

Exhibit B

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DISCUSSION

Applicants' Objectives:

The Panattoni's have three legal lots of record; one is mostly located in the ocean. They currently live in an existing residence located on a flag lot. The lot predominantly covered with the ocean has no legal access. The third lot is vacant and has frontage on Cypress Drive, but would normally take access off the flag stem portion of the flag lot. Both of the non-ocean lots are legal and conforming lots (minimum one acre in size.)

The applicants do a lot of fundraising and entertaining in their home and desire a home and circulation pattern that would be more conducive to these activities. The proposed home would not comply with the site coverage or floor area ratio limitations of the Low Density Residential Zone on the existing flag lot. The lot merger would result in the existing flag lot being sufficiently large to accommodate the proposed home, but the second lot would be less than an acre in area making it a non-conforming lot.

The project would:

- a) Merge three parcels (1.18 acres, 1.04 acres, .17 acres) into two parcels, a 1.66 acre "Flag Lot Parcel" and a .79 acre "Upper Parcel";
- b) Demolish the existing 5,370 square foot single story main residence on the "Flag Lot Parcel" and construct a 12,064 square foot two story main residence with attached 591 square foot garage; and
- c) Propose a 2,204 square foot residence with attached 781 square foot garage for the undeveloped "Upper Parcel".

LOT LINE ADJUSTMENT

The Subdivision Map Act limits consideration of a Lot Line Adjustment to a determination of whether "The parcels resulting from the lot line adjustment conform to the County's general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances". Site development standards for LDR Zoning requires a minimum building site of one acre. The subject site currently contains two parcels which conform to zoning standards and one parcel which does not and is not developable. The applicant would like to end up with two parcels one which conforms to zoning standards and one which does not. The table below shows how the adjustment would work:

	Existing	Parcel After Merger
Parcel 1 (Upper)	45,374 sq ft (1.04ac)	0
Parcel 2 (Flag Lot)	51,345 sq ft (1.18ac)	72,314.3 sq ft (1.66ac)
Parcel 3 (Lowest)	7,193 sq ft	31,597.7 sq ft (.78ac)

The applicant argues this is an acceptable approach because the adjustment would take area from an existing conforming lot and add it to an existing conforming lot and to a non-conforming lot. This would make the existing non-conforming lot more conforming, and would make the conforming lot larger. Past County practice has been to allow adjustments to non-conforming lots when the result of the adjustment to the newly adjusted lots are either equal in size or more conforming than before the adjustment. While it can be argued that the existing non-conforming

parcel would be made more conforming and thus comply with past practice, the argument ignores that there are currently two conforming lots, and the result would not maintain two conforming lots. Good planning practice would seek to maintain conformity with minimum standards, or strive to improve a situation. This request adjusts three parcels to create a much larger parcel at the expense of an existing parcel.

The question confronting the Planning Commission is whether it is consistent with zoning ordinance standards to start with two conforming parcels and not result in two conforming parcels.

Staff recommends that both parcels maintain a minimum area of one acre. Staff is recommending approval of the Lot Line Adjustment with the condition that the parcel sizes be adjusted to maintain minimum lot sizes. This will require that the house size be adjusted to maintain consistency with structural coverage and floor area ratio.

POLICY ANALYSIS:

Local Coastal Program (LCP) Policies in the Del Monte Forest (DMF) Land Use Plan (LUP) & Coastal Implementation Plan (CIP) affecting this proposal include:

- A. Pescadero Watershed: The project is located within the Pescadero Watershed. Pursuant to Section 20.147.030 of the Del Monte Forest Land Use Plan, lot coverage and impervious surfaces for residential development shall be limited to a maximum of 9,000 square feet. (Policy 1 LUP & 20.147.030.A.1.b CIP). The intent of the Pescadero Watershed policy is to ensure that the biological values of open coastal waters and the Carmel Bay are protected by carefully minimizing runoff and providing effective collection, filtration, and treatment of runoff by limiting development to 9,000 square feet of structural and impervious surfaces.

