

Exhibit B

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EXHIBIT B
DRAFT RESOLUTION

**Before the Zoning Administrator in and for the
County of Monterey, State of California**

In the matter of the application of:

DONALD L BARNES AND KATHLEEN M BRODERICK (PLN170351)

RESOLUTION NO. ----

Resolution by the Monterey County Hearing Body:

- 1) Finding the project Categorically exempt per section 15300.1 of the CEQA Guidelines; and
- 2) Approving an after the fact Design Approval of the construction of a six foot high and approximately 56 linear foot fence to correct code enforcement violation (16CE00447).

Colors and materials consist of natural wood.

[PLN170351, Donald L Barnes and Kathleen M Broderick, 27302 Highway 1, Carmel , Carmel Area Land Use Plan (APN: 243-021-009-000)]

The Donald L Barnes and Kathleen M Broderick application (PLN170351) came on for public hearing before the Monterey County Zoning Administrator on August 31, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS AND EVIDENCE

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
EVIDENCE:
 - a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 1982 Monterey County General Plan;
 - Carmel Area Land Use Plan;
 - Monterey County Coastal Implementation Plan Part 4;
 - Monterey County Zoning Ordinance (Title 20);No conflicts were found to exist. However, communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents and a public hearing was requested.
 - b) The property is located at 27302 Highway 1, Carmel (Assessor's Parcel Number 243-021-009-000), Carmel Area Land Use Plan. The parcel is zoned "LDR/1-D (CZ)" Low Density Residential/1 unit per acre-Design Control (Coastal Zone), which allows for natural wood fencing up to 6 feet high between property lines, subject to a Design Approval. Therefore, the project is an allowed land use for this site.
 - c) Pursuant to Section 20.44.040.D, "The Director of Planning and Building Inspection 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.”

- d) In December 2016, the applicants installed a six foot high fence between their property and the neighboring property without the benefit of a Design Approval. The applications were cited (16CE0047); and on April 11, 2017, applied for an after the fact over the counter Design Approval to rectify the violation. These submittals are generally approved over the counter; and are not appealable. Therefore, no notices were mailed to neighbors within 100 feet of the property.
- e) On May 4, 2017, the neighbor submitted a letter requesting a public hearing. They felt they should have been notified because of the ongoing violation. A substantive concern from the neighbor was that the fence seriously interferes with the property access and easements. The applicants provided a letter from Rasmussen Land Surveying, Inc. confirming that there is a road easement, 20-feet wide, which 10 feet lies within and along the northerly and westerly boundaries of the applicants’ property. The surveyor also confirmed the new fencing sits completely within the applicants’ parcel and not within any access easements or other easements
- f) The project was not referred to the Carmel Highlands/Unincorporated Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because the project is an over the counter Design Approval that is not appealable.
- g) The project planner conducted a site inspection on July 6, 2017 to verify that the project on the subject parcel conforms to the plans listed above.
- h) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN170351.

2. **FINDING:** **DESIGN** – The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property.
- EVIDENCE:** a) The existing fence is a 4 foot high wood fence with two feet of lattice on top to break up the design of the fence. The length is approximately 56 linear feet along the property line between another parcel.
- b) The fence cannot be seen from Highway 1. It is located between the two parcels and is hidden behind substantial vegetation located on Highway 1. Therefore, it is consistent with the viewshed policies of the Carmel Area Land Use Plan.
- c) The project planner conducted a site inspection on July 6, 2017 to verify that the project on the subject parcel conforms to the plans listed above.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN170351.

3. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:** a) California Environmental Quality Act (CEQA) Guidelines Section 15300.1 Relation to Ministerial Projects. Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial project are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances.
- b) The Director of RMA Planning has the authority to approve ministerial projects over the counter without any public noticing or appealability.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on July 6, 2017.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN170351.
4. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.
- EVIDENCE:** Section 20/.44.070 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

- 1) Find the project Categorically exempt per section 15300.1 of the CEQA Guidelines; and
- 2) Approve an after the fact Design Approval of the construction of a six foot high and approximately 56 linear foot fence to correct code enforcement violation (16CE00447). Colors and materials consist of natural wood, and is in general conformance with the attached sketch, colors, and materials and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 31st day of August, 2017 upon motion of :

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON _____.

