

Exhibit A

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EXHIBIT A DISCUSSION

Project Background, Description and Setting

On January 11, 2017, the Planning Commission conducted a public hearing on the project, and continued the hearing to February 22, 2017, with direction for staff to address questions raised regarding project scope, water quality, and parking area drainage. The questions regarding scope and parking area drainage were addressed; however, the question regarding water quality was not addressed by February 22, 2017. The project was further continued three more times while the applicant continued to compile evidence demonstrating the technical, managerial and financial (TMF) capability to treat the water to meet the maximum contaminant level for fluoride. The questions raised by the Planning Commission are discussed below under Rural/Residential Character, Water and Wastewater, and Hydrology and Water Quality.

The proposed project includes a change of site use from residential to public/quasi-public, and site improvements. The parcel is zoned Resource Conservation, which allows Public/Quasi-Public uses with the granting of a Use Permit. The 10-acre parcel fronts along Cachagua Road and existing development on the parcel includes a 1,926 square foot main residence built in 1954, a 1,194 square foot accessory dwelling unit (RMA-Planning File No. PLN990260) built in 1999, and other minor non-habitable accessory structures. Implementation of the project would convert the main residential unit to a public/quasi-public use for a church. Proposed site improvements include modifications to the main residence, consisting of a 744 square foot first-floor addition and a 830 square foot basement addition, and associated grading. These site improvements are ministerial and separate from the Use Permit to establish a church use. There are no improvements proposed to the second existing dwelling unit, which would be used as a residential unit for church staff. Each habitable unit is served by a dedicated septic tank, and potable water is provided by an existing on-site well and water storage tanks. In addition, the subject property is granted water from a neighboring parcel's 15,000 gallon water tank for additional fire suppression protection. Proposed parking for the church would be located at the southern edge of the site, along Cachagua Road. The Applicant proposes 31 standard parking spaces and 2 ADA-accessible spaces (33 total parking spaces), which exceeds the minimum of 17 parking spaces required.

The Cachagua Creek bisects the property, with the accessory dwelling unit located to the west of the creek and the main residence to the east. A Conservation and Scenic Easement for the preservation of open space is dedicated on two areas on the property, and covers approximately 1/3 of the parcel. Vegetation on the site is primarily comprised of mixed oak woodland, Coastal scrub, and chaparral with riparian woodland along the creek area.

The County received public comment expressing opposition to a proposed church at this location. Federal law, under the Religious Land Use and Institutionalized Persons Act (RLUIPA), prohibits local jurisdictions from imposing burdensome zoning law restrictions on churches and other religious institutions, absent the least restrictive means of furthering a compelling governmental interest. This has been interpreted by courts to be very permissive of churches locating most anywhere, unless there are impacts that cannot be reasonably addressed. If the Commission were to want to consider a denial of the proposed Use Permit, staff would request direction for preparing written findings based upon substantial evidence in the record.

Public comments received were generally related to traffic and site access, biological resources, water and wastewater, noise, exterior lighting, and rural/residential character. Each general group of comments is addressed below:

Traffic and Site Access

Commenters expressed concern regarding road conditions in and around the project area, increased traffic from project implementation, and site access. The subject property has existing access from Cachagua Road, a relatively low-traffic county road, and access to the project site would remain unchanged. Monterey County RMA-Public Works reviewed the proposed project and the traffic report prepared for the project by Pinnacle Traffic Engineering (LIB150304), and concurred with the conclusions that the proposed use would not generate a significant number of new vehicle trips above the existing baseline, and would not result in a change in roadway level of service.

Policy C-1.1 of the 2010 Monterey County General Plan Circulation Element states that the acceptable level of service (LOS) for County roads and intersections shall be at LOS D unless otherwise established by an area plan. Policy CACH-2.6 of the Cachagua Area Plan establishes LOS C as the acceptable level of service for County roads and intersections within the Cachagua planning area. For Cachagua Road, LOS C would equate to 10,800 average daily trips (ADTs). RMA-Public Works performed traffic counts for Cachagua Road on August 4, 2015, resulting in a traffic count of 709 vehicles per day. The traffic report submitted for the project concluded that project implementation would increase the traffic counts by 112 ADTs. The combined existing and projected traffic trips would equal to 821 ADTs, well below 10,800 ADTs.

The roadways in the project area are not at degraded levels of service, and the proposed use would not cause any roadway or intersection level of service to be degraded. Consistent with Monterey County and the Transportation Agency for Monterey County regulations, the applicant would be required to pay fair-share traffic impact fees prior to issuance of construction permits (Condition Nos. 24 and 25). There are no changes proposed to the existing road or transportation circulation patterns in the project area, and implementation of the project would not impact emergency access.

