

# Attachment A

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# ATTACHMENT A DISCUSSION

## **PROJECT BACKGROUND:**

On February 28, 2014, Grant and Amelia Howerton (Applicant) applied for a Coastal Administrative Permit to demolish an existing one-story single-family dwelling and to construct a 2,230 square foot two-story single-family dwelling with a 986 square foot attached garage. The proposed residence and attached garage are located in an area which complies with all applicable site development standards [Section 20.14.060 (Site Development Standards)] of the Monterey County Zoning Ordinance (Title 20). Additionally, on March 25, 2004, the Zoning Administrator granted a Coastal Administrative Permit (Resolution No. 020147) to allow for the construction of a two-story residence with an attached garage in the same general area where the Howerton residence is proposed, followed by the issuance of grading (GP050052) and building (BP040801) permits. However, the previous owner/applicant did not follow-through with the approved development.

The subject parcel is zoned LDR/2.5 (CZ) [Low Density Residential, 2.5 acres per unit (Coastal Zone)]. This zoning designation is designed to accommodate low density and intensity uses in the rural and suburban areas of the County of Monterey. The construction of a residence, including the attached garage, is an allowed use under the zoning designation subject to securing a Coastal Administrative Permit. In addition, the project includes removal of two 20-inch Monterey pine trees, and the removal of one 32-inch eucalyptus tree.

The property was reviewed by the Monterey County Cultural Affairs Manager (Meg Clovis, Parks Department) for the potential of historical significance of the site and of the existing structures that are proposed for demolition. The Phase One Historical Assessment (LIB140386) concluded that due to the lack of landscape characteristics the property does not meet the integrity thresholds for setting, design, materials, workmanship, feeling or association. Therefore, this application was not referred to the Historic Resources Review Board (HRRB) due to lack of historical integrity.

The Howerton application was scheduled for administrative hearing on November 26, 2014, before the Director of RMA – Planning; however, on November 24, 2014, a group of neighbors submitted a letter to the Director of RMA – Planning requesting a public hearing. The Director of RMA – Planning referred the application to the Zoning Administrator for further consideration, and the Howerton application was scheduled for public hearing before the Zoning Administrator on January 8, 2015. At the public hearing, the Zoning Administrator approved the Coastal Administrative Permit (Resolution No. 15-004; **Attachment D**). On February 2, 2015, Dr. Eugene J. Guglielmo (Appellant) filed a timely appeal (**Attachment C**) from the January 8, 2015, decision of the Zoning Administrator. The appeal is brought on the basis that 1) there was a lack of fair or impartial hearing; and 2) the findings or decision or conditions are not supported by the evidence. The hearing on the appeal at the Board of Supervisors is de novo.

## **APPELLANT'S CONTENTIONS AND STAFF RESPONSE:**

The Appellant contends that the Zoning Administrator's hearing on January 8, 2015, was not fair or impartial, contending that the hearing focused on the project at 5 Bayview Road and did not analyze the impacts to the neighborhood, specifically with regard to the firefighting resources available in the vicinity. The Appellant also contends that the Zoning Administrator's decision and findings are not supported by the evidence. The Appellant's contentions and staff's response to each of the Appellant's specific contentions follows:

**Appellants' Contention 1- There was a lack of fair or impartial hearing:** The Appellant contends that *"In regards to the first reason checked, the hearing focused on the merits of construction at a single property at 5 Bayview Road. A bias was introduced as one component, 5 Bayview, was analyzed in isolation to its impact on the bigger system, the neighborhood, which does not possess the ability to fight a house fire nor to contain it from spreading onto or from 5 Bayview."* The Appellant also contends that *"In regards to Concern 1, again the Staff's response was that NCFPD was not available to comment in regards to the Water System for fire protection and building fire protection systems. The fault, however, does not reside solely with 5 Bayview, but with the Water System and its members, which exceeds the regulatory scope of Environmental Health in its present form."*

**Staff's response to contention no. 1:**

The Applicant proposes to demolish an existing single-family dwelling and wastewater treatment system, and construct a new single-family dwelling and wastewater treatment system. The subject property is served by an existing 4-connection water system (Bayview Road Water System No. 7), and the project does not involve the expansion of the water system or an increase to the number of system connections. The Monterey County Environmental Health Bureau (EHB) reviewed the application and determined that the subject parcel is served by the existing permitted water system. EHB only applied conditions of approval to require the demolition of the existing wastewater treatment system and construction of a new system to accommodate the new residence (Condition Nos. 15 and 16). Since the project involves no expansion of the existing water system, any on-going maintenance of the water system's infrastructure or water storage needs is the responsibility of the shareholders of the water system. EHB is following up on the concerns expressed, and will assist Bayview Road Water System No. 7 as required. In addition, the North County Fire Protection District (NCFPD) reviewed the proposed project application during the County's Inter-Departmental Review (IDR) period, and did not impose any conditions of approval. The NCFPD will also review the building plans and conduct inspections during construction to ensure the structures meet current applicable fire code requirements. The unavailability of the NCFPD to comment on the firefighting capacity of the neighborhood water systems did not introduce a bias into the decision of the Zoning Administrator. The NCFPD reviewed the proposed plans and worked with the Applicant to ensure applicable fire suppression requirements were incorporated. In addition, RMA-Planning staff will review the final landscape plan (Condition No. 7) to ensure the landscaping on the Applicant's parcel is consistent with fire clearance requirements. Ensuring fire clearance around structures on adjacent properties would be the responsibility of those property owners, not the Applicant.

