

# Exhibit B

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## **EXHIBIT B**

### **PROJECT DISCUSSION**

The detailed project discussion below will provide background history of the subject property and Carmel Valley Ranch, provide a chronological history of the code violation and proposed project, and introduce project contentions received and staff's responses to those contentions.

#### ***Chronological History of the Application***

February 12, 2018: A complaint was received, an inspection was conducted by Monterey County Code Enforcement officer and a Stop Work Notice was issued in the same day.

February 22, 2018: Administrative Citation Letter was issued for zoning and building violation consisting of the unpermitted construction of accessory structures and grading exceeding 100 cubic yards.

July 20, 2018: Site visit conducted by project planner to verify violation. Only the horse stalls were shown on plans so corrections were provided to applicant to show all structures on the site plan.

August 17, 2018: Plans resubmitted by applicant to show drawings of barn and entry way.

August 22, 2018: Staff approved the Design Approval administratively.

August 27, 2018: Notice of Pending Approval sent to property owners within 100 feet, stating that the 10-day period to request a public hearing ended on September 6, 2018.

September 4, 2018: Staff met with concerned member of the public (Eric Sand) to explain staff's analysis and approval of the Design Approval. Staff also received correspondence from Molly Erickson contending staff's approval.

September 6, 2018: Received letter from Eric Sand challenging the granting of the Design Approval.

December 10, 2018: Meeting took place with Eric Sand, Richard Rosenthal, Michael Weaver, County Counsel, Department Heads and Staff to discuss the project in detail.

#### ***Chronological History of Project Application & Description of Parcel***

July 13, 2004: PLN020280

The Monterey County Board of Supervisors Adopted a Mitigated Negative Declaration and Condition Compliance and Mitigation Monitoring Plan and approved a Combined Development Permit for Carmel Valley Ranch L.P. including:

1) Vesting Tentative Map for the subdivision of an 218-acre parcel into 12 residential lots of approximately 6.8 acres to 16.9 acres in size and 4 open space parcels totaling approximately 99 acres; 2) Use Permit for development on slopes greater than 30% for the construction of an access road; 3) Use Permit for the removal of approximately 193 protected oak trees; 4) Zoning reclassification to reclassify 11 existing lots in the Oakshire subdivision of Carmel Valley Ranch from "MDR/5-D-S" (Medium Density Residential, 5 Units per acre, with Design and Site Review overlays) to "O-D-S" (Open Space with Design and Site Review overlays); and 5) Assignment of the "LDR/B-6-D-S" zoning classification (Low Density Residential with Building

Site, Design and Site Review overlays) to the residential portion of the proposed subdivision and the “O-D-S” (Open Space with Design and Site Review overlays) to the open space portions of the subdivision.

November 21, 2006: PLN060360

Standard Subdivision Tentative Map (Condominium) for the conversion of 144 existing hotel units at the Carmel Valley Ranch into 144 individually owned hotel units. The hotel units are located on two separate parcels at 1 Old Ranch Road, Carmel Valley (Assessor’s Parcel Numbers 416-522-010-000 & 416-592-023), within the Carmel Valley Ranch, South of Carmel Valley Road, Carmel Valley Master Plan.

January 1, 2007: PLN060056 (GPZ060002)

Combined Development Permit including: 1) Use Permit and Design Approval for construction of 4,056 square foot spa and yoga room addition to the existing lodge at the Carmel Valley Ranch including removal of two protected oak trees and development of 17 additional parking spaces; and 2) Use Permit for conversion of an existing hotel unit (Unit No. 244) into a temporary sales office for the sale of individual hotel units (Note: The applicant has submitted separate application for the conversion of 144 individual owned hotel units). The property is located at 1 Old Ranch Road, Carmel Valley (Assessor’s Parcel Number 416-522-010-000 & 416-592-023-000), Carmel Valley Ranch, South of Carmel Valley Road, Carmel Valley Master Plan Area.

