Exhibit A

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COUNTY OF MONTEREY

HOUSING AND COMMUNITY DEVELOPMENT

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INTERPRETATION REQUEST BY HCD-PLANNING - REPLACEMENT DEVELOPMENT IN A SITE PLAN REVIEW ZONING DISTRICT, DESIGN CONTROL ZONING DISTRICT, AND VISUAL SENSITIVITY ZONING DISTRICT

Applicable Code Sections:

- Title 18 section 18.11.030.F
- Title 21 section 21.44.040.D
- Title 21 section 21.45.010
- Title 21 section 21.45.020.B
- Title 21 section 21.45.040.C
- Title 21 section 21.46.040.B

Date: March 18, 2025

Subject: The replacement of a single-family dwelling in a Site Plan Review ("S") Zoning District, Design Control ("D") Zoning District, and Visual Sensitivity ("VS") Zoning District

Question:
Is a replacement or rebuild (defined by Title 18 as the removal of more than 50% of the exterior walls) of a single-family dwelling subject to an Administrative Permit in an "S" District, Public Hearing Design Approval in a "D" District, or an Administrative Permit or Use Permit in a "VS" District, if there are no impacts to resources?

Short Answer:
No, only an Administrative Design Approval is required for the demolition and rebuild of an existing single-family dwelling, provided such development is contained in the previously disturbed area and does not impact sensitive resources.

Discussion:
Monterey County Code (MCC) section 21.45.010 states that the purpose of the "S" District is to "provide district regulations for the review of development in those areas of the County of Monterey where development, by reason of its location has the potential to adversely affect or be adversely affected by natural resources or site constraints without imposing undue restriction on private property." According to MCC section 21.45.020.B, the "[C]hapter shall only apply to those areas of the County of Monterey in which sensitive natural resources or unusual site constraints exist which require review of the location of development." Development within an "S" District typically requires an Administrative Permit (Section 21.45.040.A); however, Section 21.45.040.C states that "The Director of Planning [Chief of Planning], or the Zoning Administrator, may approve, without benefit of an Administrative Permit, small development projects such as structure additions, accessory structures, decks, fences, similar minor developments and minor modifications to previously approved projects. No public notice shall be required for actions of the Director of Planning, or the Zoning Administrator, taken pursuant to this paragraph. Under this

requirement, a new single-family dwelling in an “S” District would normally require an Administrative Permit because it is not considered a small project. Chapter 21.45 does not specify whether this requirement would apply to the replacement of an existing legally constructed home in the same location. Additionally, all properties subject to the “S” District are also subject to the “D” District, see below.

To ensure the protection and visual integrity of the public viewshed and neighborhood character, the “D” District regulates the location, size, configuration, materials, and colors of structures in those scenic areas of the County of Monterey. Within a “D” District, the County of Monterey offers three types of Design Approval Permits: Over-the-Counter Design Approval, Administrative Design Approval, and a Public Hearing Design Approval. The County’s Design Approval Guidelines Matrix is intended to assist staff and the public in determining which type of Design Approval is needed, and is generally based on the type of development, size, visibility, and impacts on sensitive resources. Staking and flagging shall be installed for all proposed development, including redevelopment applications, within the “D” and “VS” to assist staff in determining visibility. Per the County’s Guidelines, construction of a new single-family dwelling within a “D” District would require a Public Hearing Design Approval, subject to consideration by the Zoning Administrator. Pursuant to MCC section 21.44.040.D, the “Director of Planning [Chief of Planning] may approve, in lieu of the Appropriate Authority, plans and submittals in "D" Districts for small structures such as structure additions, accessory structures and similar minor structures and minor modifications to approved designs.” Chapter 21.44 and County’s Design Approval Guidelines Matrix do not specify whether a Public Hearing Design Approval would apply to the replacement of an existing legally constructed home in the same location.

The “VS” District’s purpose is to “provide district regulations for the review of development in those areas of the County of Monterey in which such development could potentially create adverse visual impacts when viewed from a common public viewing area” (MCC § 21.46.010). New residential (non-agricultural) structures and additions within a “VS” District require either a Use Permit or an Administrative Permit, depending on their visibility and potential to create a substantial adverse visual impact when viewed from a common public viewing area (MCC § 21.46.030.D). However, under MCC section 21.46.040.B, the “Director of Planning [Chief of Planning] may approve plans and submittals in the "VS" District for small structures such as structure additions, accessory structures, and similar minor structures and minor modifications to previously approved projects. Such consideration shall be considered as a design approval pursuant to Section 21.44.040D of this Title.” Similar to Chapter 21.44, Chapter 21.46 does not specify whether a Public Hearing Design Approval would apply to the replacement of an existing legally constructed home in the same location.

Pursuant to section 18.11.030.F, the County considers the removal and replacement of more than 50% of the exterior walls of a single family dwelling a “rebuild”, and therefore treats it as a new residence. However, in certain cases, the replacement/rebuild of a single-family dwelling in the “S”, “D”, or “VS” District (or a combination of these Districts) would not require an Administrative Permit, Public Hearing Design Approval, or Use Permit. This is so when the project can be found a “minor development”, “small structure”, or “minor modification” project. This determination would be made by HCD-Planning Services staff and based on evidence that the project does not affect those resources that the “S”, “D”, or “VS” District are designed to protect. Specifically, that the project:

1. Would not affect sensitive or protected resources, including but not limited to native vegetation, protected trees, steep slopes, environmentally sensitive habitat, biological

resources, water/hydrology, streams and other watercourses, archaeological resources, and historical sites;
2. Would not include an excessive amount of grading or grading/development that would affect sensitive or protected resources;
3. Would result in no more than 1,000 square feet of additional building footprint, provided all new structural development remains entirely within the boundaries of existing, legally permitted hardscape (e.g., impervious and pervious patios, decks, walkways, driveways, retaining walls, etc.); and
4. If in the "VS" District, would not result in an adverse visual impact.

