Exhibit B

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EXHIBIT B

DISCUSSION

The property is located on Isabella Avenue in the Carmel Point residential neighborhood, the project consists of the construction of a 5,200-sq. ft., split-level, single family dwelling including a 1,366-sq. ft. subterranean basement and a 437-sq. ft. two-car garage on a vacant lot. During review of the proposed development, impacts to three primary issues were identified: Archaeological (Cultural), Tribal Cultural Resources and Seismic Hazards.

- **Archaeological (Cultural) &Tribal Cultural Resources**. According to the Carmel Area Land Use Plan, the project is located in a recorded archaeological site, CA-MNT-17. Significant archaeological resources have been found, including human remains at multiple sites in the neighborhood. As is the case, staff required Phase I and Phase II archaeological reports. The results of the archaeological reports were inconclusive. Based on the known sensitivity of this area and the potential impact of a basement, staff initially recommended denial of the 1,366-sq. ft. basement component of the project as well as two on-site monitors during the excavation phase for the proposed 3,834-sq. ft. residence and garage. Since this recommendation went forth on October 31, 2018, RMA-Planning staff has received a third archaeological report with further auger bore testing on the subject parcel. The third report found the parcel to be without significant cultural resources (i.e. negative report). Therefore, staff is now recommending approval of the project as proposed with enhanced mitigation.

- **Seismic hazards**. The potential seismic hazard was independently evaluated by registered and certified geologist and engineers within the context of the project being proposed (including the basement addition). Staff recognizes that the project as proposed is feasible; however, staff also finds that less excavation/disturbance would be necessary with the exclusion of the basement. Therefore, staff finds the seismic hazard is mitigated to a level of insignificance with adherence to the recommendations made in the Geologic and Geotechnical reports and the adoption of the proposed conditions of approval.

According to the CEQA Guidelines, “significant effect on the environment” means a substantial, or potentially substantial, adverse change in the environment. Staff found that the identified impacts could be mitigated to a less-than-significant level with the incorporation of four (4) mitigation measures and therefore, in accordance with CEQA, a Draft Mitigated Negative Declaration (“MND”) was prepared and circulated for the subject development. In consultation with the retained archaeologist and the representative for OCEN, staff has modified certain mitigation measures so that they are equally or more effective in protecting the cultural and tribal cultural resources. Pursuant to Section 15074.1 of the CEQA Guidelines, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are

infeasible or otherwise undesirable and may delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective; no recirculation of the proposed mitigated negative declaration is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval.

Staff found the impacts could be mitigated to a less-than-significant level with the incorporation of four (4) mitigation measures and therefore in accordance with CEQA, a Draft Mitigated Negative Declaration ("MND") was prepared and circulated for the subject project.

Project History: On July 25, 2017, an application was received for the subject development application currently being considered. The project application was deemed incomplete pending re-submittal of additional application materials. On December 12, 2017, the applicant re-submitted information and on April 14, 2018, the project was deemed complete with the understanding that an environmental document would be needed to fully analyze the potential effects of the proposed development and that a basement may not be supported based on the initial information provided in the archaeological reports. Specifically, the first archaeological report had positive surface-level evidence of cultural artifacts and the second report did not (within a 21-month time frame). Both reports, however, did conclude that based on the nine previously recorded prehistoric or historic archaeological sites located within 1 kilometer of the subject parcel, the possibility of cultural resources being discovered during deep excavations is high: "However, based on previous studies in the area, we note the possibility of burial cultural resources being discovered during deep excavations." With the available information, staff implicitly made the omission of the basement a mitigation measure. On November 20, 2018, however, staff received a third archaeological report which prompted the change in recommendation.

Therefore, the project could be supported and impacts found to be less-than-significant with the recommended mitigation measures. A Draft Mitigated Negative Declaration ("MND") and recommended conditions of approval (including mitigation measures) for PLN170611 were prepared in accordance with CEQA and circulated for public review from September 6, 2018 through October 8, 2018. Comments were received from the applicant's legal counsel and are addressed in this report. Staff has detailed the intent of the mitigation measures and how staff arrived at these specific measures below.

