

Attachment C1

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NOTICE OF APPEAL

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

RECEIVED
MONTEREY COUNTY
2021 MAY 17 P.M. 3:39
AM 9:40

CLERK OF THE BOARD

Julian Lorenzana
DEPUTY
JULIAN LORENZANA

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 5/17/2021 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: 4/29/2021

1. Appellant Name: Alex Lorca/Fenton & Keller for David Sabih
Address: 2801 Monterey-Salinas Hwy., Monterey, CA 93940
Telephone: 373-1241

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

Applicant

Neighbor

Other (please state) David Sabih is the neighbor to applicant

3. If you are not the applicant, please give the applicant's name: Dale Skeen / Jo Mei Chang

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- _____	_____
b)	Zoning Administrator: ZA- <u>PLN190030-AMD1 - Minor and Trivial Amendment - CALUP</u>	_____
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) Please see attached.

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 XX

The decision was contrary to law XX

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) Please see attached.

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) Please see attached.

9. You must pay the required filing fee of \$3,540.00 (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


Alex J. Lorea, Representative

Date: 5-17-21

RECEIVED SIGNATURE _____

Date: _____

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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ALEX J. LORCA

May 17, 2021

ALorca@fentonkeller.com
ext. 258

VIA E-MAIL (COB@co.monterey.ca.us)

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

Re: Zoning Administrator Resolution 21-019 (PLN190030-AMD1)
Our File: 5014.AJL111

Dear Supervisors:

This office represents David Sabih, owner of the property located at 26333 Scenic Road in Carmel. This letter supplements the Notice of Appeal of the Zoning Administrator's (ZA) approval of PLN190030-AMD1, which approved a Minor and Trivial Amendment to an existing project (Resolution 21-019). Mr. Sabih is the immediate neighbor to the south of the property that is the subject of Resolution 21-019, which bears APN 009-442-013-000, and street address of 26327 Scenic Road, Carmel (Project Site). The Subject Property is owned by Dale Skeen and Jo Mei Chang (Owners).

Over the years, the Owners have relied on a piece-meal approach to permitting a single-family residence on the Project Site, rather than apply for – and construct – their desired project all at once. The most recent example of the Owners piece-meal approach is the recently submitted application for a Minor and Trivial Amendment. However, the application makes clear the project amendments sought are anything but minor and trivial.

As described in more detail in the attached letter from architect Ray Parks of Ray Parks & Associates, the amendments violate set back regulations, drainage regulations, lot coverage regulations, and floor area ratio regulations. For example, the project plans, at Sheet A1.0 of the

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9-23-20 revision, show the spa and one of the firepits violating the rear setback, the main floor deck violating the front setback, as well as the lightwell violating the north-side setback.

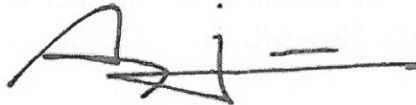
Also, the project plans fail to provide a grading plan, drainage plan, and/or erosion control plan.

With respect to the California Environmental Quality Act (CEQA), the Owners' intentional strategy to seek piece-meal approvals of the project's various components via changes and amendments is impermissible. The Owners are prohibited from splitting their single large project into smaller increments in order to evade proper environmental review as such action would leave the County unable to consider the environmental impacts of the entire project.

Mr. Sabih only very recently retained our firm to assist him, as such he reserves his right to further augment his objections to the project ahead of the Board of Supervisor's hearing of this Appeal. Additionally, Mr. Sabih will necessarily have to retain experts to assist with his appeal, therefore, the Board's hearing on this matter should be set for no sooner than its first August meeting.

Very truly yours,

FENTON & KELLER
A Professional Corporation

A handwritten signature in black ink, appearing to read 'A. Lorca', with a horizontal line extending to the right.

Alex J. Lorca

AJL: kmc
Attachment: Letter from R. Parks
cc: Client

INC

Ray Parks & Associates
Planning & Architecture

On Apr 1, 2021, at 3:56 PM, ray Parks <ray@rayparks.com> wrote:

Project Planner: Fionna Jensen
Project Name: Skeen & Chang Jomei
File Number: PLN 190030-AMD1
Project Location: 26327 Scenic Dr. Carmel, Ca.
APN: 009-442-013-000
Carmel Area / Highlands LUAC:
Meeting: Monday, April 5th 2021, @ 4:00 pm

Architectural Project Concerns:

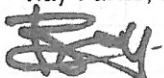
Please submit the following comments to the Carmel Area LUAC for their consideration as part of the record for the committees recommendation to the Planning Commission.

1. This project has been controversial among the Carmel Point neighbors since it's original presentation in 2006.
2. The project has been altered over time with three additional Develop Permits since 2006 and the cumulative effect of all these "minor changes" is difficult to analyze with this current minor or trivial amendment. This is also a common developers strategy to avoid or minimize public review and comment from the neighbors or public.
3. The project is a "spec. house" and as a result the primary concern has been to maximize profits for the partners vs. becoming part of the Carmel Point neighborhood.
4. The business profit goals being the primary concern has resulted in the project maximizing, square footage, coverage, maximum height limits, excessive grading, and pushing the building footprint to the setbacks on all four sides.
5. Pushing the design to the maximum on all issues has created a project the appears more commercial and out of place for this residential neighborhood. Especially the new roof change to achieve the height limit.
6. The project proposes the structure is located on the all setbacks and will be built to the height limit. A licensed civil engineer should provide verification that the shall be built in accordance with these County limitations during the construction inspections procedures.
7. A note within the plans claims "no new grading required" while proposing a 225 sq. ft. expansion of a terrace. The proposed current plans available for review do not include a grading plan, drainage plan, or erosion control plans which should be made available for this permit review to verify the claim of "no new grading"
8. Sheet A1.0 depicts a "Patio" over the front setback line which is at least 7'-0" above grade and should be considered a deck structure [more then 24 inches above grade] and not be allowed in the front-yard setback.
9. The project proposes two large fire pits within the setbacks. The fire pits should be relocated out of the setbacks and away from adjacent neighbors property. California Fire regulations are changing to provide spark arrestors at any new fire pits to avoid any potential fire damage to the neighborhood.
10. The new Spa is also located within a side yard setback compromising the neighbors privacy. The Spa should be considered a structure and not permitted within the setback.

Summary:

The above listed concerns are significant and I believe this project should not be considered minor or trivial at this point in th process. A project with this many issues should be denied or continued until such time these issues can be resolved.

Best Regards,
Ray Parks; Architect



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