

Exhibit A

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DISCUSSION

The applicant requests approval of an Administrative Permit to allow the use of an existing 1,812 square foot single-family dwelling for transient use (short-term rental), consistent with the requirements of Monterey County Code (MCC) Section 21.64.280. The subject site is within the Greater Monterey Peninsula Area Plan, which is in the inland area of the County and subject to MCC Title 21 (Zoning Ordinance). MCC Section 21.64.280.D.1 allows transient use of residential property for remuneration in all zoning designations which allow residential use upon issuance of an Administrative Permit, and where adequate services and facilities exist to support the use. To date, the County has approved seventeen (17) short-term rentals (approximately 1.1 percent of the 1,551 residential lots) in the Country Club area of the DMF (see **Exhibit E**). This only includes short-term rentals which have approved permits. It is unknown how many more may be operating without permits. The project applicant applied for the applicable permit to allow transient use of their residential property, subject to the restrictions/requirements found in MCC Section 21.64.280.D.2. Pursuant to Zoning Ordinance Section 21.70.060.A.5, an area resident objected to allowing use of the property as a short-term rental, and requested a public hearing (**Exhibit D**). Per the request for public hearing, this application was initially set for a hearing before the Zoning Administrator on August 25, 2016.

Pursuant to MCC, Administrative Permits are determined by the Chief of Planning, unless they are referred to the Zoning Administrator for consideration based on a request for public hearing. Two recent applications for Administrative Permits, the subject application Hill (PLN160233) and Brosseau (PLN160110) for short-term rentals have resulted in requests for public hearings, citing concerns related to the use as well as citing the County's ongoing consideration of new regulations for short-term rentals within the County unincorporated area. If the Chief of Planning or the Zoning Administrator finds that an application involves significant policy issues or has the potential to cause significant changes in the nature of a community, the matter shall be referred to the Planning Commission. The Chief of Planning determined this application involves a significant policy determination that could impact the nature of the community. Therefore, this application was referred to the Planning Commission, and set for public hearing on August 31, 2016.

At the hearing on August 31, 2016, a Pebble Beach Company (PBC) representative asked the County to temporarily halt issuance of new Administrative Permits for transient use (i.e., short-term rentals) pending adoption of new County regulations for short-term rentals. Pursuant to MCC Section 21.64.280, the Planning Commission requested confirmation of the organization responsible to act as the homeowner's association within the Del Monte Forest or Pebble Beach area, and continued this item to October 26, 2016. Based on the Planning Commission's request for confirmation of the organization responsible to act as the homeowner's association within the Del Monte Forest or Pebble Beach area, County staff requested and received correspondence (**Exhibits G and H**) from both PBC and the Del Monte Forest Property Owners (DMFPO). DMFPO stated that it is a voluntary organization (i.e., not a homeowners' association) that has no authority to enforce conditions, covenants, and restrictions (CC&Rs). PBC stated that the proposed use would violate applicable CC&Rs. PBC also submitted evidence demonstrating that PBC is the de facto homeowners' association for the Del Monte Forest (DMF) area, and asserted that it be deemed the affected homeowners' association for the purposes of ordinance

implementation. PBC also objected to the issuance of additional permits for transient (i.e., short-term rental) use in the DMF pending County adoption of a new ordinance and analysis of the circumstances in the DMF.

Pursuant to MCC Section 21.64.280.D.2.g, the County shall not approve the requested permit or entitlement until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association.

Upon review of the PBC letter (**Exhibit G**), County staff has determined that substantial evidence demonstrates that PBC is the de facto and/or functional equivalent of a homeowners' association for the Pebble Beach/Del Monte Forest area, and recognizes PBC as the affected homeowners' association for the purposes of ordinance implementation, specifically, MCC Section 21.64.280.D.2.g. PBC asserted that homeowners' associations were not prevalent when the Country Club area of the DMF was subdivided, and the CC&Rs were imposed as a means of maintaining continuity in the residential areas (i.e., neighborhood character). In addition, PBC operates the Architectural Review Board, and owns and maintains the DMF road network for use by residents and commercial activities within the DMF.

The applicant's representative states (**Exhibits I and K**) that, pursuant to the Architectural Standards and Residential Guidelines for Del Monte Forest adopted by PBC, short-term rentals are an allowed use subject to a County Use Permit. However, the referenced guidelines are not part of MCC, and are not subject to County enforcement or interpretation.

ENVIRONMENTAL REVIEW:

California Environmental Quality Act (CEQA) Guidelines Section 15270 statutorily exempts projects which a public agency rejects or disapproves.

Recommendation:

Staff recommends the Planning Commission deny an Administrative Permit to allow transient use (short-term rental) of an existing single-family dwelling pursuant to Monterey County Code 21.64.280.