons on the deck and stair can look directly down into the privacy of the bedroom.
2. Loss of south light: Because of the intrusion noted above, the only recourse Ms. Meyer has to protect her privacy is to close her curtains, blocking access to light, view and ventilation.
3. Noise intrusion: Roof decks are normally social gathering places, in this case for persons to enjoy the outdoors and extensive view over the ocean and Point Lobos. The resulting conversation and social activity will project right into Ms. Meyer's bedroom, interrupting sleep and use of the bedroom for quiet activity.
4. Loss of view: The orange netting demonstrates the direct impact of the deck on Ms. Meyer's view of Point Lobos. Although protection of views is not included in the Monterey County Zoning Ordinance, balancing of all elements of use of properties is the goal of design review. It is apparent that the developer of the new residence desires to include a roof deck to enjoy this special view, but the location of the deck means that this enjoyment is at the expense of the neighbor's view (in this case Ms. Meyer).

You have asked if there are locations for the deck that would allow the developer of the new residence to have the desired deck without impacting (or at least minimizing the impact on) Ms. Meyer's property. I have prepared sketches of three possible locations for the roof deck that might go far to meeting this goal. First, I would note the following:

- These sketches show only possible locations of the deck. An actual design to properly incorporate the deck into the architecture of the house can only be done by the project architect. The deck is only part of an integrated design; any change should be properly addressed by the architect so that his design is preserved. I would not venture to intrude into the architect's process or product.
- Any relocation of the deck will necessitate some revision to the design. Specifically, the sketches do not show access to the deck, an obvious critical element. As above, only the architect and client can incorporate the design idea into their concept.
- It appears that the deck was located at the northwest corner of the house to locate the deck with its noise, massing, and view as far from the south property as possible. This would best protect the privacy of the owners of the property to the south, who are developing this new residence and who have made design decisions to protect their own enjoyment of their property. (It is unfortunate that the resulting design does not balance the developers' desire to protect their privacy with their neighbors desire for the same, which is possible to achieve if pursued by the developer.) The sketches below keep that premise in mind, although some options are less intrusive on the south property than others.

Here is a sketch of the proposed residence, showing the location of the deck at the northwest corner of the house:

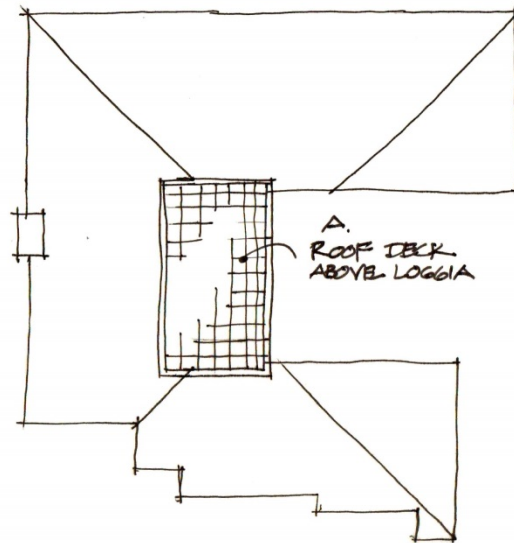


Proposed deck location at northwest corner of house

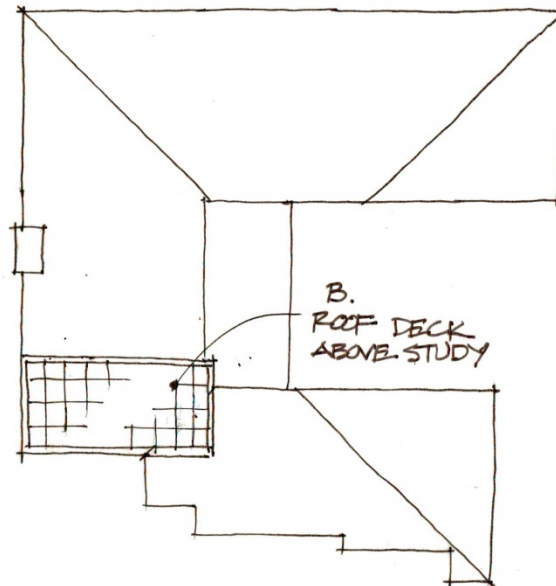
Providing a greater distance between the proposed deck and the existing north neighbor's bedroom would go far to reduce intrusion on privacy and noise intrusion. In addition, if the deck is nestled into

the roof structure both visibility of the deck (not from the deck) and noise emanating from deck activity could be lessened considerably.