A replacement or rebuild of a single-family dwelling in the "S", "D", or "VS" District (or a combination of these Districts) meeting the above criteria may be considered a "minor development", "small structure", or "minor modification" project, thus removing the requirement to obtain an Administrative Permit, Public Hearing Design Approval, or Use Permit, respectively. According to Chapters 21.45 ("S" District) and 21.46 ("VS" District), "minor development", "small structure", and "minor modification" projects are subject to Chapter 21.44. The "D" District (Chapter 21.44) allows permits for "small structures" and "minor modifications to approved designs" with no adverse visual impact to be granted, subject to obtaining an Administrative Design Approval. Under Chapter 21.44, "minor development" and "minor modifications" projects in an "S" District that do not have the potential to create an adverse visual impact shall also be considered a "small structure" or a "modification to approved designs", and therefore allowed subject to the granting of an Administrative Design Approval. Regardless of size, the construction of a new single-family dwelling would not be considered a "minor development", "small structure", or "minor modification" project, as impacts to sensitive resources have yet to be analyzed or considered.

In "S" and "D" Districts, a replacement single family dwelling that meets the above criteria but has the potential to create a significant adverse visual impact shall obtain a Public Hearing Design Approval, subject to consideration by the Zoning Administrator or Planning Commission, per MCC sections 21.44.040.C and 21.44.040.E. However, in a "VS" District, if any portion of a replacement single-family dwelling is determined to have the potential to create a substantial adverse visual impact when viewed from a common public viewing area, the development shall not be considered a "small structure" and this interpretation shall not apply. In such an instance, a Use Permit and Design Approval shall be obtained as typically required, subject to consideration by the Planning Commission (MCC §s 21.46.030.D). Further, if the replacement single family dwelling requires an additional discretionary entitlement, including but not limited to allowing development on slopes in excess of 25% (see Policy OS-3.5 of the 2010 General Plan), ridgeline development, development within a floodplain or 200 feet of the top of bank, the removal of more than 3 trees, or to address impacts to any other protected/sensitive resource, this interpretation shall not apply. Finally, all replacement single-family dwellings shall comply with all site development standards of the Zoning District and applicable goals, policies, and text of the 2010 General Plan. If replacement single-family dwelling projects meeting the above criteria also propose the construction of additional small or minor detached accessory structures (e.g. garages, sheds, barns, etc.), such structures shall be reviewed in accordance with the applicable Zoning District's regulations.

Conclusion:
Replacement projects meeting the above four criteria shall be considered "minor" or "small" development projects and can be processed with an Administrative Design Approval to expedite the permit process, while still allowing for review of the proposed structures in compliance with

the intent of the “S”, “D”, and “VS” Districts. If the replacement development has the potential to create an adverse visual impact, a Public Hearing Design Approval shall be required within the “S” and “D” District, and a Use Permit and Design Approval shall be required within a “VS” District. Staking and flagging shall be installed for all replacement projects to assist staff in determining whether the project has the potential to create an adverse visual impact.

Background:
The purpose of the “S” District is to protect resources including, but not limited to, vegetation, environmentally sensitive habitat, water, archaeological, historical sites, and geological hazards. The “D” and “VS” Districts ensure the protection and visual integrity of the public viewshed and neighborhood character. The provisions of these Districts apply to all underlying Zoning Districts, but only to those areas of the County of Monterey in which sensitive natural resources or unusual site constraints exist, and protection of the public viewshed requires reviews of the location, design, size, and configuration of development.

A replacement or rebuilt residence that does not impact resources and is in a previously disturbed area can be considered a “minor development” or “small structure” project per Sections 21.44.040.D (Regulations for Design Control Zoning Districts or “D” Districts), 21.45.040.C (Regulations for Site Plan Review Zoning Districts or “S” Districts), 21.46.040.B (Regulations for Visual Sensitivity Zoning Districts or “VS” Districts).

Pursuant to Title 21, the Director of Planning and Building Inspection [Chief of Planning], may approve minor developments and small structures without the benefit of an Administrative Permit or Use Permit, or in lieu of a Public Hearing Design Approval, as applicable. This Administrative Interpretation only applies within the Inland areas of unincorporated Monterey County.

This Administrative Interpretation is not a “project” under CEQA Guidelines pursuant to section 15378 as it does not have the potential to result in either direct or indirect changes to the environment. However, all discretionary permits subject to this Administrative Interpretation shall be reviewed in accordance with the CEQA Guidelines.

Interpretation Prepared By: Fionna Jensen, Principal Planner

Interpretation/Opinion Confirmed by Managers _____.
Melanie Beretti, AICP
Chief of Planning

This Administrative Interpretation was reported to the County of Monterey Planning Commission on May 28, 2025, and may be appealed within fourteen days of this meeting date (June 11, 2025). This Administrative Interpretation shall not become effective until the conclusion of the appeal period or the conclusion of the appeal process, if appealed.