The proposed parking for both existing and future church operations would be adequate pursuant to Monterey County Code (MCC) parking regulations. The parking area located at the southern edge of the site would provide 31 standard parking spaces and 2 ADA-accessible spaces (33 total parking spaces). The proposed use, including projected future growth, would require 17 parking spaces per MCC.

RMA-Public Works provided data for traffic collisions reported on Cachagua Road, between Nason and Tassajara Roads. Five collisions were reported within this road segment from January 1, 2011 to December 31, 2016 (traffic data for 2017 is not yet available). All five reported accidents were attributed to improper/unsafe driver action, not road conditions. In addition, all of the collisions occurred closer to Tassajara Road, approximately 2.5 miles from the site of the proposed church.

Biological Resources

Commenters expressed concern regarding potential impacts to surrounding biological resources, specifically Cachagua Creek which flows through the subject property. The County's environmental review analyzed potential biological impacts to Cachagua Creek from the proposed use and concluded that the project would not result in impacts to biological resources.

The 2010 Monterey County General Plan Policies OS-5.3 and 5.4 require careful planning for the conservation and maintenance of critical habitat and that development avoid, minimize, and mitigate impacts to listed species and critical habitat to the extent feasible. The US Fish and Wildlife Service designates the Carmel River watershed (Cachagua Creek is a tributary of the Carmel River) as critical habitat for the California red-legged frog (CRLF), California Tiger Salamander (CTS), and South-Central Coast Steelhead (steelhead). This designation indicates the potential presence of CRLF, CTS, and steelhead in the larger watershed area. In the biological report prepared for the project (LIB150306), the biologist stated that there is limited riparian vegetation along the creek area of the property, no special status species were found on site, and project implementation would have no impact on critical habitat or special status species. Although there are no identified potential impacts, the biologist recommended as a precautionary measure that a pre-construction survey be conducted to ensure that CRLF or CTS are not present prior to excavation of the proposed basement level (Condition No. 13). Incorporating this recommendation as a condition of approval is consistent with General Plan Policy OS-5.3 to avoid or minimize potential impacts to riparian habitat and listed species.

Water and Wastewater

Commenters expressed concern regarding adequate water and wastewater capacity for the proposed use. Monterey County Environmental Health Bureau (EHB) and Water Resources Agency (WRA) reviewed the proposed use to determine consistency with applicable regulations and to identify any potential issues related to water and wastewater treatment. EHB and WRA concluded, based on a Preliminary Water Demand Estimate prepared for the project (LIB150305), that a sufficient water supply would be available after project implementation. The hydro-geologist who prepared the estimate concluded that water demand for the proposed project would be slightly less than the existing water demand. Based on this conclusion, the project would not result in intensification of water use over the existing baseline residential use of the property.

Water quality analysis of the on-site well that serves the property indicates fluoride levels that exceed the allowed Maximum Contaminant Level (MCL). The Applicant submitted a water treatment feasibility analysis and preliminary information of the technical, managerial and financial (TMF) capability for a point of entry water treatment system. EHB reviewed this information and determined it to be sufficient foundational information demonstrating TMF capability. EHB has recommended Condition No. 15 to require installation of point of entry water treatment systems, and verification the treatment systems are working and producing potable water prior to commencement of use. EHB has also recommended Condition No. 14 to require the Applicant to establish a local small water system due to public accessibility. Ongoing treatment monitoring will be completed by the water system and regulated by EHB through the annual water system permit.

Additionally, EHB determined there are no issues regarding wastewater treatment requirements; however, project implementation would require expansion of the existing wastewater leach field area. Due to the limited area available for separation of wastewater leach fields from the groundwater source, the project has been conditioned (Condition No. 9) to comply with the recommendations of the percolation and geological reports (LIB150307 and LIB150308).

Noise

Commenters expressed concern regarding increased noise from the proposed use. Policy S-7.6 of the 2010 Monterey County General Plan requires submittal of an acoustical analysis for projects requiring environmental review if there would be a potential for the project to expose sensitive receptors to new noise generators. Implementation of the proposed project would

introduce increased noise levels associated with typical church activities such as singing, playing of acoustical instruments, and gathering of people both indoors and outdoors. However, a Noise Assessment Study (LIB160304) prepared for the project to assess potential noise impacts concluded that the projected noise would remain within normally acceptable levels and result in less than significant impacts. Although not a significant impact, since the Applicant proposes to conduct outside services, County staff recommends a condition to not allow amplified music or sound on the exterior or grounds of the proposed church building (Condition No. 29).

Exterior Lighting

Commenters expressed concern regarding the potential impact of exterior lighting on surrounding parcels. The project would be subject to applicable policies of the Cachagua Area Plan and would be required to comply with the County's exterior lighting ordinance. Policy CACH-1.6 refers generally to allowing exterior lighting only to the level required to assure safety, and RMA-Planning recommends Condition No. 8, Exterior Lighting Plan, to ensure all proposed exterior lighting complies with MCC. The County's environmental review analyzed potential visual impacts, and concluded that the project would not result in impacts to visual resources. The site is not located in a designated visually sensitive area, and application of the exterior lighting condition would ensure exterior lighting is unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.