September 11, 2014: PLN140130

Combined Development Permit consisting of :1) Use Permit to allow an increase of guest units at Carmel Valley Ranch from 144 units to 181 units (37 units); 2) Administrative Permit for the construction of a new two-story building (Building J - 10 units); and 3) Design Approval for the understory (crawl-space) conversion of existing structures (Building 18 - units 211A, 214LB, 215A, 215B; Building 19 - units 206A, 206B, 210A; Building A - units 140L, 140LB, 141L, 142L; Building B - 152L, 153L, 154L, 155L, 156L; Building C - Units 158L, 159L, 160L, 161L; Building D - 176L, 177L; Building G - units 163L, 164L, 165L, 166L, 167L). Project will require the removal of 12-15 (8" -10") planted Redwood trees and grading of approximately 640 cubic yards. A total of 28 parking spaces will be added to the site as well. Colors and materials to match existing. The property is located at 1 Old Ranch Road, Carmel (Assessor's Parcel Numbers 416-522-010-000 and 416-592-023-000), Carmel Valley Master Plan.

October 22, 2015: Consider a 3-year Extension Request for a previously approved Combined Development (PLN020280-BOS Resolution No. 06-366).

November 13, 2018: Second Extension for PLN020280

### ***Public Concerns***

On September 4, 2018 and September 6, 2018, staff received two letters of public concern regarding this project (**Exhibit F & G**). The letter requested a public hearing, and objected to the project based on the following concerns:

*Public Concern: The Notice is inadequate. It does not provide a specific address nor indicate the project is for Carmel Valley Ranch. CVR HSGE LLC is a Delaware Company. Also, County notice fails to state the applicable zoning or the Carmel Valley Specific Plan nor reference the “slab work” that was completed.*

County Response: The notice identifies the property owner as identified on the deed of the property. Therefore, the notice listed “CVR HSGE LLC” as the owner. How or where a company is held is not typical information included on County notices, unless it is specified as part of the title on the deed. However, for information, CVR HSGE LLC is a valid company in Northern California, not a Delaware company as referenced by the opponent. Previous permits (File Nos. PLN020280 & PLN150751) were also issued under this name.

Pursuant to Chapter 21.44.010 of Title 21, the purpose of the Design Control district is to provide regulation of the location, size, configuration, materials, and colors of structures and fences. Therefore, concrete slabs or flatwork are not subject to design review. The notice list the project location as “NO ADDRESS ASSIGNED TO PARCEL (LOCATED OFF OF OLD RANCH ROAD)”. To clarify, the site does not have an official address but is located approximately 0.59 miles southeast of the intersection of One Old Ranch Road and Robinson Canyon Road, in Carmel Valley Ranch, Carmel Valley.

*Public Concern: The County approved a Combined Development Permit (PLN020280) for a 12-lot residential subdivision with 60 conditions of approval, including placing lands within conversation easements and rezoning of existing lots. There is no evidence that applicant has complied with 58 conditions of the 60 conditions. The project is on the property (APN: 416-522-020-000) associated with this permit. Any development, including the after-the-fact Design Approval, should be processed as an amendment to the approved permit. See **Exhibit F**, Items 7-11.*

County Response: The previously approved Combined Development Permit (File No. PLN020280 – Board of Supervisors Resolution No. 06-366) consisted of a Vesting Tentative Map for the subdivision of a 218-acre parcel into 12 residential lots and 4 open space parcels, Use Permit to allow development on 30% slopes; Use Permit for tree removal; and rezone. The Board also adopted an ordinance rezoning the subject residential properties to LDR/B-6-D-S zoning to take effect upon recordation of the final map. (Ord. No. 04234, adopted July 13, 2004.) Subsequently, on March 9, 2016, a 3-year extension was granted, and the Combined Development Permit was extended to March 9, 2019 (File No. PLN150751). The final map has not yet been filed or accepted, and the time has not run out for applicant to comply with the conditions of the Vesting Tentative Map. Whether the final will be recorded is not a certainty. If the vesting tentative map is not extended or if conditions of approval are not met and the Final Map