PROJECT ISSUES:

CULTURAL AND TRIBAL CULTURAL RESOURCES. According to the Carmel Coastal Implementation Plan (CIP) (Part 4), the subject parcels are located in a high archaeological sensitivity zone. In the CIP, a "high sensitivity zone" is defined as an area where archaeological sites are already identified with a strong possibility of prehistoric/historic Native American occupation. The Carmel Point area is presumed to be an Ohlone settlement dating to at least 4,000 years ago and has produced the oldest known archaeological artifact in Monterey County (Breschini, 2009). Carmel Point has a rich archaeological history- there are three, sometimes overlapping, recorded archaeological sites on the Point: CA-MNT-17, CA-MNT-16, and CA-MNT-1286. Cultural resources which have been formally recorded with the Regional

Information Center of the California Historic Resources Information System are referenced by this trinomial designation. The trinomials take the form "CA-MNT-17," where the first two letters designate the state: California (CA), the next three the county: Monterey (MNT); the numbers at the end are sequential: 17 and represent the order in which the site was recorded within each county (Breschini and Haversat, 2012). CA-MNT-17, which extends well beyond the current project area, has been characterized as an expansive and moderately dense accumulation of marine shell, mammal bone, flaked and ground stone tools. The Carmel Area Land Use Plan recognizes the intensive prehistoric use of the Carmel area.

Carmel Point has been the center of recent examination, specifically with the development of basements relative to the 1982 General Plan, the Carmel Area Land Use Plan and the Monterey County Coastal Implementation Plan, Part 4 - Regulations for Development in the Carmel Area Land Use Plan Area (Chapter 20.146). In just the past year, RMA-Planning has received six requests for basement approvals on the Point. The Carmel Area's LUP key policy (2.8.2) on Archaeological Resources states:

"Carmel's archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped, shall be maintained and protected for their scientific and cultural heritage values. New land uses, both public and private, should be considered compatible with this objective only where they incorporate ***all site planning and design features necessary to minimize or avoid impacts to archaeological resources****."*

CEQA puts the onus on the lead agency to determine whether a project may have a significant effect on archaeological resources (CEQA, Section 21083.2 Archaeological Resources: Determination of the effect of a project; EIR or Negative Declaration; Mitigation Measures). Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

In the case of the subject development, an Extended Phase 1 report prepared by Albion Environmental, Inc. dated March 2016 on July 18, 2017. This report included analyses for four parcels (called out as 'Project Area'), including the subject parcel. At the time the report was prepared, the maximum depth of excavation of future projects was unknown. The field methods included an intensive pedestrian survey and excavation using shovel probes (SPs); two units per individual parcel for a total of eight. These shovel probes were used to collect surface and subsurface cultural material(s) and then transferred to a laboratory for processing. The Albion consultants developed a system to categorize findings from the shovel probes with the overarching goal of determining whether the findings had integrity. Findings were determined to have integrity or be "intact," if it met the following criteria: 1) lacked any evidence of redeposition or disturbance; and 2) produced prehistoric or historic-age materials in densities greater than 6 items per 0.12 cubic meters. The subject parcel was identified as Lot #4 in the report and is associated with findings in SP 7 and SP 8. The project archaeologists utilized these shovel probes to conduct subsurface testing to a depth of 80 centimeters below surface (cmbs) level (approx. 31 inches or 2.5 feet) on the eastern and western portions of the lot. It was reported that both units contained cultural materials down to the 80 cmbs level consisting of lithic debitage (prehistoric production debris), marine shell, and 1 faunal bone. SP 7 surpassed

the density threshold to warrant additional testing but, according to the archaeologists, lacked integrity and therefore, no further testing was done (e.g. radiocarbon dating). The report concluded that the Project Area, which included the subject parcel, was a partially disturbed area with limited cultural material where no anthropogenic soils were observed and no intact archaeological deposits were found; however, because of positive surface-level identification of cultural materials, significant archaeological/cultural materials may be located within the Project Area. Oxford Dictionary defines anthropogenic as environmental pollution and pollutants chiefly originating in human activity. A suite of protection measures were included in the report with the impression that subsurface investigation confirmed the presence of artifacts associated with CA-MNT-17: "Albion's research indicates that the current study area is located within and in close proximity to important archaeological sites and human burials. Additionally, Albion's subsurface investigation confirmed the presence of artifacts associated with CA-MNT-17 in the Project Area. Since there is still potential for intact archaeological deposits associated with CA-MNT-17 to exist within the four subject parcels, Albion recommends adopt[ing]…protection measures for the Project."

Upon review of the Extended Phase 1 report, staff required a second archaeological report given the implications of the first report. On December 12, 2017, staff received a second archaeological report dated December 6, 2017. This time, the applicant retained a different consultant and the results for surface and subsurface evidence of archaeological materials were negative. Field methods in this report included a general surface reconnaissance and hand excavation of a single 4" auger bore close to the center of the parcel; a depth of 136 centimeters (approx. 53 inches) was reached and the boring produced clean light brown sand. The archaeologist in this instance noted some land disturbance in the form of what appeared to be recent demolition and the presence of two large piles of imported soil which contained cultural material (e.g. shell and fire-affected rocks). This archaeologist concluded that the proposed project should not be delayed for archaeological reasons; however, recommendations to manage cultural resources were included, noting the possibility of finding deeply buried cultural resources. Architectural plans dated April 6, 2017 **(Exhibit D.2**) show the proposed basement sited closer to the center of the parcel; the basement would require up to 14-feet of excavation and grading would involve over 600 cubic yards. In the near vicinity of the subject parcel, a significant number of artifacts were found at a considerable depth during basement and cistern excavations (5-9 feet). According to Morley (2015), archaeological sites are most often discrete entities. In other words, close proximity to known sites does not mean that cultural resources will be encountered on the subject project; however, this cannot be ruled out either. With respect to CA-MNT-17, some archaeologists have found that previous studies indicate that portions of the site may remain intact and thus retain integrity especially where midden in the open areas between residential structures has not been disturbed (Albion, 2016). The subject vacant lot is situated between two developed lots and shares a common corner (southeast) with another vacant lot.

