

Exhibit A

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DISCUSSION

Process

Land uses expected for HC zoning include mini-warehouse storage facilities, and if the facility exceeds 5,000 square feet in size, the Zoning Administrator is the appropriate hearing body for the discretionary decision (Title 21 Section 21.20.060.C.) However, the Carmel Valley Association expressed concerns in a letter to the Zoning Administrator on September 23, 2024 in response to the notice of a scheduled September 26, 2024 hearing before that body. Staff found it best to continue the item to a future hearing date to allow time to further clarify the access. The Zoning Administrator received this and other public comments in response to the Public Hearing Notice which prompted his decision to refer the item to the Planning Commission. Concerns expressed and staff responses are detailed below under the “*Public Comment*” heading.

Land Use & Development Standards

Setbacks in the HC district are set by the surrounding land use, provision of adequate parking and landscaping, and other site design features. As the parcel fronts Carmel Valley Road, a 100 foot setback is required pursuant to CVMP Policy CV-3.1. The project includes 100 feet (front), 5 feet (rear), and 27 feet on the entry side and 3 feet on the other side, a property line shared with a mini-warehouse storage facility’s fence and windowless wall. The proposed setbacks are adequate for the site. The height for the proposed project is at the maximum allowed height in this zoning district, 35 feet above average natural grade. Therefore, pursuant to Title 21, the CVMP and as proposed, the project conforms to applicable development standards regarding building site coverage, setbacks, and height.

County cannot require the application be consistent with one CVMP policy. Policy CV-1.24 states that “property located between the end of Center Street and north of the Carmel River within the mid-valley area shall be retained as one building site (APN: 169-131-024, 169-131-025).” The two properties are two separate legal lots of record, given the approval of a minor subdivision of the subject properties (MS96006, with Kaminske Parcel Map found in Vol. 21 PAR Pg 104). They are under separate ownership, have distinct and different Land Use designation and zoning districts, and each owner has constitutional private property rights. Therefore, the County cannot enforce CVMP Policy-1.24.

Visual Resources and Design Review

The site is subject to the policies of the Design Control “D” zoning district, which establishes design review requirements to assure protection of the public viewshed and neighborhood character. Additional policies found in the 2010 General Plan and the Carmel Valley Master Plan with regard to viewshed and rural character, viewshed near the Carmel River, and the Carmel Valley Road (Policies CV-1.1, CV-1.8, CV-1.9, CV-1.13, CV-1.14, CV-1.21, CV-3.1, CV-3.2, CV-3.3, and CV-3.8). The project is consistent with these policies and the surrounding neighborhood character:

- The proposed structure is consistent with the development standards of the zoning district and is in character with the height and massing of other development in the neighborhood.
- The colors and materials include matte gray Galvaline metal roof, dark and medium gray metal panel body, dark gray concrete CMU material, white window frames, trellis and vents, and black semi-transparent fence. These have a muted appearance and would blend

with the proposed landscaping and cloudy/foggy skies harmoniously.

- Three coast live oak trees are proposed to be planted beside the last structure on the side of the parcel within the Carmel Valley Road viewshed as part of a draft Landscape Plan (sheet L-1 of the attached Plans).
- Exterior lighting would be strategically placed approximately 3 feet above the 8-foot rollup doors (approximately 11-12 feet off the ground) to minimize off-site light spillage. Condition of Approval No. 27 requiring an exterior lighting plan which shall ensure compliance with Monterey County's Design Guidelines for Exterior Lighting/Glare.

It is difficult for staff to state whether the proposed development "encourages and furthers the letter and spirit of the Master Plan" as CVMP Policy CV-1.20 recommends. It can be surmised that the spirit of the CVMP is furthered by the development because it is proposed infill on a lot surrounded by urban uses, rather than proposing sprawl into more rural areas of Carmel Valley (with a request for rezoning). It is therefore consistent with CV-1.13, "to preserve the character of the village, commercially designated lots in Carmel Valley shall not be used for exclusively residential purposes"; and consistent with CV-1.14, which states that service centers should be limited to urbanized areas such as the mouth of the Valley, Carmel Valley Village or mid-Valley area. It can also be interpreted that the spirit of the CVMP is expressed by Policy CV-1.1, which states "the goal of preserving Carmel Valley's rural character. In order to preserve the rural character of Carmel Valley," the policy continues, "development shall follow a rural architectural theme with design review." The proposed development includes a façade design with a rural architectural theme (barn-ish). Design review by the Carmel Valley LUAC led to the proposed façade. However, any storage facility layered with a veneer of rural thematic elements is still in essence a storage facility, not a ranch. Therefore, the decision maker has discretion in the consideration of approvals on projects which are not rural in use because Policy CV-1.20 is subjective.

