

# Exhibit B

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## **EXHIBIT B DISCUSSION**

### **Project Issues**

Potential issues resulting from project implementation relative to environmentally sensitive habitat, archaeological resources, and visual resources have been identified. These issues are mainly attributed to the project location. For example, the subject property is located within the indigenous Monterey cypress habitat, two previously recorded archaeological sites are in proximity of project site, and the development area is visible from a visually sensitive area. Staff has analyzed the proposed project for consistency of applicable policies and regulations contained in the 1982 General Plan (1982 GP); the Del Monte Forest Land Use Plan (DMF LUP); the Monterey County Coastal Implementation Plan, Part 5 (CIP); and the Monterey County Zoning Ordinance (Title 20). The results of staff's analysis are discussed below:

### **Environmentally Sensitive Habitat Areas (ESHA)**

The DMF LUP defines ESHA as *“those areas in which plant or animal life or their habitats are either rare or especially valuable due to their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.”*

The dominant vegetation type on the project site is Monterey cypress forest, which is an extension of the Crocker Grove. This vegetation type consists of native stands of large and various aged indigenous Monterey cypress (*Hesperocyparis macrocarpa*) trees, and is found throughout the property and along the perimeter of the proposed construction zone. Monterey cypress are listed as a “1B.2” plant (Plants Rare, Threatened, or Endangered in California) on the California Native Plant Society (CNPS) Inventory of Rare, Threatened, and Endangered Plants of California.

On the ocean bluff, approximately 10 Seacliff buckwheat (*Eriogonum parvifolium*) plants were observed. Seacliff buckwheat is not a listed species, but is a vital host plant for the Federally-Endangered Smith's blue butterfly (*Euphioltes enoptes smithi*) and is therefore considered potential habitat. Development is not proposed within this area nor were Smith's blue butterflies observed. However, the proposed driveway decommissioning activities require work within approximately 25-feet of the buckwheat plant.

Based on preliminary data contained within the Monterey County Geographic Information System, the Biological Assessment prepared by Fred Ballerini (see File No. LIB160240), and staff's site visit; the project site has been identified to support ESHA.

Several polices contained within the DMF LUP call for the protection and maintenance of ESHA and Policies 20 and 72 contain language specific to the protection of Monterey Cypress habitat. Implementing regulations found in Sections 20.147.040 – Environmentally Sensitive Habitat Areas and 20.147.040.D.2 – Additional Development Standards for Monterey Cypress Habitat, of the CIP call for the protection, maintenance, and where, possible, enhancement and restoration of ESHA. As a result, development within, or adjacent to, ESHA shall be compatible with long-

term maintenance of ESHA, prevent impacts that would significantly degrade habitat areas, and is restricted to the minimum amount necessary to accommodate reasonable development.

Policy 20 requires development within the indigenous Monterey cypress habitat to be compatible with the objective of protecting the environmentally sensitive coastal resource. An excerpt of the policies states that: *“All improvements (such as structures and driveways, etc.) shall be carefully sited and designed to avoid potential damage or degradation of Monterey cypress habitat, including the microhabitat of individual cypress tree, and must be located within existing hardscaped areas and outside of the dripline of individual cypress trees.”*

Currently there are three discretionary permit projects located within the indigenous Monterey cypress habitat area, one of which is this project, that propose re-development of the site.

Analysis of these projects has revealed potential issues relative to how strict interpretation of Policy 20 language limit the focus on maintaining development within the footprint of existing hardscape and lacks flexibility to consider projects which may modify existing encroachment into native cypress habitat, but result in a net benefit to the overall habitat. In addition, strict interpretation does not account for the similarity of “hardscape footprint” and “disturbed landscaped areas,” when compared to native habitat area. In an effort to clarify that the primary objective of Policy 20 is for the protection, maintenance, enhancement, and restoration of Monterey cypress habitat; Monterey County RMA-Planning staff, along with Coastal Commission staff, are in the process of amending the language focusing on requiring projects to result in a net benefit to cypress habitat.