Rural/Residential Character (Scope of Use)

Commenters expressed concern regarding the compatibility of the proposed use with applicable policies, and potential impacts to the rural/residential character of the surrounding area. Based on County staff review of the project application materials, no conflicts were found to exist with applicable plans and/or policies. The environmental analysis also concluded that the project would not result in impacts or that the potential impacts would be less than significant.

In response to Planning Commission questions about project scope, County staff analyzed the proposed scope of use in the environmental review document prepared for the project (see the Negative Declaration and Initial Study at **Exhibit E**). The types of activities proposed by the Applicant were listed on page 3 of the Initial Study, and included activities typically associated with a church use. In the environmental analysis, County staff identified site constraints, such as on-site wastewater treatment capacity and available parking area, that could limit the scope or level of use. County staff has recommended Condition No. 30 to address the Planning Commission's question regarding scope of use, including types of activities and a maximum capacity of 65 persons based on site constraints. County staff also added a reference to the scope of use in the draft resolution (see Evidence a of Finding No. 1, Consistency). In addition, RMA-Planning has recommended a condition to not allow amplified music or other forms of amplified sound on the exterior or grounds of the proposed church building (Condition No. 29) to facilitate retention of the existing rural character.

Hydrology, Erosion and Water Quality (Parking Area Drainage)

The subject property contains highly erodible soils, and implementation of the project would result in an increase of impervious surface area and create the potential for sediment deposits within Cachagua Creek. RMA-Environmental Services reviewed the proposed project and recommended conditions requiring an erosion control plan, grading plan, geotechnical certification, and construction inspections (Condition Nos. 17, 18, 19, 20, 21, and 22) to ensure the effectiveness of drainage and erosion control measures. The project, as proposed and conditioned, would result in less than significant potential impacts to Cachagua Creek.

In addition, two conditions have been recommended to address the parking area drainage concern. Condition No. 27 would require the applicant to incorporate measures to minimize runoff and maximize stormwater infiltration, and Condition No. 28 would require an inspection of installed measures prior to final inspection of the construction permit. Although the project would not result in increased site runoff, the incorporation of bio-swales and gravel/mulch to the parking area surface is consistent with General Plan Policy OS-5.3 to avoid or minimize potential impacts to riparian habitat. The Applicant has also revised the parking plan to ensure all proposed parking spaces and driving lanes are at least 100 feet away from Cachagua Creek.

Cachagua Land Use Advisory Committee

County staff referred the project to the Cachagua Land Use Advisory Committee (LUAC) for review. The LUAC, at a duly-noticed public meeting on October 28, 2015, voted unanimously (5 – 0) to support the project as proposed (**Exhibit D**). The LUAC also recommended the County condition the project to ensure it maintains the rural character of the community, and to address potential traffic and noise generated by the proposed use. The Initial Study analyzed potential traffic and noise impacts of the proposed use, and concluded that the project would not result in impacts to traffic and that potential noise impacts would be less than significant. The County has applied two conditions of approval to require the applicant to pay the applicable traffic fees for the new use (Condition Nos. 24 and 25). The LUAC suggested the possible limitation of hours of operation and warning signage along Cachagua Road. However, the Initial Study concluded that potential noise impacts of the proposed use would be less than significant, so limiting hours of operation based on noise concerns would not be warranted. In addition, limiting hours of operation for the proposed use could be difficult to identify and implement to ensure consistency with current state and federal law regarding religious activities. Also, the environmental analysis concluded that the project would not result in impacts to traffic; therefore, warning signage is not warranted at this time.

Environmental Review

Monterey County, as Lead Agency, prepared an Initial Study and Negative Declaration for the proposed use and development (**Exhibit E**). The environmental analysis concluded that the project would not result in impacts or that the potential impacts would be less than significant. No impacts were identified that would require mitigation to reduce the impact to a less than significant level. The Negative Declaration was filed with the County Clerk on September 16, 2016, and circulated for public review and comment from September 19 through October 19, 2016 (SCH No. 2016091045). The County received no comments from state or local agencies during the 31-day circulation period, but did receive seven comment letters from interested members of the public. The public comments received by the County generally related to traffic and site access, biological resources, water and wastewater, noise, exterior lighting, and rural/residential character. The comment letters and the County-prepared responses to the submitted comments are at **Exhibit F**. The comments did not alter the conclusions in the Initial Study and Negative Declaration. Potential environmental impacts have been considered and analyzed, determined to be less than significant, and conditions of approval applied as required.

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