is not filed prior to expiration date, the subdivision would not occur. The Design Approval which is the subject of this resolution is to allow construction of accessory structures, accessory and subordinate to the approved and established equine recreational use provided for in the Carmel Valley Ranch Specific Plan. The project is not part of the above-referenced Combined Development Permit and is fully independent of it. The Design Approval is not inconsistent with the Combined Development Permit, and the approval of the Design Approval does not require an amendment to that prior permit. In turn, none of the conditions for PLN020280 apply to this project.

*Public Concern: The 120'x40' shade structure with steel posts and wood beams sounds like a special event venue and 20 new wood horse pens measuring 12'x 30' each appears to be for a new commercial use for horse boarding or special events. See **Exhibit F**, Items 12, 13, 16, 17, 20, and 21 & **Exhibit G**, Items 1 and 3.*

County Response: The 120'x 40' shade structure is part of the description for the 20 horse pens. This reference is to the dimensions of the overall coverage of the roof and exterior framing of the horse stalls. It is an open structure with sectional stalls to house the horses used in conjunction with the equine recreational use in Carmel Valley Ranch. The project application and plans do not indicate that the use is for commercial horse boarding or to accommodate a special event venue.

The zoning for this parcel is Open Space, with Design Control and Site Plan Review overlay districts or "O-D-S" pursuant to Sectional District Maps 17d and 107. This is demonstrated on the Zoning Plan of the County of Monterey (**Exhibit J**). The Carmel Valley Ranch Specific Plan, amended by the Board of Supervisors, identifies the project site as "Land Reserve". If the final map is recorded, then upon the recordation of the final map (PLN020280), there will be an assignment of the "LDR/B-6-D-S" zoning classification (MCC Chapter 21.14 Low Density Residential with MCC Chapter 21.42 Building MCC Chapter 21.45 Site, Design & Site overlays) (Ord. no. 04234.)

Pursuant to Chapter 21.38.030 of the MCC, the O district "Uses allowed", buildings accessory to any allowed uses and other uses of a similar character, density and intensity to those listed in this Section. Since the horse stalls and barn are used in conjunction with the equine recreational use in Carmel Valley Ranch, it is and allowed use subject to a Design Approval.

The Land Reserve zoning in the Specific Plan refers to areas that shall be places in a "ST" (Special Treatment) Zoning District with a maximum of 100 units on the 200 acres designated as land reserve but not to be considered for development until the updated Carmel Valley Master Plan is adopted. The Carmel Valley Master Plan was updated with the adoption of the 2010 General Plan and included the Carmel Valley Ranch as a Special Treatment Area.

Pursuant to the Carmel Valley Master Plan (CV-1.22) Special Treatment Area: "Carmel Valley Ranch – the Carmel Valley Ranch shall be designated as a "Special Treatment Area." The

Amended Carmel Valley Ranch Specific Plan, dated 11/3/76, is incorporated by reference into this Plan and the provisions of this Specific Plan is dependent upon conditions existing at the time each future increment of development is sought and is further dependent upon conditions existing at the time each future increment of development is sought and is further dependent upon conformity with the Specific Plan Amended Conditions of Approval as well as the goals and policies of this General Plan, whichever is most restrictive. Any amendment of the Specific Plan must be consistent with the policies and provisions of this General Plan”.

In this particular case, the Specific Plan addresses recreational areas for the guests of the Carmel Valley Ranch along with having horseback riding, riding trails and bridal baths. These structures (horse stalls & hay barn) merely accommodate the horses from the facility and are not open to the general public for boarding. A condition of project approval (Condition No. 1) has been applied to the project to ensure the structures are not open to the general public for boarding and/or for any other public uses. Therefore, these structures are compatible to the use described in the Specific Plan.