A third archaeological report was made available by the applicant on November 20, 2018. The retained archaeologist, Susan Morley (M.A.), provided a brief review of the record and conducted auger testing. On the subject parcel, two shovel test pits were excavated and analyzed

to depths between 103 cm (3 feet) and 182 cm (6 feet). According to the report, the auger was abandoned at both points because a rock halted its progress. During the second auger test hole (#3), one fragment of a Franciscan chert biface was recovered, however, according to Morley, it is considered an "isolate," and does not provide context or have enough integrity. Morley concludes by stating: "As a result of these findings it is recommended that there is no reason to delay the project due to concerns about cultural resources." The report then lists recommendations and mitigation measures.

Since the implementation of the California Environmental Quality Act (CEQA) along with the passage of Assembly Bill 52 (AB 52) which amended Section 5097.94 of the Public Resources Code, onsite monitors have been used in Monterey County to mitigate impacts to cultural and tribal cultural resources to a less than significant level. The earlier law proved to be ineffective because it purported to protect Native American cultural resources but did not explicitly require the involvement of tribes in the consultation process regarding projects affecting their cultural resources and sacred sites. Whereas the previous law covered archaeological resources which have more scientific value, the new added layers now include more intangible values such as historic, cultural and spiritual values. One of the sections added, Section 21080.3.2 (a), states that as part of the consultation process, the parties may propose mitigation measures, including, but not limited to, those recommended mitigation measures capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. Further, any mitigation measures agreed upon in the consultation shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact and shall be fully enforceable (AB 52, Section 21082.3). The State of California has more than 100 Federally-recognized Indian tribes. In Monterey County, staff consult with a couple of tribes, including the Ohlone Costonoan Essalen Nation (OCEN)- a State-recognized tribe covered under AB 52. Consultation with OCEN took place on October 10, 2017 for the subject project. OCEN objects to all excavation in known cultural lands, even when they are described as previously disturbed and of no significant archaeological value. OCEN's priority is that their ancestors' remains be protected, undisturbed and the site be preserved. OCEN was not in support of the proposed basement and requested an onsite monitor appointed by their tribe be present during soil disturbance; artifacts were requested to be returned to the tribe and remains reburied onsite with the proper burial ceremonies. These requests and recommendations have been taken into consideration and are incorporated to the extent feasible.

The Carmel LUP's Key Policy 2.8.2 states that Carmel's archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped, shall be maintained and protected for their scientific and cultural heritage values. New land uses, both public and private, should be considered compatible with this objective only where they incorporate all site planning and design features necessary to minimize or avoid impacts to archaeological resources. To be clear, basements specifically have not been prohibited; however, in staff's opinion they would not be considered to be part of a design where potential impacts to cultural resources are minimized. In light of additional testing which bolsters the

findings in the second archaeological report (i.e. negative report), staff is recommending approval of the project as proposed.

Mitigation measures have been enhanced to provide equal or greater mitigation for the impacts of development. If adopted as recommended, the mitigation measures proposed will serve to: 1) mitigate impact(s) to archaeological and tribal cultural resources to a less than significant level; 2) properly identify and manage recovered human remains and artifacts; and 3) establish process by which a conservation easement may protect resource(s) in perpetuity, if necessary.

In sum, Cultural Resources and Tribal Cultural Resources are analyzed separately in an environmental document. For the subject project, impacts to cultural resources (archaeology) are mitigated to a less-than-significant level with the incorporation of two (2) mitigation measures, which includes an onsite archaeological monitor:

- PDSP001- MITIGATION MEASURE #1: CULTURAL RESOURCES (ARCHAEOLOGICAL MONITOR)
- PDSP002- MITIGATION MEASURE #2: CULTURAL RESOURCES

Impacts to tribal cultural resources are mitigated to a less-than-significant level with the incorporation of one (1) mitigation measure; a separate mitigation measure (#4) would cover both categories:

- PDSP004- MITIGATION MEASURE #3: PROTECTION OF TRIBAL CULTURAL RESOURCES AND SACRED PLACES (OCEN MONITOR)
- PDSP003- MITIGATION MEASURE #4: CONSERVATION EASEMENT