There may be any number of possible deck locations which would provide a great view deck for the proposed residence, while protecting the privacy of the south property and eliminating or minimizing the impact on Ms. Meyer's property. I have sketched three:

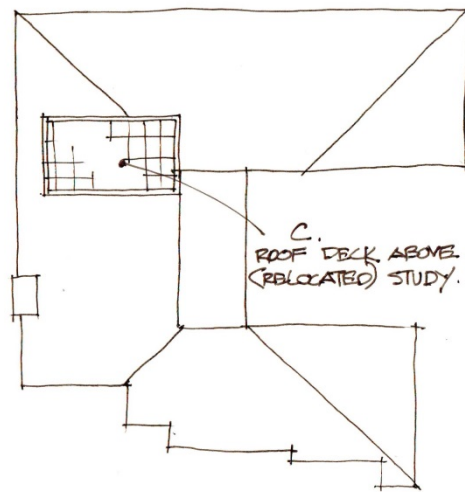


Option 'A' – Roof Deck above Entry Loggia: In this option the deck would be located on the flat roof area above the entry, far back from any neighboring properties while enjoying a panoramic view.



Option 'B' – Roof Deck above Study: Location of the roof deck over the study would avoid impacting the vaulted ceiling of the living space. It would be located closer to the south property, but based on the

house setbacks it would be a good distance (17'-4") from the south property line. Introduction of screen hedges on the south property line would further minimize any possible privacy issue.



Option 'C' – Roof Deck above relocated study: By reconfiguring the interior layout, the deck would be located in the north center of the roof, far away from the south property yet a sufficient distance from the north property line to better protect Ms. Meyer's privacy.

All of the options go a long way to providing protection to Ms. Meyer's privacy and enjoyment of her home without compromising the goals of the developer.

In reviewing the staff report for the Zoning Administrator Hearing, I note that the compressed schedule between the LUAC hearing and the ZA hearing prevented an adequate public review and discussion of the neighbor concerns. The staff report indicated that staff would report to the Zoning Administrator the recommendations and discussion elements from the LUAC hearing, but the pertinent elements regarding the location and construction of the roof deck, which were discussed at the LUAC hearing, were not reported to the Zoning Administrator at the ZA hearing. I also would note your report to me that Ms. Meyer's several attempts to discuss this matter, or to have us meet with her architect, have been rebuffed by the developer.

I trust the above answers your questions. Please let me know if you need additional information or wish to discuss this matter.

Sincerely,

Brian T. Congleton AIA



June 9, 2017

John S. Bridges
FENTON & KELLER
2801 Monterey-Salinas Highway
Monterey, California 93940

RE: PROPOSED ROOF DECK, 2874 PRADERA ROAD, CARMEL-CALIFORNIA

Dear Mr. Bridges:

As you have requested, WJV Acoustics, Inc. (WJVA) has reviewed the acoustical/noise considerations pertaining to the proposed deck location design at a new residence to be constructed at 2874 Pradera Road (hereafter referred to as applicant), in Carmel, California, as it may affect the existing residence located at 2854 Pradera Road (hereafter referred to as client). You have asked me to consider the potential noise impacts that may occur if the deck is to be constructed at the current proposed location, as well as the noise-related benefits that may result if the deck is relocated to an alternative location. The following is a description of our findings and recommendations.

The applicant proposes to construct a rooftop deck to be located in the northwest corner of the client's existing residence. The proposed deck would be at a distance of approximately 20 feet from your client's residence, and in particular, the upstairs master bedroom. At the proposed location, the deck would have significant potential to result in noise-related impacts to your client.

Existing ambient noise levels in the subject neighborhood are relatively low. WJVA conducted ambient noise level measurements at the property line between the applicant property and your client's property on June 8, 2017, at approximately 1:00 p.m. Sources of noise at the time of the ambient noise measurement included birds, ocean waves, and an occasional vehicle passby. Average noise levels, as defined by the L_{eq} (energy average) noise metric were measured to be 41.3 dB, with overall noise levels ranging from 39.2-44.3 dB. Such daytime noise levels are considered to be extremely low for a residential neighborhood.