The project conforms with CVMP Policy CV-1.8 in that the siting protects visible open space in sensitive visual areas by developing within the mid-valley urban area and the design protects natural resources with mitigation measures and a voluntary naturally preserved area; it is consistent with the policy's guidance that development be sited adjacent to vertical forms and development in open spaces, as it is next door to a two-story commercial facility and other vertical forms.

CVMP Policy CV-1.9 states that structures proposed in open grassland areas that would be highly visible from Carmel Valley Road shall be minimized in number and be clustered near existing natural or man-made vertical features. The Project is proposed on a 2.08-acre lot that is currently vacant and has non-native grassland. Given the size and shape of the lot and the hardscape development to the east and west of it, this would not normally be considered "open grassland." There are similar vertical manmade structures on the adjacent parcel to the west. The project therefore conforms with CVMP Policy CV-1.9.

Pursuant to CVMP Policy CV-3.2, public vista areas shall be provided and improved along Carmel Valley Road. The project site is located on the side of Carmel Valley Road at the shortest property line (30 feet wide). When travelling at normal speeds on Carmel Valley Road, the project would flash by for approximately 1 second. There is no sidewalk on the frontage of the

property, and adjacent properties along Carmel Valley Road are built out with similar commercial development. Therefore, as proposed, the project would not obstruct public views of the hills and vistas as seen from Carmel Valley Road. Pursuant to CVMP Policy CV-3.3, views of the river and the hills as seen from key public viewing areas are not disturbed. There is no view of the river or the hills from a public vista point that would cross the subject parcel. If there were, it would be partially blocked by all the other development in the mid-valley shopping center and the immediate vicinity.

Development within 200 feet of the Carmel River Floodway Fringe

The project includes development within 200 feet of the Carmel River and the parcel includes an area of floodway fringe. Title 21 section 21.64.130.D.1 states this is allowed pursuant to a Use Permit. In addition to acquiring a Use Permit, the proposed development must also adhere to the regulations including: the first habitable floor of any structure shall be located at least one foot above the 100-year flood level, and the onsite wastewater treatment system (OWTS) shall be located and constructed in a way to minimize or eliminate infiltration of flood waters into the system or vice versa. As currently designed, improvements would include final floor elevation of 138.50 at Building A. The site plans show that elevation as between 121 and 127.0 feet (NAVD88, MOCO). Therefore, the structures would be built to final floor elevation over ten feet above the 100-year flood level. The OWTS is also located on the upper area behind Building A. Therefore, the project is consistent with the Title 21 regulations for development in the floodway fringe. FEMA flood zone (designated "AE") is present on the parcel only where the plans represent "riparian habitat." Consistent with CVMP Policy CV-3.8, there will be no removal of indigenous vegetation and no grading within the floodway.

Health and Safety

Domestic water is to be provided by an onsite well located on the parcel on the eastern side of Building C. Well testing was reviewed by the Environmental Health Bureau (EHB) and the well water quantity and quality was found sufficient to serve the project. Because the project will have only two water fixtures, including the toilet and sink for the manager's office and only minimal additional landscaping, water use will not exceed the limited water allowance that was established for the parcel upon its formation (MS96006 Conditions of Approval recorded as County of Monterey Document No. 2004014525). As discussed above, this project includes the installation of an OTWS to serve the office. EHB review a preliminary OWTS design and a percolation testing report for the project by Brian Papurello, Landset Engineers, Inc. dated August 12, 2022 (HCD Library Document No. LIB220335) which reported free groundwater was encountered at this site in a bore at an approximate depth of 40 feet below grade. EHB found the proposed system acceptable to support the proposed development. There are no impacts to health and safety anticipated by the construction or use phase of the development.

There is an easement agreement between the owner of the subject parcel and the neighboring parcel (APN 169-131-025-000, Document No. 2022048093). Within the document, the easement is described as a parking and drive easement. The easement anticipates parking onsite for the proposed project and sketched in a legal description plat dated April 2022. A 20 foot utilities easement was identified by the Parcel Map that created the subject parcel is described in the easement agreement as an area also utilized for driving and parking by for self-storage unit renters and maintenance workers. The parking area proposed for the office is also indicated as

part of the subject parcel's parking area. There is sufficient access allowed for the owner of the neighboring parcel to drive into APN 169-131-025-000. This includes capacity for the minimum width required for construction of an access road pursuant to Q102.2 of the County Fire Code, specifically two 10-foot-wide traffic lanes with an unobstructed vertical clearance of not less than fifteen feet, which are the dimensions of an access road.