The proposed development on the “Flag Lot Parcel” includes 7,533 square feet of structural coverage and 3,420 square feet of impervious surface area for a total of 10,953 square feet (1,953 square feet over the allowable 9,000 square feet). Existing lot coverage and impervious surfaces on the flag lot is 12,204 square feet which was granted with a previously approved Variance (PLN070607). Prior to the 2012 DMF LUP update, impervious surface limitations were based on either structural coverage or impervious surfaces. A variance was granted to exceed impervious surfaces because of special circumstances due to the flag lot shape requiring a long driveway area and the Pebble Beach Fire District indicated that pervious surfaces were not appropriate at that time. The structural coverage at that time was 4,970 square feet which complied with the 5,000 square foot structural coverage limitation. The impervious surface variance allowed a surface area of 7,234 square feet, well above the 4,000 square foot limitation. The variance was approved for the impervious surface related to the flag lot. This whole area is being converted to pervious surface, so it is not included in the impervious surface calculation in the proposed plan. The table below provides a comparison of these numbers:

	Existing	Proposed
Structural Coverage	4,970	7,533
Impervious Surface	7,234	3,420

The proposed lot coverage of the Upper Parcel is 2,985 square feet and impervious surface coverage is 2,046 square feet for a total of 5,031 square feet. This is 3,969 less than the allowable 9,000 square foot limitation. In order to compensate for exceeding the impervious surface limitation on the flag lot, the applicants are proposing Deed Restrictions to do the following:

- Limiting the total impervious surfaces and site coverage limitations on both Upper and flag shaped Parcels to a total of 16,000 square feet combined (which is 2,000 square feet less than the 18,000 square foot combined allowable Pescadero Watershed maximum).
- Limiting the expansion of future floor area on the Upper Parcel to an additional 1,344 square feet for a total of 5,031 square feet of floor area. The limit of 5,031 square feet will allow the flag lot could have 10,969 square feet for a total combined 16,000 square feet.
- Prohibiting second floor development on the Upper Parcel in order to avoid visibility of the Upper Parcel from Cypress Drive.

This is not in strict conformance to the policy provisions, but this is an unusual circumstance with two parcels under common ownership. The applicants overall coverage for the two parcels would be consistent with the Pescadero Watershed coverage limitations.

	Lot Size	Pesc. Watershed Allowable	Pescadero Proposed
Upper Lot	45,374 sq ft	9,000 square feet	5,031 square feet
Flag Lot	58,538 sq ft	9,000 square feet	10,969 square feet
TOTAL		18,000 Allowable	16,000 square feet

Overall staff finds this approach to be acceptable, with one caveat. Experience shows that when special limitations are placed on a parcel to mitigate an impact; in time subsequent owners will find the restrictions to onerous and apply to have them modified or eliminated. The County is often in the position of considering whether those restrictions need to be repealed. The applicant is proposing a deed restriction to address this so a future owner will be on notice, but many people do not pay enough attention to such restrictions.

The applicant has also proposed a drainage interceptor to collect and percolate surface runoff to avoid flow into the Carmel Bay. The project meets the intent of the Pescadero Watershed impervious surface limitations.

- B. Simple and Direct Access. The Del Monte Forest Land Use Plan requires new residential driveways and other vehicular surfaces to be the minimum length and width necessary to provide simple, direct access, and surfaces shall be designed to minimize runoff (including through use of permeable materials, filtration strips, and use of engineered collection /treatment units. (Policy 1 LUP & 21.147.030A.1.a CIP)

The flag lot parcel has an existing driveway that enters from the northwest side of the upper lot off Cypress Avenue. The project proposes an additional entrance on the southwest side of the upper parcel and would loop around the upper parcel and exit onto the existing driveway on the south side.

Both parcels taking access off of the flag stem without creating a separate access would be the preferred method of achieving compliance with this policy. Creating a separate driveway and a loop around the upper parcel is not simple and direct access. The flag lot will have a long driveway no matter what happens, but the garage can be placed as close as practical to the flag stem, and even if the upper parcel could not take access off the flag stem, simple and direct access in this location would be a driveway leading directly to the garage.