Noise monitoring equipment consisted of a Larson-Davis Laboratories Model LDL 820 sound level analyzer equipped with a Bruel & Kjaer (B&K) Type 4176 ½" microphone. The monitor was calibrated with a B&K Type 4230 acoustical calibrator to ensure the accuracy of the

measurements. The equipment complies with applicable specifications of the American National Standards Institute (ANSI) for Type 1 (precision) sound level meters.

The proposed deck to be located in close proximity to your client's bedroom has the potential to generate noise that will be disruptive to your client while in the upstairs bedroom that has windows facing the proposed deck location. This will be especially true if the proposed deck is utilized during the evening or morning hours when your client may be trying to enjoy the sounds of the ocean and/or sleep. Noise sources normally associated with outdoor decks include voices, laughter, clattering dishes and potentially music. The noise associated with the proposed deck also has the potential to block or mask desirable sounds from the natural environment within the bedroom facing the proposed deck.

WJVA has conducted reference noise measurements in numerous situations where human voice was the primary noise source. At a distance of 20 feet, noise levels associated with human voices would typically be in the range of 44-62 dB. Additionally, WJVA has conducted reference noise measurements at numerous outdoor dining areas, varying in size and occupancy. WJVA measured noise levels of a relatively small outdoor dining establishment surrounded by a 5 foot-high wooden fence. Noise levels measured outside the fence at a distance of approximately 10-15 feet from the dining area ranged from 52- 62 dBA, and were caused by low levels of background music and conversation. Such levels would be approximately 50-60 dB at a distance of 20 feet from the outdoor area.

The determination of what may be considered a significant increase in noise levels may be subjective. For noise sources that are not transportation-related, it is common to assume that a 3-5 dB increase in noise levels represents a substantial increase in ambient noise levels. This is based on laboratory tests that indicate that a 3 dB increase is the minimum change perceptible to most people, and a 5 dB increase is perceived as a "definitely noticeable change." A 10 dB increase in noise levels above existing ambient noise levels is generally perceived by humans as a doubling in noise levels. Noise levels associated with deck activities at the applicant's proposed deck location have the potential to result in a 15 dB increase over existing ambient noise levels at your client's property.

WJVA has reviewed three (3) alternate deck locations, provided by Congleton Architect. The alternate deck locations would all result in reduced noise impacts at your client's residence. WJVA will refer to the alternate deck locations as described in the letter from Brian T. Congleton, dated June 4, 2017. The alternate locations are as follows, 1) Option A: Roof Deck above Entry Loggia, 2) Option B: Roof Deck above Study, and 3) Option C: Roof Deck above relocated Study.

John S. Bridges
FENTON & KELLER
June 9, 2017
Page 3

All three proposed alternate deck locations would result in a reduction in deck-related noise levels at your client's residence. Sound is attenuated at a rate of approximately 6 dB with increasing distance from a "point" noise source. The increased distance between the deck and the northern property line would result in a reduction of noise of approximately 5 db, 7 dB and 8 dB for proposed alternate deck locations A, B and C, respectively. Additionally, the intervening roofline would provide varying levels of acoustical shielding. From an acoustic standpoint, WJVA considers alternative deck location B to provide the lowest potential for noise impacts to your client, based upon distance and level of acoustical shielding.

Please contact me at 559-627-4923 or walter@wjavacoustics.com if there are questions or additional information is required.

Respectfully submitted,

WJV ACOUSTICS, INC.

A handwritten signature in blue ink, appearing to read "Walter J. Van Groningen", with a long horizontal flourish extending to the right.

Walter J. Van Groningen
President

ATTACHMENT 3

Michelle Moore (Black Crow LLC) 2874 Pradera Road, Carmel Meadows

Carmel Meadows has approximately 150 homes. Nine (9) homes have overhang/decks in the community. All nine (9) are tasteful and transparent designed and built not to impede on their neighbor's privacy, light or creating noise inference.