Adequate road and transportation facilities exist for the use. The property is located on Center Street, a tertiary road, which is the main access road to the site. Transportation and Traffic impacts were further analyzed in the project Initial Study. Per the Traffic Study prepared for the project (Rick Engineering Company, July 25, 2022, HCD Library Doc. No. LIB220334), the two study intersections: Carmel Valley Road/Dorris Drive and Carmel Valley Road / Berwick Drive, operate between Level of Service A and C during peak hours with the proposed project with no operational deficiencies identified. The Initial Study found no significant impacts to traffic or transportation and the less-than-significant impacts are mitigated through the payment of County traffic fees, therefore, no mitigation measures were applied. The Applicant shall pay the Carmel Valley Master Plan Area Traffic Mitigation fee pursuant to the Board of Supervisors Resolution NO. 95-410, adopted September 12, 1995 (Fees are updated annually based on CCI). The applicant is also required to pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The County's Carmel Valley Traffic Impact Fee and RDIF fees have been applied as Condition Nos. 6 and 7, respectively.

Public Comment

The County received written comments in response to the public hearing notice for the Zoning Administrator hearing (**Exhibit H**) from Joseph Moita (attorney representing the mini-warehouse storage facility on adjacent parcels to the east) expressing a lack of support for the project and stating that it is not consistent with General Plan Land Use Policy LU-4.3 for compact development of commercial uses, or Carmel Valley Master Plan Policy CV-1.20, which are the Design and Site Review guiding policies discussed above. The commenter finds the proposed development is not sufficiently compact, too bulky, and have more Floor Area Ratio than the "letter and spirit of the Master Plan." The Moita comment letter also requested consideration of the finding in relation to the Subdivision Map Act. Staff found the project consistent with 2010 General Plan and CVMP policies. The Subdivision Map Act is not relevant to this project, as the Land Use designation for the land where the project is proposed has been Commercial since the adoption of the 2010 General Plan (Figure LU-3) and the project does not involve a subdivision.

Staff received written comments from the Carmel Valley Association (CVA). They included a statement that the Carmel Valley LUAC requested the project be returned for a second review, which is false (see **Exhibit D**, LUAC minutes). The CVA interpreted the design to conflict with access to the neighboring lot (APN 169-131-025-000). The access easement for the neighboring lot is not blocked by structures in the proposed project, as indicated in the civil sheets that were submitted with the application submittal (e.g. sheet C-9). However, staff requested additional illustration of the dimensions in the access easement area prior to decision hearing. The applicant provided **Exhibit I**, which clarifies that there is sufficient space for an access road to be constructed, should the neighboring lot require one. The CVA letter pointed to the Moita letter, the concerns of neighbors related to an existing issue with stormwater drainage in the public right of way, described below, and a few other original points. The CVA letter contends, without

supporting evidence, that the project deviates from the CVMP so much that it “seriously undermines the Valley’s unique character and its livability.” The letter listed a requirement to adhere with CVMP Policy CV-1.9, which relates to open grassland areas. The project is proposed on a 2.08-acre lot that is currently vacant and has non-native grassland. Given the size and shape of the lot and the hardscape development to the east and west of it, this would not normally be considered “open grassland.” There are similar vertical manmade structures on the adjacent parcel to the west. The project therefore conforms with CVMP Policy CV-1.9. The CVA letter describes the project site as a residential neighborhood among the reasons not to support the development. The subject site is zoned Heavy Commercial, and Commercial Zoning District makes up 100 percent of the zoning from Robinson Canyon Road to the far side of Dorris Drive along Carmel Valley Road, so such a portrayal of the neighborhood is inaccurate. The CVA letter also calls the social trail that crosses this private property as part of an historical trail, which it is not. A social trail without an easement is not an historical trail. However, there is a trail easement on the next parcel to the south (APN 169-131-025-000). Public habit of crossing vacant, privately owned parcels cannot be enforced by County. However, the owner heard comments in the LUAC meeting about this trail and considered how to accommodate the ongoing use. Pursuant to a letter from the owner dated May 9, 2024, the owner explored options for creating a walking trail easement on the southern portion of the subject property, but it was not feasible for several reasons (**Exhibit J**).