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE _____.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

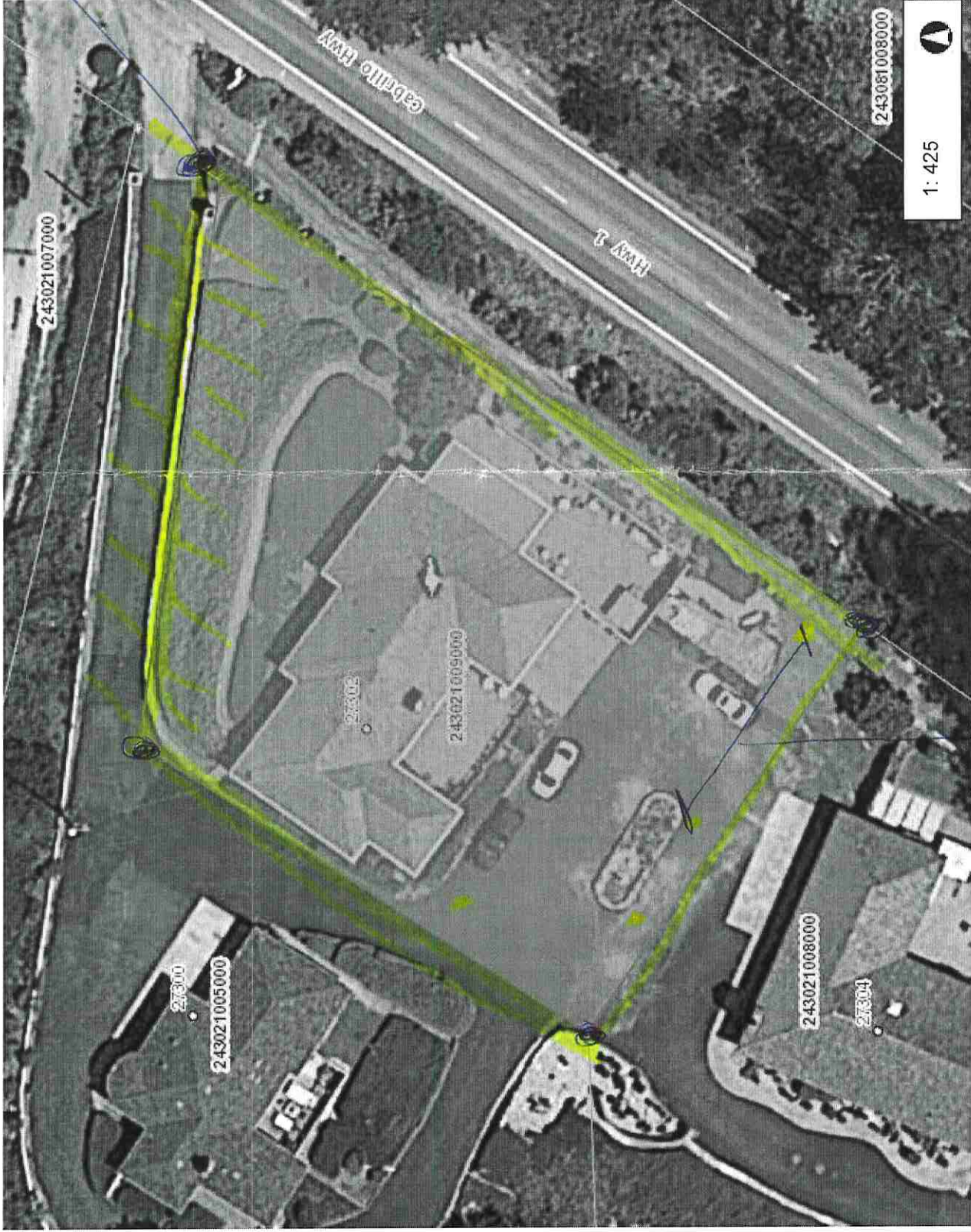
Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

Form Rev. 9-22-2014



Tools & Features Demonstration Site



1: 425

243021007000

Cabrillo Hwy

T Ave

243021005000

243021008000

24304

0.0 Miles

0.01

0

0.0

NAD_1983_StatePlane_California_IV_FIPS_0404_Feet

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Legend

- Addresses
- Parcels
- Roads
 - Freeway
 - Other Principal Arterial
 - Minor Arterial
 - Major Collector
 - Minor Collector
 - Local
- Railroad Lines
- Incorporated Cities_2
 - CARMEL BY THE SEA
 - DEL REY OAKS
 - GONZALES
 - GREENFIELD
 - KING CITY
 - MARINA
 - MONTEREY
 - PACIFIC GROVE
 - SALINAS
 - SAND CITY
 - SEASIDE
 - SOLEDAD
- Incorporated Cities_1
- County Boundary2
- MONTEREY CO

Notes

APR 11 2017

MONIE
PLANNING

APPROVED PURSUANT TO
RESOLUTION NO. PLN 170351
CONDITION NO. 0
APPROVED BY: D. Robinson
TITLE: SR Planner
DATE: 6/28/19

PLN 170351

property
corners

Property
corner

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