

Exhibit B

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EXHIBIT B DISCUSSION

Background:

The Ortega, Panattoni and Fernandez projects were originally scheduled for administrative approvals on March 7, 2018, but pulled from that agenda due to a letters of opposition that were sent to the County by certain neighbors and administrators of the Murphy Hill Mutual Water Association No. 2 (MHWS2), requesting a public hearing. See **Exhibit G** for opposition letters.

The letters made several contentions and staff responses to these contentions are provided in the “*Staff’s response to opposition comments*” section.

Analysis:

Administrative Permits for new wells-

Policy NC-3.8 and Policy NC-5.4 of the North County Area Plan Supplemental Policies, which is a part of the 2010 Monterey County General Plan, requires a discretionary permit for all new wells proposed in fractured rock or hard rock areas of the North County Planning Area (NC-3.8) or if the property is within the North County Area Plan, regardless is the property is in fractured or hard rock (NC-5.4), in order to address serious public health concerns regarding water quality and quantity and in order to provide for case by case review of potential water quality and overdraft concerns. The proposed applications are for separate Administrative Permits for the drilling of a new domestic well on the following parcels: APN 267-141-012 (Ortega- File No. PLN170688); APN 267-141-013 (Panattoni- File No. PLN170689); and APN 267-141-011 (Fernandez- File No. PLN170690), which sits on fractured and hard rock in the North County Area Plan, requiring an Administrative Permit entitlement (i.e. discretionary permit).

The applications have been reviewed by applicable land use agencies, including the Environmental Health Bureau (EHB) and was found to be consistent with Policies NC-3.8 and NC-5. Furthermore, the Water Resources Agency has, in accordance with Monterey County 2010 General Plan Policy PS-3.3, completed a domestic well impact assessment and found that the proposed wells do not indicate potential for significant adverse impact to existing domestic/ water system wells or in-stream flows. More analysis is provided in the staff’s response to opposition contentions below.

Staff’s response to opposition comments-

The following section outlines the contentions in the opposition letters received (see **Exhibit G**) and the response from the County to each contention:

1. Opposition: The General Plan encourages connection of development to existing water providers.

County Response: PS-2.3, a policy of the 2010 Monterey County General Plan, states the following: “New development shall be required to connect to existing water service providers where feasible. Connection to public utilities is preferable to other providers.” In the case of the subject lots of record, these lots are connected to the MHWS2 system, but for the past years, the system has been in and out of compliance with health

standards. County staff, including EHB, has reviewed the subject applications in light of the situation with the existing water source (MHWS2) and has determined that in this particular case, MHWS2 has been non-compliant with high levels of manganese and coliform bacteria contamination since 2004. Therefore, the County is recommending that the proposed wells be approved.

2. Opposition: Unregulated wells may overtax our aquifer and threaten water resources.

County Response: Wells approved by the County are subject to water quality and quantity testing and therefore, regulated. The subject projects have been analyzed in accordance to the 2010 Monterey County General Plan stated policies by the County departments, including the EHB and the Monterey County Water Resources Agency. The Water Resources Agency has, in accordance with Monterey County 2010 General Plan Policy PS-3.3, completed a domestic well impact assessment on each project and found that the proposed wells do not indicate potential for significant adverse impact to existing domestic / water system wells or in-stream flows. The proposed three wells will not increase the demand on the aquifer, as the proposed three wells will replace three existing MHWS2 connections served from the same aquifer. Therefore, the County has determined that the projects, as proposed and subject to the recommended conditions, are suitable.

3. Opposition: Approving wells in the MHWS2 area will “splinter” the existing MHWS2 system, decreasing its paying members and therefore jeopardizing the funds needed to pay for an upgrade to the MHWS2 system.

County Response: This matter is of a civil issue. The County does not regulate the costs associated with water systems.

4. Opposition: Only MHWS2 has the ability to drill anywhere in MHWS2 service area to get manganese-free water for the entire region area. The proposed wells are likely to still have large manganese deposits.

County Response: County staff reviewed the bylaws document for the MHWS2. The bylaws do not preclude a current member (or parcel) from leaving the water system. See **Exhibit I**. At this moment, it is unknown if the proposed wells will have manganese deposits, but the required testing will be done and reviewed by the Monterey County Environmental Health Bureau.

5. Opposition: One of the subject parcels has existing building code violations.

County Response: On December 8, 2017 a Land Use Code Violation Reporting Form (form) was submitted to the RMA- Code Enforcement Division reporting that on the Fernandez parcel (APN 267-141-011-000), an alleged iron fence was constructed over six feet high and across an easement. The form also reported sheds that were occupied by people. Planning staff consulted with the Code Enforcement Division regarding the alleged violation. The assigned Code Compliance Inspector performed an inspection of the property on February 8, 2018 and found that the sheds were not occupied, nor that these had any utilities, such as plumbing or electricity. The fence constructed would need a Design Approval permit because the property lies in a Design Control Zoning Overlay

District and the applicant would be required to submit a Design Approval application along with a site plan that identifies any easements on the property. Normally, if a property has a code enforcement case pending, no entitlement can be granted, other than an entitlement to resolve the code violation(s). However, because the proposed application for a water well is to alleviate an immediate health and safety issue, the Code Enforcement Division has informed Planning to proceed with the Administrative Permit application for a new well on the Fernandez' project, while the Fernandez' submit their Design Approval application to resolve the fence violation.

Recommendation:

Based on the above analysis, staff concludes that the proposed projects are consistent with the 2010 Monterey County General Plan, the North County Area Plan, and the Zoning Code (Title 21) and the sites are suitable for well proposals. Therefore, staff recommends that the Zoning Administrator find the projects categorically exempt from CEQA and approve the proposed applications for the drilling of domestic wells for the Ortega (File No. PLN170688); Panattoni (File No. PLN170689); and Fernandez (File No. PLN170690) projects, subject to attached recommended conditions of approval. See Resolutions in **Exhibits C, D, and E**, respectively.

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