

Attachment G

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NOTICE OF APPEAL

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

RECEIVED
MONTEREY COUNTY
2022 AUG 32 PM 2: 57
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 September 6, 2022 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: 8/24/22 Agent: Anthony Lombardo & Associates
Agent Address: 144 W. Gabilan St. Salinas, CA 93901
Agent email: cody@alombardolaw.com

1. Appellant Name: Domain Corporation

Address: 2716 Ocean Part Blvd., STE 3006, Santa Monica, CA 90405

Telephone: 831-751-2330

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

Applicant X

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: PC-	<u>22-021</u>	<u>Toro (PLN210167)</u>
b) Zoning Administrator: ZA-	<u> </u>	<u> </u>
c) Administrative Permit: AP-	<u> </u>	<u> </u>

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)

N/A

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 attached letter, the reduction of the requested 6 year extension to 3 years was unsupported
by the evidence and was not consistent with the Subdivision Map Act or the Monterey County
Code, as further described in the attached letter.

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 letter, the findings do not support the Planning Commission's decision to reduce
the requested extension from 6 years to 3 years. The findings are vague and internally inconsistent
for the reasons set forth in the attached letter.

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.)

****The \$3,540.00 check is attached to this appeal**

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

Deborah Smith (agent)

Date:

9/1/22

RECEIVED SIGNATURE

John Smith

Date:

9/1/22

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
JOSEPH M. FENECH
CODY J. PHILLIPS

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

September 1, 2022

File No. 399.004

Mary Adams, Chair
Monterey County Board of Supervisors
168 West Alisal St., First Floor
Salinas, CA 93901

Re: **Basis for Appeal of Resolution 22-021 (Ferrini Ranch Map Extension PLN210167)**

Dear Chair Adams and Members of the Board of Supervisors:

The applicant in the above referenced project hereby appeals the Planning Commission's determination that the Ferrini Ranch Subdivision Map be extended by 3 years instead of the requested 6 years for the reasons set forth herein.

The Subdivision Map Act at Government Code Section 6652.6(e) allows the approval of discretionary extensions of tentative and vesting tentative maps for a total of up to 6 years. That Section provides in relevant part that:

Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years.

Monterey County Code Sec. 19.05.065 states that such maps can be extended for a period of up to 3 years ["The Planning Commission may grant an extension(s) not to cumulatively exceed three years for standard subdivisions."].

However, Section 19.01.065 states that the MCC is preempted by the Map Act, stating that, "The provisions of this Title are mandated by the Subdivision Map Act are subject to change without notice or action by the County in the event the State Legislature amends the Subdivision Map Act." In other words, the fact that the code states that a map can only be extended by 3 years has been superseded by state law which allows a total of 6 years of discretionary extensions.

During the Planning Commission hearing on August 24, 2022, there was some confusion as to whether the Monterey County Code prohibited the full 6 years allowed by the Map Act. This confusion was confirmed in an email received just after the hearing from the project planner,

Kenny Taylor, where he suggested that the full 6 year extension was not granted because the County Code had not yet amended to reflect the language of the Map Act. In this email, Mr. Taylor stated that:

As Craig mentioned during the Planning Commission meeting today, Section 19.05.065 of the Monterey County Code limits the PC grant not to grant extensions cumulatively exceeding three years for subdivisions.

However, the Subdivision Map Act Section 6652.6(e) authorizes local governments to approve or conditionally approve extensions, including vesting tentative maps for periods not exceeding six years. Currently, Title 19 has not been updated to reflect the State Law.

There was no other discussion among the Planning Commission members regarding the reduction of the requested extension from 6 years to 3 years, and no findings were made in Resolution 22-021 substantiating this reduction. As we stated in our original extension request and again during the August 24, 2022 hearing, the owner has not been able to make progress on condition compliance to file the map because they had been in discussions to sell the property which was the primary focus of the owner for a number of years. There are 138 conditions of approval, many of which require significant lead times to prepare plans and coordinate with state and local agencies. Obtaining the full 6 years at this juncture will allow the owner to proceed with condition compliance without potentially having to redirect efforts to another extension request in a few years, the processing of which is likely to take at least a year based on the time it took to process this request.

Furthermore, the findings in Resolution 22-021 are vague and do not provide any evidence to support the reduction from 6 to 3 years. For example, these two findings contained in the Resolution on page 2 are inconsistent with each other:

WHEREAS, Pursuant to Section 19.05.060 of the Monterey County Code, an approved vesting tentative map expires 24 months after its approval. Given 24 months is the length of time afforded to comply with conditions associated with vesting tentative maps after initial approval, and acknowledging a rapidly changing land use environment in Monterey County, the length of time the map should be extended in this case may be reduced from the requested 6 years.

Contrasted with the following finding:

WHEREAS, the length of time that the map should be extended is related to factors surrounding a reasonable amount of time needed to comply with tentative map conditions, to file a final map, and any market or outside forces that may impact this timing as well as the applicants stated reasoning for the extension.

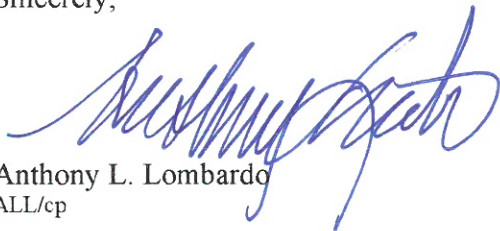
Mary Adams, Chair
Monterey County Board of Supervisors
September 1, 2022
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The Planning Commission made findings recognizing that the “number and complexity of conditions and factors related to the Covid-19 pandemic” contributed to the need for additional time and that, “there is no evidence in the record that extending the project will place people in conditions dangerous to their health or safety as there have been no substantial changes in circumstances since the project approval in 2016.” The Planning Commission did not make any findings to support their decision to reduce the requested time and there is no basis in the Monterey County Code or in the Map Act to support this reduction based on the above referenced findings made by the Commission. As a result, the findings do not support the Planning Commission’s decision to reduce the requested extension from 6 years to 3 years.

Based on the foregoing, the applicant requests that the Board of Supervisors grant the full 6 year extension of the Ferrini Ranch Subdivision Map.

Please let me know if you have any questions.

Sincerely,



Anthony L. Lombardo
ALL/cp

ALPHA COPY

OFFICIAL RECEIPT

COUNTY OF MONTEREY

RECEIVED FROM

DATE

9/11/2022

Domain Corporation

2716 Ocean Park Blvd #3006

STREET

Santa Monica, CA 90405

CITY

FOR

Notice of Appeal

OFFICE	MAIL	FIELD	CASH	CHECK	OTHER
PREVIOUS BALANCE			AMOUNT PRESENTED	3,540	00
AMOUNT PAID			AMOUNT OF PAYMENT		
NEW BALANCE			CHANGE REFUNDED		
ON ACCOUNT NO.			THE AMOUNT OF	\$ 3,540	00

CENTRAL VALLEY BUSINESS FORMS - (559) 651-3595

506382

REC'D BY

FORM #111-71