

Exhibit A

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DISCUSSION

Project:

The project consists of a follow-up Coastal Development Permit for development within 100 feet of Environmentally Sensitive Habitat (ESHA) to restore approximately 7.7 acres of a 52-acre parcel to clear Code Enforcement violation. There is an existing Code Enforcement violation (15CE00187) that includes unpermitted grading along and within a drainage channel which is a tributary to the Elkhorn Slough. The California Department of Fish and Wildlife was called to investigate the violation and determined it was under their jurisdiction. The land surrounding and abutting the tributary is within the jurisdiction of the County.

History:

On July 29, 2015, a County Administrative Citation and Notice of Intent to Record a Notice of Violation had been issued for the following Assessor's Parcel numbers:

- 117-072-006-000: Unpermitted grading, including work in a drainage channel which is a tributary to the Elkhorn Slough; and development within 100 feet of ESHA pursuant to Section 16.12.040 (grading) Monterey County Code Title 16 and Section 20.36.030.E (Development within 100 feet of mapped or field identified environmentally sensitive habitats) of Monterey County Code, Title 20;
- 117-151-004-000: Development on slopes greater than 25%; and new or expanded agricultural operations, if evidence of historic farming cannot be proven, pursuant to Section 20.16.030C (Development on slopes in excess of 25% (in North County) of Monterey Code, Title 20.

On October 16, 2015, RMA Planning sent a letter to the owners, BJ-CR, Inc. to confirm and clarify the actions required to clear the citations on the two Assessor's Parcel numbers mentioned above as follows:

APN: 117-151-004-000:

- The County has reviewed the historic photos dating back as far as 1966 showing farming operations on this parcel along with existing roads going up the property. No additional permits are necessary for ongoing agriculture in these areas.
- The piles of tree debris located on the parcel have been removed and are no longer a violation.
- The North County Land Use Plan does not prohibit using water from a neighboring parcel. Staff has also confirmed with the Environmental Health Bureau that they do not regulate agricultural water use and have no concerns with piping in the water from Sakakihara Farms.
- Applicant is required to implement erosion control measures including sediment basins. A grading permit is required for development of sediment basins. At the time of this letter, grading plans are being finalized to submit to the County for a grading permit. Please do not install any sediment basins until you have an approved grading permit.

APN: 117-072-006-000:

- There is an existing violation of the California Fish & Game code. After meeting on site with California Fish & Wildlife Environmental Scientist, Carrie Swanberg, Fish & Wildlife Warden, Matt Henderson, and Central Coast Water Board, Jill North, it was determined that the unpermitted grading done within the drainage channel would be permitted under the jurisdiction of the California Fish & Wildlife Division (CDFW). Removal of the Willows along the channel and affecting the environmentally sensitive habitat within the Elkhorn Slough will require restoration and a Streambed Alteration Permit. Applicant's biologist, Tom Mahony, is working with the CDFW to provide a restoration plan for their approval. Once a restoration plan has been approved by the CDFW, the County will incorporate the proper measures to restore the portion of the site outside of state jurisdiction that is a part of the violation.
- No evidence has been submitted to demonstrate that agriculture ever occurred on this parcel. Therefore, the tilling that has been completed is unpermitted conversion of uncultivated land. This must be restored to its natural state. This will be resolved through the restoration plan. The applicant shall not be able to farm on this lower parcel.
- The CDFW will be preparing an environmental document for the restoration of the tributary to the Elkhorn Slough. Please keep the County apprised of the process on this parcel as it moves forward.

Update:

The County received an email on September 8, 2016, from the biologist, Tom Mahony with a status update on the property located at the end of Bay Farms Road in Royal Oaks, known as Assessor's Parcel Number 117-072-006-000. A Final Habitat restoration plan has been adopted for restoration and the applicant has received the required permits from the U.S. Army Corps of Engineers (Corps), California Department of Fish and Wildlife (CDFW), and the Regional Water Quality Control Board (RWQCB) to restore the site back to its original state prior to the June 2015 ground disturbance. Restoration work began on September 26, 2016, to remove the culvert/fill in the creek and re-grade disturbed areas. Erosion control measures have been implemented immediately following the completion of grading and culvert removal. The site will be planted with native species outlined in the Final Habitat Restoration Plan prepared by Ecological Concerns, Inc in March when contract grown plants are ready. The restoration site will be monitored for five years, as per the CDFW permit conditions.

Now that the restoration for the creek is almost completed, the County will process the entitlement for development within 100 feet of ESHA and approve the land portion of the restoration plan for the tilled land next to the tributary creek.

The Restoration Plan prepared by Ecological Concerns, Inc. includes re-grading of the tilled land to its natural state. Native plants will be planted as outlined in the Plan. A Condition of Approval will be required to submit evidence of the final restoration in the form of a Post report and photos. CDFW requires monitoring yearly for five years as per the Restoration Plan. The Biologist will copy the County with these yearly reports.

CEQA:

Pursuant to Class 4, California Code of Regulations, Title 14, Section 15304, the California Department of Fish and Wildlife has categorically exempted this restoration/remediation. The project includes remediation activities to return a site to pre-disturbance condition. No live trees will be removed and no significant environmental impacts will occur if the project is completed under the protective features included in Streambed Alteration Agree No. 1600-2015-0240-R4.

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