The design that is in question is a lot Michelle Moore purchased (2874 Pradera Road, Carmel Meadows) and is looking to rebuild and sell. The issues in question are privacy, light, noise and continuity within the neighborhood. Moore's design will add an overhang/deck made of cement block to the exterior wall of the kitchen. This overhang/deck can only be accessed via cement block exterior stairs. Both of these structures overhang/deck and external stairs will impact the light and encroach on their northern neighbors home (2854 Pradera Road). Privacy is also an issue given the northern most view from the overhang/deck will be directly into the master bedroom of the northern neighbor. The close proximity and placement of both the exterior stairs and the overhang/deck will create noise issues.

The following pages detail the nine (9) homes in the community that have built overhang/decks. Each of these houses have added an overhang/deck that has been done tastefully and their designs have not impeded on the surrounding houses and maintained the continuity and cohesive design of the neighborhood.

2884 Pradera Road – Michelle Moore’s primary residents (Black Crow LLC)

This home is Michelle Moore’s primary residence. As you can see the deck at 2884 Pradera Road is tasteful with transparent railing. Moore’s primary residence is a great example of keeping the continuity of the neighborhood. Her primary residence respects and protects her neighbor’s light exposure, privacy and possible noise issues.

The design that is question is a lot Moore purchased and is looking to rebuild and sell. The issues in question are privacy, light, noise and continuity within the neighborhood. Moore’s design will add an overhang/deck made of cement block to the exterior wall of the kitchen. This overhang/deck can only be accessed via cement block exterior stairs. Both of these structures overhang/deck and external stairs will impact the light and encroach on their northern most neighbors home (2854 Pradera Road). Privacy is also an issue given the northern most view from the overhang/deck will be directly into the master bedroom of the northern neighbor. The close proximity and placement of both the exterior stairs and the overhang/deck will create noise issues.



2717 Ribera Road

As you see the deck at 2717 Ribera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ribera Road deck is placed outside of the master bedroom window looking directly forwards the ocean having no impact on any of the structures surrounding it, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ribera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2867 Pradera Road

As you can see the deck at 2867 Pradera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Pradera Road deck is on the roof of their home with neighbors on both side of their property, however, no neighbor behind their property. When they remodeled their home they consciously built up to not interfere their neighbors light. They were conscious to design their property as to not disrupt their neighbor's privacy and eliminate any noise issues.

Moore's design will interfere with their neighbor to the north's light and privacy. There is also the noise component. Again the overhang / deck that Moore designed is right off the neighbor to the north's master bedroom. Noise will be an issue. The Pradera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2630 Ribera Road

As you see the deck at 2630 Ribera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ribera Road deck is place outside of the master bedroom window looking directly forwards the ocean having no impact on any of the structures surrounding it, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ribera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2630

2600 Ribera Road

As you see the deck at 2600 Ribera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ribera Road deck is placed outside of the master bedroom window looking directly forwards the ocean having no impact on any of the structures surrounding it, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ribera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2610 Ribera Road

As you see the deck at 2610 Ridera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ridera Road deck is place outside of the master bedroom window looking directly forwards the ocean having no impact on any of the structures surrounding it, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ridera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2715 Arriba Way

As you see the deck at 2715 Arriba Way is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ridera Road deck is place outside of the master bedroom window looking directly forwards the ocean having no impact on any of the structures surrounding it, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ridera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2863 Ribera Road

As you see the deck at 2863 Ribera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ribera Road deck is well within their roof line and tucks into their courtyard, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ribera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.



2760 Ribera Road

As you see the deck at 2760 Ribera Road is tasteful with transparent railing vs. Michelle Moore's deck design which is an independent cement structure which attaches itself to the exterior kitchen wall. The Ribera Road deck is placed outside of the master bedroom window looking directly forwards the ocean having no impact on any of the structures surrounding it, unlike Moore's independent overhang/deck which is simply attached to the outside of the kitchen wall. There is no access to the overhang/deck from inside the house. Again, the only way to access the overhang/deck will be from outside the house via outside stairs. The Ribera Road property's does not over shadow any of the neighbor's homes nor does have a noise impact on the surrounding neighbors. Moore's design indicates their northern view would be directly into their neighbor's master bedroom north of them. Given the location of the overhang/deck noise will be also be an issue.