In August 2024, two neighbors expressed to staff that there was a drainage issue in the street of Berwick Drive at the intersection with Center Street and their concern that the proposed project could intensify the problem. (Reiterated in **Exhibit J**, second letter from Tracy K.) Planning staff conferred with Public Works staff, who checked the site on September 16, 2024. At the time, there was no standing water. Public Works staff opined that the issue could be caused by debris gathered in the concrete cross gutter of Berwick Drive. There is also a property one house south of Center on Berwick Drive, with a substantial hedge which encroaches into the concrete gutter pan and appears to block the gravity flow of stormwater toward Dorris and Berwick Drive, where it is released into a catch basin connected to a pipe that takes the stormwater to the Carmel River. Public Works staff will recheck the intersection when the rainy season begins. If the curb joint has been uplifted ten feet south of Center Street, on Berwick Drive, and it is determined to be a physical block that is causing backflow of stormwater, they will take the appropriate measures to correct this problem (either grinding, cutting out and replacing a section of concrete). If the issue is directly related to the hedge at 50 feet from south of Center Street, on Berwick Drive, Public Works will write a letter to the owner that they need to cut back the hedge. In respect to the proposed project, it would not have the potential to increase the storm drainage issue because the driveway slope is designed to contain stormwater onsite, directing it into an onsite drainage basin. Public Works and HCD-Engineering Services will review the design at construction permitting pursuant to Condition Nos. 4 and 5 to ensure the hardscape improvements at the terminus of Center Street meet this expectation.

Staff received written comments from five other members of the public which were all against the project on similar grounds to the CVA letter, for reasons of aesthetics and the size of the structures, concerns with traffic which are addressed above, and wishes to keep the social trail on the subject parcel.

CEQA:

Pursuant to Public Resources Code Section 21083 and CEQA Guidelines Sections 15063(a) and 15063(b)(2), the County of Monterey as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared a Initial Study and draft Mitigated Negative Declaration (IS/MND) for this project (**Exhibit E**). The MND was filed with the County Clerk on June 21, 2024, and circulated for public review and comment from June 21 to July 22, 2024 (SCH No. 2024060941).

During public review of the IS/MND, the County received comments from Deborah Castles of Anthony Lombardo and Associates (agent representing the project) expressing a number of edits to the public draft and a comment letter from staff at Monterey Bay Air Resources District (**Exhibit F**). Most proposed edits were within the Biological Resources section and referred to an attached letter from the project biologist to the applicant recommending errata edits for clarification of reporting timing and survey types. Others were suggested corrections to typos. The agent also requested the County set a strict time period for the consulting archaeologist to conclude any assessment of the extent of the resources, should any be discovered during ground disturbance. County staff reviewed the comments received based on the specific circumstances of this project and determined that they do not alter the conclusions in the Initial Study, however staff found minor revisions to the draft IS/MND are necessary in response to the comments.

Some requested edits were not made. Rather than set a week for archaeologist to complete their assessment of resources, staff edited the draft MND to state that the amount of time taken to prepare the determination shall be coordinated between the owner and the archaeologist through the Scope of Work in their contract. Also, the comment from MBARD was noted to be concerned with requirements already in place as part of the construction permit review and issuance (fugitive dust control, carbon emission standards for construction equipment, registering construction equipment with the Portable Equipment Registration Program). The MBARD letter included a suggestion that the owner add publicly available dual port Level 2 & DC fast-charge charging EV stations in the facility parking areas as part of the project. Staff conveyed the request to the applicant for their consideration but did not require charging stations as a Mitigation Measure because the Greenhouse Gasses (GHG) Chapter of the IS/MND did not conclude that GHG would be impacted to a level that would require mitigation.

After some additional consideration of the Project Traffic Reports, HCD-Engineering found that they would not use the VMT report that was submitted for the project, and instead utilized the traffic data that was included in a separate traffic study and analyze the impacts based on the Office of Planning and Research thresholds. They requested several edits to pages 26 and 65 through 68. The edits did not alter the analysis conclusions.

In light of these reviews of the publicly circulated IS/MND, staff prepared the redline version of the IS/MND which is attached as **Exhibit G**. The redline version shows that most applicant-requested edits were absorbed, and reflects the changes made by HCD-Engineering Services. It is this version of the environmental document which staff recommends the commission adopt.