

# Exhibit A

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## DETAILED DISCUSSION

### SCOPE & LAND USE

The proposed project entails the renovation of the exterior and interior of an existing three-story, 3,034 square foot single-family dwelling with the addition of an elevator, solar panels, and a front deck on the second story. Additional improvements include grading for new footings, driveway reconstruction, landscaping, and installation of new fire sprinkler system. The project would remodel the existing structure and result in a net reduction of 114 square feet.

The project site is located in an unincorporated Carmel, approximately 0.3 mile south of Carmel-by-the-Sea. The site and surrounding properties are zoned Medium Density Residential with an allowed density of two units per acre (MDR/2-D [CZ]). The project site is currently developed with a legal non-conforming, 3,034 square foot, three-story, home that was built in 1973.

### EXISTING CONDITIONS

Monterey County Assessors' records indicate that the single family dwelling was constructed on the property in 1973. Unfortunately, County staff was unable to retrieve permit(s) approving construction of the dwelling. As such, staff looked to the regulations in place in and around 1973. At that time, zoning for the parcel was "One Family Residence" or "R-1". Monterey County Zoning Ordinance No. 911, updated March 26, 1967 and October 31, 1973, listed one single family dwelling as an allowed use in the R-1 district. Site development standards for main buildings included a maximum height limit of 35 feet, maximum site coverage of 35% and setbacks of 20 feet (front), 6 feet (sides) and 10 feet (rear).

As illustrated in the attached plans, the existing dwelling has:

- a height of 27 feet and 4 inches;
- a site coverage of 40.60% (1,812 square feet);
- a floor area of 67.98% (3,034 square feet);
- a front setback of 19 feet and 2 inches;
- a North side setback of 4 feet and 6 inches;
- a South side setback of 7 feet and 7 inches; and
- a rear setback of 15 feet.

### LEGAL NON-CONFORMING AND REGULATION ALLOWANCE

As proposed, the project is designed to limit the scope to an extensive remodel and avoid what is considered a demolition/rebuild of the dwelling (i.e. removing more than 50% of the exterior walls). The application includes a reduction of the existing coverage to meet the 35% requirement. However, the applicant requests to maintain the subject property's non-conforming floor area ratio (FAR), height and northern side yard setback. This discussion is intended to provide the Planning Commission with policy, regulation and information to weigh the facts of this particular case to consider a decision on this project. As explained below, the project can be considered within the regulations. However, considering the magnitude of the project, there is a potential for the project to trigger the need to come into conformance with the regulations, especially if there is an increase in the project scope. Should the Commission find the project is consistent with the applicable policies and regulations, a draft resolution of approval has been provided, including conditions of approval and mitigation measures identified in the Initial Study/Mitigated Negative Declaration (**Exhibit B**).

### *Floor Area Ratio*

As discussed above, zoning at the time of construction of the dwelling did not regulate FAR. However, current regulation allows a maximum FAR of 45%. Currently, the subject property has a FAR of 67.98% (3,034 square feet) and pursuant to Title 20 Section 20.68.010, a structure or land and structure which was legally established but is nonconforming to subsequently adopted land use regulations is a legal nonconforming use. Title 20 Chapter 20.68 provides regulations for legal nonconforming land use (section 20.68.020), structure use (section 20.68.030) and structure locations and height (section 20.68.040). The intent of FAR is regulate the bulk and mass of structures to maintain a desired arrangement and form of development upon the land. As such, this could be considered as a legal nonconforming land use. The renovation includes a FAR reduction to 2,920 square feet or 65.43% and pursuant to Title 20 Section 20.68.020.C, the legal nonconforming use may be changed to a use of similar or more restricted nature, subject to a Coastal Development Permit. However, if the Planning Commission considers FAR a legal nonconforming structure, since it's the structure that is causing the nonconformity, Title 20 Section 20.68.030.A allows the nonconforming use of a structure to be changed to a use of the same or more restricted nature, subject to the issuance of a Coastal Development Permit. Should the Commission consider that it is more appropriate to subject the FAR structure location, Title 20 Section 20.68.040.B allows maintenance and repair, including structural repairs and foundations without benefit of an entitlement as long as no structural alternations are made and the work does not exceed 50% of the appraised values of the structure. In this case, the structural repairs/alterations work (approximately \$459,600) would not exceed 50% of the appraised value of the structure (approximately \$919,780). However, in order to make necessary upgrades, the project includes structural alterations to the foundation and some bearing walls. As such, approval of the project would be subject to a Coastal Development Permit pursuant to Title 20 Section 20.68.040.C. In each case, approval of a Coastal Development Permit would allow repairs and internal upgrades to the dwelling to meet the needs of the property owner while avoiding the demolition and rebuild (removing more than 50 percent of the exterior walls). Further, it would allow the nonconformity to continue, but not in perpetuity. For example, without a Variance, the demolition and rebuild of the structure would require the new dwelling to conform with the 45% FAR requirement.

### *Height*

As discussed above, the R-1 zoning district allowed a maximum height limit of 35 feet and the existing structure is 27 feet and 4 inches. As such, the existing height is considered legal nonconforming pursuant to Title 20 Section 20.68.010. The height of the structure will remain the same and there will be no structural alterations to the home above 18 feet which is permitted pursuant to Title 20 Section 20.68.040.A.