In the meantime, staff has taken the position that projects would be found consistent with Policy 20 if development was limited to areas that were clearly disturbed areas (hardscape and/or landscape) and the project included a net benefit to cypress habitat. For instance, a project recently brought before the Planning Commission, “3196 LLC” included re-development on existing hardscape and non-native landscape areas. No development was proposed in native cypress habitat area. Staff found the project met the intent and purpose of Policy 20 as new development was proposed within disturbed areas of the property, existing hardscape and landscape areas would be reduced to benefit cypress trees and their root systems, and the area currently under conservation and scenic easement would be increased. The project was subsequently approved by the Planning Commission on February 22, 2017, (Resolution No. 17-006).

Similar to 3196 LLC, the El Why Square project includes re-development of a residential site, the bulk of which will be located within the existing footprint of the residence and driveway and less than 1,500 square feet will be located within disturbed ornamental landscaped areas, avoiding adverse impacts to individual cypress and cypress habitat. In addition, the applicant proposes to reduce over 12,000 square feet of hardscaped areas and a restore approximately 66,000 square feet of Monterey cypress and coastal bluff habitat. Based on policy implementation requirements and CEQA review, conditions of approval and mitigation measures have been incorporated to ensure: tree protection and management during demolition and construction; implementation and maintenance of guidelines for erosion control, restoration, and habitat protection; eradication of exotic plant species; restoration of Monterey cypress habitat

onsite; placement of undisturbed ESHA areas within a permanent conservation easement; and restoration and enhancement off-site Monterey cypress habitat. Staff finds the project consistent with applicable EHSA policies contained in the DMF LUP and not only will the project avoid adverse impacts to individual Monterey cypress trees and cypress habitat onsite, implementation will result in the overall enhancement and restoration of Monterey cypress habitat.

### **Cultural Resources**

The Monterey County Geographic Information System indicates that the subject property is located within a high archaeological sensitivity zone and is in proximity to a known recorded archaeological site. Therefore, a Preliminary Cultural Resources Reconnaissance, prepared by Susan Morley (see File No. LIB160238) was submitted with the application. The report identified two recorded sites within 1/8-mile of the proposed development: CA-MNT-1084 and CA-MNT-1244. No recorded sites were reported to exist within the project parcel boundaries. Auger testing conducted on August 8, 2015 in the soils along the cliff west of the driveway contained marine shell, faunal materials, ground stone, and chipped stone. However, the archaeologist concluded that these soils were highly disturbed. The upper portion of the project parcel, above the main residence and west of the existing accessory dwelling unit, contains a shell midden deposit; the subsequent auger testing conducted August 8, 2015 confirmed this deposit to be at least 80 cm. in depth. No paleontological resources or human remains were found on the property.

Policies 59 and 60 of the DMF LUP and implementing regulations contained in Section 20.147.080 – Cultural Resources, of the CIP state that available measures to avoid or mitigate impacts shall be considered when archaeological resources are identified. Based on the discovery of midden on the site and the fact that the proposed development is in proximity of known archaeological sites, mitigation measures recommended by the archaeologist have been incorporated, ensuring impacts to academically important cultural resources are less than significant.

In terms of determining if the project would have an impact to a tribal cultural resource, RMA-Planning staff requested consultation with the Ohlone/Costanoan-Esselen Nation (OCEN). During consultation, staff received a formal notification letter from Louise J. Miranda Ramirez, Chairperson of OCEN, which stated that OCEN objects to all excavation in known cultural lands, even when they are described as previously disturbed, and of no significant archaeological value. Therefore, for the protection their sacred tribal cultural resources, OCEN has requested that an OCEN approved tribal monitor be onsite during earth disturbance activities. Implementation of this mitigation measure would reduce potential impacts to tribal cultural resources to less than significant. Staff has included a condition of approval to ensure monitors are on site during construction.

### **Design Review**

Visually, the project parcel borders Seventeen Mile Drive, a designated scenic roadway. Topographically, the property is at approximately 30+ feet elevation on a gradual west-facing slope. Because of distance from Seventeen Mile Drive, topography, and the Monterey cypress forest, the existing house is not visible from Seventeen Mile Drive or the Sunset Point Vista

Point. The existing accessory dwelling unit is partially visible. No changes are proposed for this structure.