This long looping driveway is not consistent with simple and direct access. In order to compensate for this and in combination with exceeding the Pescadero Watershed Impervious Surface Coverage requirements, the applicant is proposing to limit the size of the house on the upper parcel. The purpose of the simple and direct access is to minimize site disturbance. In exchange for the disturbance of a larger driveway the size of the house would be reduced. Staff finds this an acceptable solution to meeting the intent of the policy.

The driveway would be one way, entering at the existing gate and circulating around to the new gate. The Fire department also supports the proposed driveway loop because it provides good access to both of the houses.

Scenic and Visual Resources:

The LCP protects the scenic and visual resources of the Del Monte Forest, including specific policies related to the 17-Mile Drive corridor (LUP Policies 53 and 56 and Section 20.147.070 CIP). Design and siting of structures in public views of scenic areas should not detract from scenic values of the forest. New development, including such structures as fences constructed between 17 Mile Drive and the sea, shall be designed and sited to minimize obstructions of and degradation to views from the road to the sea. Height limits, use of see-through materials for fences, and limitations on landscape materials that would block views, are methods that should be used to reduce obstruction.

Although the address is off Cypress Avenue, this is the 17 Mile Drive corridor. The policies of the LUP require open fencing to preserve views of the forest and ocean. There are many violations of these policies consisting of fences and walls along the street frontage including on the subject site where there is an existing 5 foot tall grape stake-style fence along the property frontage and a gate at the entrance of the property.

The site should be brought into conformance with the policies of the LUP to provide visibility through the fencing in the front. A condition of approval has been added to require the fence to be removed and replaced with a fence of wall that provides for open vistas into the forest on the site and toward the ocean. A minimum of 50 percent of the frontage needs to have fence materials that allow visibility through to the forest and ocean. These open areas must be at locations to provide visibility of the ocean where available.

Section 20.14.060 - Site Development Standards (Monterey County Code, Title 20)

The properties are zoned “LDR/1.5-D (CZ)” Low Density Residential, 1.5 acres per unit, Design Control District, in the Coastal Zone. Site Development standards for the LDR zoning district restrict lot coverage to a maximum of 15% and a floor area ratio to a maximum of 17.5%. After merging three parcels into two parcels, the proposed development would meet the 15% lot coverage on each parcel and the required 17.5% Floor area ratio limitations as well.

	Lot cov/FAR allowed	Proposed Lot cov	FAR
Upper Lot	15%/17.5%	(4,329 sq ft) 13.75%	13.75%
Flag Lot	15%/17.5%	(7,533 sq ft) 10.4%	17.5%

Design:

The properties are located in a Design Control District. Pursuant to Chapter 20.44, Design Control Zoning Districts requires design review of structures to assure protection of the public viewshed, neighborhood character, and to assure visual integrity. Neutral colors and natural materials are required to blend into the character of the neighborhood. The Local Coastal Plan requires the project to be subordinate to and blend with the character of the neighborhood.

There are several two-story homes within the neighborhood that have a variety of eclectic designs. Both houses will be similar to each other and will consist of a modern architectural style with flat built up roofs (black tar and gravel), painted textured plaster siding (tan neutral color), anodized aluminum windows (silver), zinc garage doors and glass guardrails. The proposed colors and materials would be consistent with the neighborhood character.

The design of the large residential structure on the flag parcel is unique, and it is very large. The modern architecture will make a statement both from the front of the structure and the rear. The building extends essentially from side setback to side setback. In the event the Planning Commission finds that both parcels need to conform to zoning standards, this structure will need to be reduced in size. The reductions should be made in such a manner that they will facilitate blue water views across the property from 17 mile drive. This will include removal of walls and fences proposed around the motorcourt.