SEISMIC HAZARDS. The subject property is located within 660 feet, or 1/8 mile, of a potentially active fault known as the Cypress Point Fault (CPF). Pursuant to Section 15.1.2 of the 1982 General Plan, faults classified as "potentially active" shall be treated the same as "active faults" until geotechnical information demonstrating that a fault is not "active" is accepted by the County. The CPF is described as a northwest striking slip fault extending from the City of Carmel-by-the-Sea to the Palo Corona Ranch on the south side of Carmel Valley. Due to the location of the site, a Geotechnical Report and Geologic Evaluation were required. The scope of the Geotechnical Report explored the surface and subsurface soil conditions and included geotechnical recommendations; the Geologic Evaluation defined the geologic conditions and identified potential geologic hazards associated with the project site. In geology, an "active" fault classification is given to faults causing surface displacement in the last 11,000 years. Based on the geologist's evaluation, the CPF would not be considered an active fault. The geologist determined that the Cypress Point Fault is located about 35 feet southwest from the subject parcel. Pursuant to Section 20.146.080 (Hazardous Area Development Standards) in the CIP, all structures shall be sited a minimum of 50 feet from an identified active fault or potentially active fault unless, a geotechnical evaluation determines that the hazard is unlikely to lead to property damage or injury and the project is certified by a registered geologist/soils engineer [Section 20.146.080(f)]. According to the engineering geologist, given the very low level of hazard posed by the Cypress Point Fault, a reduced setback could be supported. It is the engineering geologist's professional

opinion that no geologic conditions or geologic hazards would preclude construction of the proposed residence as it is currently proposed and given its current adherence to the fault setback. There is no geophysical evidence for a fault beneath the property. Regarding the basement proposal specifically, the fault surface rupture hazard is the same: "Fault surface rupture poses an equal level of hazard for the ground or main floor of the proposed residence as it does for the proposed basement (low)." Haro, Kasunich and Associates, Inc. have developed geotechnical recommendations for foundations, retaining walls, slabs-on-grade, subgrade preparation beneath flatwork, and site drainage. RMA-Environmental Services has reviewed the Geologic and Geotechnical Reports and has recommended the following condition to ensure compliance: Geotechnical Certification. Additionally, the Carmel Area Land Use Plan does make a provision to deed restrict development proposed in locations determined to have significant hazards (Section 2.7.3). In accordance with this policy, two conditions were applied: Deed Restriction and Notice of Report.

DESIGN

The subject property is zoned Medium Density Residential, with a maximum of two units per acre, a Design Control overlay, and is subject to an 18-foot height restriction [MDR/2-D (18)]. This height restriction follows an Ordinance (Ordinance No. 3275) adopted for the area by the Board of Supervisors in 1987 in order to provide for more visually compatible structures.

The proposed project site and surrounding area are designated "D," or Design Control Zoning District. Pursuant to the Monterey County Zoning Ordinance, Title 20, Chapter 20.44, the purpose of a Design Control Zoning District is to regulate the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The applicant is proposing a 5,637-sq. ft. residence (inclusive of an attached garage and basement). The plans reflect U-shaped massing with the main structure offset at the rear. The proposed residence has a split-level design with three separate levels that are staggered and separate from each other by a partial flight of stairs. This type of elevation has resulted in a raised California Ranch house style. The applicant proposes to maximize the coverage (35%) of the lot and outfit the remaining areas with a low-planting landscape scheme. The plans indicate no tree removal with the street-facing driveway being sited in an opening of the tree-lined street. Colors and materials proposed for the residence include: stucco and stone walls, metal windows, metal standing seam roof; colors to be used include natural stucco and stone and a dark metal roof. In the Carmel LUP, structures shall be subordinate to and blended into the environment, using appropriate materials to that effect. During staff's site visit, staff did not find other examples of metal roofs in the immediate area, however, staff was alerted to similar roof styles by the applicant's agent. The metal finishes in particular were not supported by the LUAC, but there is no uniform architecture present and generally, the colors proposed would not significantly disrupt the neighborhood character. Because the applicant is proposing to build up to the height allowed (18 feet), staff added a height verification condition.

SETBACKS

Staff finds that the proposed project complies with all development standards (height, setbacks, coverage, etc.) for this area:

Main Structure Setback and Height Requirements in MDR/2(18) zoning:

Front Setback: 20 feet (minimum)

Side Setback: 5 feet (minimum)

Rear Setback: 10 feet (minimum)

Maximum height: 18 feet

The Pietro project proposal meets all standards as detailed below:

Front Setback: 20 feet

Side Setbacks: 5 feet

Rear Setback: 10 feet

Maximum Height: 18 feet