The Appellant's concern that the existing water systems in the vicinity of Bayview Road do not have adequate capacity or infrastructure to successfully fight a brush or structure fire, and his proposal of a water system merger, far exceed the scope of the project and the County's applicable review authority. The merger of water systems is not within the purview of the County's review for the Howerton project, and would require the voluntary cooperation of the other water system owners. Communication between RMA-Planning, EHB, and NCFPD staff on March 6, 2015, confirmed there are no issues or concerns with the project as proposed and conditioned. As stated above, the NCFPD reviewed the proposed plans and worked with the Applicant to ensure applicable fire suppression requirements were incorporated into their project proposal. While the County understands the Appellant's concern and would support merger efforts of the various Bayview Road water systems, the limited scope of the Howerton project does not include addressing the issue of firefighting capacity or infrastructure for the entire neighborhood. Therefore, the Howerton project should not be conditioned or denied on the basis of the Appellant's concern.

**Appellants' Contention 2 – The findings or decision or conditions are not supported by the evidence:** The Appellant contends that “As for the second reason checked, the Staff responded that North County Fire Protection District (NCFPD) was not available to comment. Hence, any evidence to dismiss fire protection as being a non-issue was never brought to bear on the decision. Evidence was provided to Planning and Environmental Health on Mon 26 Jan 2015 at 8 AM for analysis which lead to filing this Appeal. Further details are attached.” The Appellant also contends that “As for Concern 2, the Staff responded that this is not a Design Control area, and it is not an area identified as being in the Critical Regulatory Viewshed. The concern is more so on the viewshed and fire, which if not controlled properly, adversely affects 43 homes on Bayview Road and Kenwood Place. Hence, escalation using this Appeal is necessary when neighbors put at risk the health, life, and property of neighbors. Again, specific details were provided to Planning and Environmental Health on Monday 26, 2015 at 8 AM for analysis. Further details are attached.”

**Staff's response to contention no. 2:** Regarding the issue of fire protection and firefighting capability, see staff's response to contention no. 1 above. Regarding the design and viewshed impact of the proposed single-family dwelling, the Appellant contends the steel-finished exterior of the proposed Howerton residence is not appropriate for the neighborhood and that the proposed landscape plan would cause loss of views of the Monterey Bay and Elkhorn Slough for properties located above (i.e., east) of the Applicant's property at 5 Bayview Road.

The subject parcel is zoned LDR/2.5 (CZ) [Low Density Residential, 2.5 acres per unit (Coastal Zone)]. This zoning designation is intended to accommodate low density and intensity uses in the rural and suburban areas of Monterey County. The construction of a single-family dwelling with an attached garage is a principally-allowed use under the zoning designation, subject to securing a Coastal Administrative Permit, and the proposed structures are located on the parcel in compliance with all applicable site development standards. Consistent with these facts, the Zoning Administrator approved a Coastal Administrative Permit (Resolution No. 15-004) at a public hearing on January 8, 2015. The subject parcel does not have a Design Control District zoning overlay; therefore, a Design Approval is not a required entitlement for the proposed structures. The Zoning Administrator found the project to be consistent with applicable policies of the North County Land Use Plan (LUP). While the LUP Visual Resources policies protect public views, they do not protect private views. Specifically, the proposed location of the structures is consistent with LUP Policy 2.2.2 .4, which directs location of structures on the least visually obtrusive portion of a parcel. Location of the structures near the eastern boundary of the property reduces their visibility from Elkhorn Road. In addition, the Appellant suggests the County impose a requirement on the Applicant to remove vegetation on adjacent properties to restore views from 5 to 41 Bayview Road. The other properties on Bayview Road are not a party to this application and private views are not protected; therefore, the Appellant's proposed requirement is not relevant to the subject project.

### **ENVIRONMENTAL REVIEW:**

California Environmental Quality Act (CEQA) Guidelines Section 15303(a), Class 3, categorically exempts one single-family residence in a residential zone. The project consists of the demolition of an existing residence and the construction of a two-story residence with an attached garage, a wastewater treatment system, a 12-foot wide driveway, and related drainage improvements. Therefore, the project is consistent with the parameters of the Class 3 categorical exemption.

### **RECOMMENDATION:**

Staff recommends that the Board of Supervisors adopt a resolution to:

- a. Deny an appeal by Dr. Eugene J. Guglielmo from the decision of the Zoning Administrator to approve a Coastal Administrative Permit to allow the demolition of an

existing 1,016 square foot single-family dwelling and the construction of a 2,230 square foot two-story single-family dwelling with an attached 986 square foot garage;

- b. Find the project exempt from CEQA per Section 15303 of the CEQA Guidelines; and
- c. Approve a Coastal Administrative Permit to allow the demolition of an existing 1,016 square foot single-family dwelling and the construction of a 2,230 square foot two-story single-family dwelling with an attached 986 square foot garage, based on the findings and evidence, and subject to the conditions of approval and in general conformance with the attached plans.