### *Northern-side Setback*

The R-1 zoning district required a side setback of 6 feet. However, the existing structure is setback 4 feet and 6 inches from the northern side setback. Staff could not locate County permit records supporting that the setback qualifies as legal nonconforming, nor is there a record of an approved Variance to reduce the setback. Pursuant to Title 20 Section 20.12.040.Q, the reduction in setback requirements of 10%, or less, that required may be allowed with a Coastal Administrative Permit. The applicant proposes to retain the northern wall of the structure.

Fenestration (windows) will be modified while alteration of structural members will be avoided. Approval of the Coastal Administrative Permit would rectify the non-conformity and similar to the FAR discussion above, the reduction in the side setback would not be in perpetuity.

### *Parking*

The current dwelling includes a single car garage setback 19 feet 2 inches from the front property line. In order to reduce the lot coverage and FAR, the applicant proposes to setback the garage within living space increasing the front setback to approximately 26 feet. This would allow parking within the driveway and provide one additional onsite parking space than the existing condition. In accordance with Title 20 Section 20.58.050.E, the applicant seeks a Coastal Administrative Permit to allow this exceedance.

### VISUAL RESOURCES & DESIGN

The neighborhood consists of an eclectic mixture of one- and two-story homes in a variety of styles. Many of the homes utilize natural materials such as stone or wood, and have muted finish palettes including tans, greys, and browns. There are a variety of roof forms, with examples of hip, gable, and mansard roofs. Homes in the area are also partially screened with landscaping and wood or stone fences.

The project is subject to the Visual Resources protection policies of the Carmel Area Land Use Plan (CA LUP), the applicable implementing regulations of those policies in the Monterey County Coastal Implementation Plan (CIP), and the Design Control “D” zoning overlay district, which requires a design review of structures and fences to assure protection of the public viewshed and neighborhood character. The project is consistent with these policies, regulations, and the surrounding neighborhood character:

- In accordance with CIP Section 20.146.030.C.1.c the colors and materials include aluminum in medium bronze finish for doors and windows, local stone and wood shake in light paint finish for exterior walls and standing seam metal in medium bronze finish for the roof. See the figure below.

Staff conducted a site visit on June 28, 2022 and viewed the property from Highway 1 which is approximately 1 mile away, the home was not visible from Highway 1.



*View from Isabella Avenue, facing west on to project site*



*Project Rendering*

## ARCHAEOLOGICAL & TRIBAL CULTURAL RESOURCES

### *Archaeological Evaluation*

The site is in an area identified in County records as having high archaeological sensitivity. In accordance with the regulations for development within the Carmel Area Land Use Plan (Coastal Implementation Plan Section 20.146.090.B), an archaeological report (LIB210287) was prepared to analyze the potential of the project to impact archaeological resources. A report was prepared by Albion Environmental, Inc. (Albion) in November 2021. The report describes results of a records search at the Northwest Information Center (NWIC) of the project site and sites in a 0.5-mile radius, the field survey of the subject property, archival research, and archaeological subsurface testing.

Albion's subsurface investigation of the Project Area produced negative results and indicates that significant cultural materials are not located within the Project Area. Their analysis also indicated the proposed renovations would not affect any historical resources and no further archeological investigation was recommended.

Based on this, impacts to archaeological resources were determined to be less than significant. Monterey County's standard Condition of Approval No. 3 has been applied to the project, it requires the applicant to stop work if any cultural resources or human remains are identified. Nevertheless, due to the sensitivity of the area for tribal cultural resources, as identified through the tribal consultation process, a tribal cultural monitor and cultural sensitivity training are identified as mitigation measures for the project. While there is significant overlap in the analysis, CEQA differentiates between archaeological resources and tribal cultural resources. The tribal consultation process is further discussed in the subsection below.

### *Tribal Cultural Resources*

The project is within the culturally affiliated territory of the following tribes that have requested project notification:

- Ohlone/Costanoan-Esselen Nation (OCEN);
- Kakoon Ta Ruk Band of the Ohlone-Costanoan; and
- The Esselen Tribe of Monterey County

The County provided written notification to each of these tribes on August 5, 2022, one response was received on August 8, 2022 from the Esselen Tribe of Monterey County.

Albion's subsurface investigation of the Project Area produced negative results and indicates that potentially significant Tribal cultural materials are not located within the Project Area. This determination was based on two criteria: 1) lack of identification of intact soil strata, lacking

evidence of redeposition or disturbance; and 2) artifacts below the threshold for classification as an intact deposit were recovered from the excavation units.

Regardless, in accordance with Mitigation Measure CR-1 (Condition No. 9), prior to issuance of construction permits for grading or building, the owner/applicant shall submit to HCD-Planning a copy of the contract between the owner/applicant and a qualified local Native American Tribe for monitoring efforts.

More detailed discussion of the tribal consultations is included in the attached Initial Study and Mitigated Negative Declaration (**Exhibit D**).

### HAZARDOUS WASTE

During the CEQA review and preparation of the Initial Study, it was identified that the existing home was built in the early 1970s, and therefore has the potential to contain lead-based paint and asbestos. The Initial Study prepared for this project determined the potential impacts from these hazardous wastes could be mitigated to less than significant. These mitigation measures have been implemented as Conditions of Approval Nos. 10 and 11.

Condition No. 10 requires the applicant to sample any suspected lead-based paint prior to any renovation or demolition activities. If any lead-based paint is identified, it shall be disposed of in accordance with all state and local regulations.

Condition No. 11 requires the applicant to have the structure sampled as part of an asbestos survey. If asbestos is found in the building, it shall be removed and disposed of in compliance with applicable State laws.