The proposed single family dwelling is a modern, two-story structure with a flat, planted roof (green roof). Colors and materials for the proposed single family dwelling consist of channel glass, tan limestone cladding, Ipe siding, and bronze metal accents. Majority of the roofline will be at the same elevation as Seventeen Mile Drive. The proposal includes a covered stairway to access the roof deck area which will be constructed of electrochromic glass on three sides and Ipe siding on the north side. The light transmission properties of this electrochromic glass changes in response to voltage to account for daytime and nighttime differences. During the day, the glass structure will be visually transparent when viewed from Seventeen Mile Drive and at night, the electrochromic glass be darker and translucent to avoid a “lighthouse effect,” minimizing visibility from Seventeen Mile Drive at night. Although the covered stairway is situated above the roofline, the structure is barely visible from Seventeen Mile Drive due to the density of the forest and distance from Seventeen Mile Drive. As designed, the proposed project, would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

The property is currently screened from Seventeen Mile Drive by an existing solid 5-foot grapestake fence. To minimize obstructions of and degradation to views from the road to the sea, the proposal includes installing a 30-foot wide gate entrance along Seventeen Mile Drive. The existing grapestake fence will be replaced with an open-slatted fencing south of the accessory dwelling unit to the south property line to create more open views to the sea and more closed-slatted fencing along the accessory dwelling unit to the north property line where views are hindered by existing development. Ornamental shrubbery along the fence line will be removed to further create open views.

#### Del Monte Forest LUAC

The proposed project was reviewed by Del Monte Forest Land Use Advisory Committee on July 21, 2016. The LUAC recommended approval of the project by a vote of 6/0 with no comments.

#### CEQA

An Initial Study/Draft Mitigated Negative Declaration (IS/MND) was prepared in accordance with CEQA and circulated for public review from June 19, 2017 to July 19, 2017. Issues that were analyzed in the MND were Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, and Noise. Potential impacts to Biological Resources and Cultural Resources were identified. Mitigation measures proposed are designed to protect trees and nesting birds during construction, to implement construction best management practices, to eradicate exotic species and restore habitat, to monitor the site during soil-disturbing activities, to manage the discovery of cultural resources during construction, and to protect archaeological resources through easements. The impacts are mitigated to a less-than-significant level through the implementation of these mitigation measures.

Staff received a comment letter from the Native American Heritage Commission (NAHC) was received during the public review period. The NAHC expressed concerns that although issues

relating to tribal cultural resources were discussed in the IS/MND, the text was not contained within a distinct subsection of the Initial Study Checklist for Tribal Cultural Resources as found within the “Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form.” Pursuant to Section 15063(f) of the CEQA Guidelines, use of this form is only a suggestion and public agencies are free to devise their own format. In terms on content, Section 15063(d)(3) of the CEQA Guidelines states that environmental effects identified shall be explained indicating that there is some evidence to support the entry. The content of the IS/MND meets the content requirements of CEQA since it was disclosed that potential impacts to sacred tribal cultural resources were identified and based on the recommendation of the OCEN Tribe, a mitigation measure has been incorporated to reduce that impact to less than significant. The NAHC also commented on the timeline found in Condition No. 28, Mitigation Measure No. 10, relative to the specified time (24-hours) that a Most Likely Descendant (MLD) has to make recommendations for disposition of remains and associated grave goods. The NAHC cites Public Resources Code 5097.98 stating that the minimum time allowed should be 48-hours. Staff has made this modification accordingly.

#### Recommendation

The proposed project has been designed to meet the policies of the Del Monte Forest Land Use Plan and site development standards of the Low Density Residential Zoning District. The proposed project has been designed to be subordinate to the site and therefore is consistent with the Design Approval guidelines. The initial study addresses and analyzes potential impacts from the proposed development and where necessary, mitigates the impacts to less than significant. Therefore, staff recommends adoption of the MND and approval of the Combined Development Permit.

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