The project is consistent with the 2010 Monterey County General Plan, Carmel Valley Master Plan, Carmel Valley Ranch Specific Plan and Monterey County Zoning Ordinance (Title 21). A condition of project approval (Condition No. 1) has been applied to the project to ensure the owner(s) comply with the required new zoning regulations once the Final Map is recorded.

Furthermore, Carmel Valley Master Plan (CVMP) Policy CV-3.21 states that equestrian-oriented recreational activities shall be encouraged when consistent with the rural character of the valley. As demonstrated above, the project is consistent with this policy.

*Public Concern: The proposed permit fails to disclose, address and quantify unpermitted grading identified in the Code Violation. The amount of grading likely would have environmental impacts. No mitigation was proposed. See **Exhibit F**, Items 18 and 25 & **Exhibit G**, Item 2.*

County Response: A construction permit (File No. 18CP00809) to clear violation 18CE00047 has been applied, reviewed, and approved by the building department but, has not yet been issued pending planning approval of entitlements. Once this Design Approval is approved, subsequent grading and construction permits can be issued, which would fully clear all items addressed in this violation. The estimated after-the-fact grading quantities is approximately 150 cubic yards of cut and 150 cubic yards of fill. The construction of these non-habitable structures avoided development on slopes in excess of 25% and the geotechnical report prepared for the project by Grice Engineering, dated March 2018, concluded the native soils and certified engineered fill are acceptable for foundation purposes and display engineering properties adequate for anticipated soil pressures. The inspection of the site indicates that no landslides are located above or below the building area and the area is generally not susceptible.

*Public Concern: Since the County issued a Notice of Violation in February 2018, unpermitted development at the site has continued. See **Exhibit F**, Item 19.*

County Response: County Response: Photos were submitted of the slab work completed after staff's site visit on July 20, 2018. Staff has reviewed the photos and confirmed it is not a violation because no entitlements are required for slab work. Pursuant to Section 21.44.010 of Title 21, the purpose of the Design Control district is to provide regulation of the location, size, configuration, materials, and colors of structures and fences. Therefore, concrete slabs or flatwork are not subject to design review. Since the slabs are considered flatwork, a violation for this work is not warranted. In addition, the building department has confirmed no building permits are required for slab work.

*Public Concern: The opponent requests that the appropriate authority to review this Design Approval is the Planning Commission. See **Exhibit F**, Item 23.*

County Response: Pursuant to Section 21.04.030 of Title 21, the Chief of Planning may designate the Zoning Administrator to consider an application if it doesn't involve the following factors:

1. Significant public policy issues;
2. Unmitigable significance adverse environmental impacts;
3. Significant changes in the nature of a community;
4. Establishment of precedents or standards by which other projects will be measures.

This project does not involve any of the above-mentioned factors.

Section 21.44.040.C of Title 21 states that the Zoning Administrator is the appropriate authority to consider Design Approvals, except as provided by Sections 21.44.040.A, B, D, or E. Subsections A and B refer to the hearing body for an associated discretionary permit, subsection D refers to minor projects, and subsection E lists the Planning Commission for those structures which have the greatest potential to impact public views, such as structures along scenic highway or road corridors, in areas designated as critical viewshed, or which may have a substantial adverse visual impact from common public viewing areas. Monterey County Geographic Information System (GIS) indicates that the area of development is sensitive, not highly sensitive or in a critical viewshed. Carmel Valley Master Plan (CVMP) Policy CV-3.3 states that development shall not be allowed to significantly block views of the viewshed, the river, or distant hills as seen from key public viewing areas. CVMP Policy CV-3.4 calls for minimizing the alteration of hillsides and natural landforms by grading, vegetation removal through sensitive site design. During an onsite visit, staff did not find evidence that the project creates a significant visual impact from Carmel Valley Road and surrounding common public viewing areas. Therefore, the Planning Commission is not the Appropriate Authority to consider this application.