Previous Tree Removal:

In 2009 (PLN090366) a Waiver of a Coastal Development Permit was granted to allow the removal of 29 dead and diseased Monterey Pine trees for both the flag Parcel and Upper Parcel. Pursuant to 20.147.050.C.6, of the Del Monte Forest Coastal Implementation Plan, where removal of native trees is allowed for development, such removal shall be mitigated through replanting or forest preservation either on or off site, whichever is better overall for forest resources. A Forest Management Plan prepared by Maureen Hamb, Certified Arborist, recommended tree replacement on-site. She has inspected and has been monitoring the replacement trees since 2009. She determined that replanting of Monterey Cypress was appropriate for the project site due to the decline and death of the Monterey pine seedlings. As of today's date, eight coast live oaks and 100-130 Monterey Cypress have been planted. Therefore, there are no unresolved conditions of approval for tree removal. This project does not

propose any additional tree removal. A Condition of Approval will require that existing trees will be protected during construction.

Environmental Review

A Mitigated Negative Declaration (MND) was prepared for a previously approved project (PLN070607) and was circulated between October 9, and November 9, 2008. There were seven mitigation measures associated with the MND. Mitigation Measures #2 (tree and root protection), #3 (nesting birds), and #4 (native landscaping) will continue to apply to the proposed project. Mitigation Measures #1 (tree replacement), #5 (archaeological monitor), #6 (asbestos abatement), and #7 (lead paint disposal) are no longer applicable to the proposed project.

The proposed project is in the same general footprint as the previous project. The previous project included a mitigation measure for the loss of a landmark oak tree. The Certified Arborist has been inspecting and monitoring replacement trees since 2009. She confirmed that eight coast live oaks and 100 to 130 Monterey Cypress have been planted on site; and therefore, no conditions of approval are required for tree replacement. The proposed project requires no tree removal. The previous project identified a known archaeological site that extends onto APNs 008-455-007-000 and 008-411-017-000. No archaeological resources have been identified on APN 008-455-008-000. The updated archaeological report does not recommend archaeological monitoring for the proposed project. The previous project identified potential impacts from asbestos and lead-based paint. The proposed project will have no impacts on the environment with regard to asbestos or lead-based paint. Both proposed residences are over 100 feet from the edge of the coastal bluff. The proposed project includes a drainage interceptor to collect and percolate surface run-off and prevent it from entering Carmel Bay. The proposed single family dwelling on the upper parcel will have no impacts to the resources identified in the previous Mitigated Negative Declaration.

An Addendum to the Mitigated Negative Declaration is included as a part of this project. There are no substantial changes that are proposed in the project which would require major revisions of the previous mitigated negative declaration. The purpose of this addendum is to identify minor technical changes and provide clarification on the site-specific conditions for the proposed residential development. The proposed project will have the same or fewer impacts than the previous project (See Finding #6).

Recommendation:

There are several policy level decisions on this project, the decisions of which could substantially change the design of the project. The primary decision points are as follows:

- 1) Lot Line Adjustment: Is it appropriate to allow the merger of three lots with two conforming lots into two lots with only one conforming lot. The purpose of the adjustment is to allow a larger house on the one conforming lot. If it is determined this is not appropriate, the size of the house would need to be adjusted to conform to zoning. The recommendation is to require that both parcels conform to zoning standards

- 2) Pescadero Watershed. The proposal is to allow one lot to exceed the Pescadero Watershed impervious surface limitation and limit the other parcel to 5,031 square feet of impervious surface. This is consistent with the intent of the provisions of the policy, but could result in a later owner wanting to have the restriction lifted in order to allow them to have a house of a similar size to others in the neighborhood.
- 3) Simple and Direct Access. The driveway circle is not something that is considered simple and direct access. The applicant proposes to mitigate this and the Pescadero Watershed impervious surface requirements by reducing the development potential of the upper parcel.
- 4) Scenic and Visual Resources. The LCP requires protecting visual access of the coast. This is a lot being redeveloped, but there is opportunity here to require the site to comply with LCP policies. To accomplish this it is recommended that the fence across the frontage be modified to include openings and the size of the large residential structure be reduced to provide visual access across the parcel.

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