

Attachment C

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NOTICE OF APPEAL

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

RECEIVED
MONTEREY COUNTY
AUGUST -8 PM 2:25

CLERK OF THE BOARD
DEPUTY

Hand-delivered

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 10/8/18 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision * 9/27/18

1. Please give the following information:

- a) Your name Anthony Lombardo & Associates
- b) Address 144 W. Gabilan Street City Salinas Zip 93901
- c) Phone Number 831-751-2330

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

- ☐ Applicant
- ☒ Neighbor
- ☒ Other (please state) Representation for neighbor appellant

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

Tracy Alford TR

4. Indicate the file number of the application that is the subject of the appeal and the decision making body.

5.

	File Number	Type of Application	Area
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- a) Planning Commission: _____
- b) Zoning Administrator: PLN171011 Coastal Administrative Permit Del Monte Forest
- 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. Appeal of deferral of information necessary to
the decision

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

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).

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 \$ 0 and stamped addressed envelopes.

APPELLANT SIGNATURE

David Hatten

DATE 10/8/18

ACCEPTED

(Clerk to the Board)

DATE _____

Attachement to Appeal filed 10/08/2018

Monterey County Clerk of the Board
168 W. Alisal Street, 1st Floor
Salinas, CA 93901

Re: Appeal of Alford (APN 008-341-037-000) PLN171011 - RESOLUTION NO. 18-056

On September 27, 2018 the Zoning Administrator approved the application of Tracy Alford TR for a Coastal Administrative Permit to clear violations related to non-compliance with conditions of a prior coastal development permit, and for the addition of impervious areas without permits. The plans provided for this application are wholly incomplete, in that they conflict with information already on file from the previous actions, and they lack adequate information on compliance with stormwater discharge regulations. Also lacking clear evidence of compliance with impervious coverage limitations and with stormwater discharge regulations, the proposed CEQA determination of exempt proposed by staff is premature. We were present at the hearing and noted objections to both the acceptance of the project plans as “complete”, and to the scheduling of a decision. The following summarizes objections and appeal of the decision and findings:

- A finding of consistency with 20.147.030 is not supported by the evidence. Protection of to the water quality and biological value of the Del Monte Forest’s coastal streams, wetlands, open coastal waters, and the Carmel Bay through application of adequate buffers and setbacks, maintaining hydrologic inputs, protecting riparian and wetland vegetation, carefully controlling grading to minimize erosion and sedimentation, and effective collection, filtration, and treatment of runoff cannot be confirmed based on the inadequate plans provided with the application. Deferral of a full drainage plan describing the existing and post-project drainage layout to a date post-approval does not support the finding and approval. The project plans propose to modify the driveway surface from impervious to pervious in order to comply with conditions of a prior coastal permit (existing violation of that prior permit). As part of this change, a drainage plan was prepared noting several updates and/or additions of catch basins in the driveway for storm-water capture and dispersal. The drainage plan is incomplete as:
 - 1.) It does not explain where the storm-water goes to after entering the catch basins.
 - 2.) It does not describe existing drainage conditions (inclusive of all captured storm water on the property from structures and impervious coverage areas.

- 3.) It does not provide drainage calculations to verify the capability of the system to manage the existing stormwater capture plus the areas being added to the system.
- 4.) It does not describe the method or point of discharge for all captured stormwater (ie. dispersion trench).
- 5.) It does not verify retention of all captured storm-water on-site in compliance with the requirements of Pebble Beach Community Services District and RWQCB standards

Internal correspondence from county staff notes a prior drainage plan from 2001 showing transfer of storm-water runoff to “the bottom of an existing ravine” as being adequate and implies “off-site” dispersal. The discharge pipe(s) are in fact installed improperly outside the property boundaries and are discharging improperly to a tributary to the Carmel Bay. The current engineer notes “no need for a drainage design” due to “a net decrease in impervious area”. This is incorrect and inadequate.

- 1.) Drainage off-site is inconsistent with Pebble Beach and RWQCB standards. Modifications to an existing condition must be compliant with current regulations.
 - 2.) Any modification to a portion of drainage does require a review and design for the system in its entirety. As water is in fact being collected from what is now proposed to be “pervious”, that water does contribute to the load of the entire system; and it must be reviewed for consistency with regulations.
 - 3.) As the previous coastal permit concluded that the driveway would be “pervious” to achieve the 9000 sq. ft. limitation, and other impervious areas were in fact added to the site without permits since that time, there is an increased load to the drainage system.
 - 4.) We note that the existing system is in fact transferring all storm-water via an illegally placed large pipe(s) off-site onto the property of our client, which is improper and illegal. In addition, the area is in fact part of a conservation easement dedication in favor of the Coastal Commission, to which this dispersal of drainage would be a trespass and violation. As cited by Ms. Alford’s representation to the County and the Coastal Commission in other projects, this ravine is considered an area of biological significance to which discharge of collected stormwater is improper and in violation of CEQA.
- The project is not CEQA exempt. An exemption to CEQA cannot be supported if: *(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.* The deferral of the drainage plan until after the coastal permit and CEQA determination is made is improper given the existing and proposed increased discharge of stormwater on to the property of another and into an area of biological significance. Section 15604 (d) states that:
In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and

reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

Given uncertainty regarding the accuracy of the existing coverage numbers provided in this application versus prior representations, policies relevant to Pescadero watershed could not have been verified. Also, “the ravine” noted in file correspondence as the point of dispersal in a past drainage plan for collected storm-water is an environmentally sensitive area. Failure to address this improper drainage system is not compliant with CEQA. We note also again that the point of dispersal is off-site onto property of another which is improper, illegal, and a violation of a coastal commission conservation easement dedication.

- The finding of consistency with Policy 77 of the DMF LUP and Section 20.147.030 of the DMF CIP is premature, in that inconsistencies in existing and proposed impervious coverages were not adequately verified. In the prior coastal permit action, the project plans attesting to coverage totals for structures, driveways, patios, et al (pervious and impervious) were provided to and accepted by the County. The planning approval and conditions applied to the previous permit were based on those square footage totals, which indicated that the final total impervious coverage after conversion of the driveway to pervious would be exactly 9000 sq. ft. In addition to the noncompliance with the original permit conditions (to modify the driveway to a pervious surface), the owners have since added additional impervious areas (rear patio, etc.) after the fact without planning approval or permits. In the current application and plans, numerous “square footages” have mysteriously changed without explanation from the prior projects plans. We have repeatedly questioned the new numbers, and how the simple action of complying with the original project condition for the driveway will make the site compliant with the 9000 sq. ft. impervious coverage limitation, even though other impervious areas have been added since the last project that was determined to hit the maximum. We noted objection and concern as to what conclusive evidence was given to establish that the new numbers are correct. We suggested that a survey by a licensed surveyor is necessary to verify the calculations, but this has yet to be required. Deferral of the requirement for a full survey until after approval is inappropriate.

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**300 FT MAILING LIST FOR
PLN171011**

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