### ***Development Standards***

The applicable development standards for the project are contained in the 2010 Monterey County General Plan, Carmel Valley Ranch Specific Plan, and applicable policies in the CVMP. Staff conducted a site visit on July 20, 2018 and determined the proposed structures were appropriately sited for the lot. The project will not have a substantial adverse visual impact from Carmel Valley Road or any other public roads as it cannot be seen from those areas. No tree removal has been proposed, slopes in excess of 25% are avoided, and the development will not adversely affect resources at the site or be adversely affected by those resources.

As discussed in the County responses above, the project meets the applicable development policies contained in the CVMP.

The proposed accessory structures are compatible with the Carmel Valley Ranch Specific Plan which addresses bridle trails, horseback riding and riding trails. The proposed colors and materials are consistent with the aesthetics of Carmel Valley Ranch. The primary colors and materials include natural wooden beams, corrugated steel with iron plating. As long as it meets the recreational uses of Carmel Valley Ranch and the Carmel Valley Specific Plan, the proposed structures are consistent with the Open Space, with Design Control and Site Plan Review overlay districts or "O-D-S".

### ***Consistency with Development Standards if the Final Map is Approved***

If and when the Final Map associated with the Vesting Tentative Map (Board of Supervisors' Resolution No. 04-258 (Monterey County Planning File No. PLN02080)) is recorded, zoning of the area of development would be reclassified to LDR/B-6-D-S, pursuant to Ordinance No. 04234 adopted by the Board of Supervisors on July 13, 2004. Pursuant to MCC Sections 21.14 & 21.42, these standards would require setbacks for accessory structures of: 30 feet (front), 20 foot (rear), ten percent width maximum required of twenty feet for the minimum side setback. The proposed accessory structures would be required to demonstrate all of the required setbacks on a 6.69 created acre (Lot #3).

The maximum allowable non-habitable accessory structure height for LDR district is 15 feet. The proposed maximum height for the hay barn is 13' 10" and horse stable is 15'. The allowed maximum site coverage in the LDR district is 25 percent on lots of 20,000 square feet or more. Therefore, if the final map is recorded, the creation of this 6.69 acre lot (291,416 square feet), would allow site coverage of approximately 72,854 square feet. The proposed hay barn and horse stable would result in site coverage of approximately 8,328 square feet or 2.8 percent. Therefore, as proposed, the project would still meet the required height once the rezoning takes place.

Furthermore, the LDR zoning allows for animal husbandry and small livestock farming; provided that not more than one horse, mule, cow, or similar livestock shall be kept for each twenty thousand (20,000) square feet of land area. In turn, with the creation of the 6.69 acre lot from the approval of the final map; this size lot would allow the owner to have up to 14 horses. However, the zoning does not limit or regulate the number of horse stalls to be constructed. In this case, the owner is proposing 20 stalls. If the owner decides to create a public stable in the future, a Use Permit entitlement would be required given that there is a minimum of 10 acres.

All development has been outside of the conservation easements as shown on the Vesting Tentative Map. In addition, these structures would be in compliance with the following conditions of the Vesting Tentative Map and not inconsistent with the Final Map if applicant pursues the final map:

- #13 Compliance with Carmel Valley Ranch Specific Plan
- #22 Pedestrian, Hiking & Bridal Path Easement
- #23 Construction Outside Building Envelopes

The Vesting Tentative Map is an independent project, unrelated to this project. This use is not prohibited by the Vesting Tentative Map; per the zoning ordinance adopted with the Vesting Tentative Map, the zoning will change to LDR if and when the Final Map is recorded. At such time, the applicant must obtain a Use Permit to continue the horse pen in order to establish a legal nonconforming use or/and establish the use prior to the main establishment.

Based on the above analysis, staff concludes that the proposed project is consistent with the 2010 Monterey County General Plan, the Carmel Valley Master Plan, the Carmel Valley Ranch Specific Plan, and Title 21; the site is suitable for proposed structures.