

# Exhibit B

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## DISCUSSION

The applicant had constructed various accessory structures such as a basketball court, batting cage, storage sheds, patios, retaining walls and a gazebo, in addition to removal nine (9) Monterey Cypress trees on a neighboring property without a County permit. Some of these structures led to grading that required a permit. A Code Enforcement case (18CE00236) was opened with administrative citations issued on January 2<sup>nd</sup> and April 19<sup>th</sup> of this year. In order to clear this violation, the applicant is proposing an after-the-fact Design Approval to: 1) construct a 2,924 square foot basketball court with a 10 foot chain link fence and a 5 foot retaining wall, two (2) 2-foot high retaining walls totaling approximately 455 linear feet; a 856 square foot concrete patio, a 351 square foot gazebo and a 81 square foot chicken coop; 2) demolish a 900 square foot batting cage, a 43 square foot metal shed, a 83 square foot wooden shed and two (2) light poles; and 3) replace of nine (9) 15 gallon Monterey Cypress trees on neighboring property.

### Public Concerns

The project was originally set and duly-noticed for an administrative review by the Resource Management Agency (RMA) Chief of Planning on June 12, 2018. Staff received a letter requesting a public hearing from Jennifer Rosenthal on behalf of a neighboring property on June 11, 2019, and pursuant to Title 20, Section 20.76.060, the project was referred to the Zoning Administrator for consideration. The request for hearing includes contentions regarding construction of unpermitted development such as a basketball court that resulted in over 100 cubic yards of grading, exterior lighting, retaining walls along the property line, re-directing the course of drainage, a batting cage, a chicken coop and the removal of nine (9) 15 gallon Monterey Cypress trees on the neighboring property.

#### *Basketball court, Retaining Walls and Lighting Fixtures*

The project includes an after-the-fact permit to construct a 2,924 square foot basketball court that resulted in unpermitted grading of approximately 55 cubic yards of cut and 160 cubic yards of fill (see plans in **Exhibit A**). The basketball ball court is located 1 foot from the property line at the nearest point, in the southern corner of the rear half of the Tringali property, and is surrounded by a 5' high retaining wall along the southeastern and southwestern sides. On top of the retaining wall is a 10' high black metal fence to restrict any basketballs from going into the neighboring properties. The height of these structures combined exceed the typical 6' perimeter; therefore, the fence is be considered a non-habitable accessory structure subject to site development standards for such structures in the LDR zoning district. The height of the retaining wall and fence from average natural grade is 12', below the 15' allowed height as defined in the LDR zoning district. Additionally, there were two (2) nonconforming light fixtures that were installed that did not meet the Board of Supervisors adopted Exterior Lighting Guidelines. These lighting fixtures are proposed to be removed as a part of the application.

#### *Batting Cage*

The applicant also installed an unpermitted 900 square foot batting cage that was nonconforming to the LDR site development standards and resulted in grading of approximately 20 cubic yards of cut and 260 cubic yards of fill. As depicted in **Exhibit D**, the batting cage is over 15' in height and is sited less than 1' from the property line. As discussed below, the required side yard setbacks from non-habitable accessory structures is 1' along the rear half of the property and 6'

along the front half of the property. Therefore, the applicant proposes to remove the batting cage, restore the grading, and re-apply gravel to this area.

#### *Additional Accessory Structures*

Non-habitable accessory structures such as the chicken coop, gazebo and storage sheds that were constructed without permits (see **Exhibit A and D**). The applicant proposes to demolish three storage sheds totaling approximately 130 square feet that are within the required front yard setback and add 38 square feet to an existing 179 square foot permitted shed (totaling 217 square feet). The proposed 38 square foot storage shed addition, 351 square foot gazebo and 81 square foot chicken coop will match the existing colors and materials (see Design Review discussion).

#### *Drainage*

The project adds 3,520 square feet of impervious areas (basketball court, sheds, gazebo, patios), bringing the total impervious areas on the 48,919 square foot property to 9,136 square feet inclusive of the garage, driveway, and other improvements. The subject property is within the Municipal General Permit Boundary, which is subject to implementing a design strategy that limits impacts of drainage on creeks or natural drainage features. In addition, the subject property is also required to minimize stormwater runoff by implementing one or more of the following: directing roof runoff to be re-usable or onto vegetated areas, directed runoff from sidewalks, patios, pavements and driveways to vegetated areas, or constructing accessory structures with permeable surfaces. The attached plans (**Exhibit A**) illustrate an existing drainage system with catch drains that route runoff from the driveway and basketball court to a pit with a pump. Stormwater is then pumped to a dispersion trench onsite. Additionally, the remaining structures are also tied into this drainage system through either down spouts or existing drains. The project is conditioned for the applicant to submit a detailed engineered drainage and grading plan that conform to Monterey County Chapter 16.12 and illustrate how the drainage will be maintained on-site.

#### *Tree Replacement*

The applicant pruned 10 Monterey Cypress trees on a neighboring property to the southeast, without permission from the property owner of the land on which the trees were pruned. An Arborist Report (**Exhibit F**) was prepared for the trees that were pruned to determine the level of impact. The arborist stated that 9 out of the 10 trees were pruned to a point where the trees will not be able to recover due to the exposed wood, and recommended that the trees be removed and replaced. According to Title 21, Section 21.64.260.C, Monterey Cypress trees are not considered native trees or a tree that would require an entitlement from the County for removal. Due to the trees benefits of providing a privacy screen and noise attenuation, the applicant is proposing to replace the impacted trees by planting nine (9) 15-gallon Monterey Cypress trees. The remaining nine (9) trees on the property shall be cut down by a licensed professional and the replacement trees shall be planted within 2-5 feet of where the existing trees are to be removed. The project is conditioned to ensure the removal and replanting is in conformance with the arborist's recommendations (see conditions in **Exhibit A**).

The County has evaluated the project as though the work has not already occurred. Should the Zoning Administrator deny the proposed development, the applicant would need to restore the entire site. The after-the-fact permit for the basketball court, retaining walls, gazebo, patio and

storage comply with the site development standards and design criteria as described below. The applicant is required to restore the batting cage, additional storage shed areas and the impacts of the Monterey Cypress trees on the neighboring property.

### **Design Review**

The project is subject to the Design Control Zoning District (“D” zoning overlay), which is intended to regulate the location, size, materials and colors of the structures to assure protection of the public viewshed and neighborhood character. The colors and materials are consistent with the existing structures that are subordinate to the surrounding environment. The gazebo and retaining walls will have stucco beige siding with the gazebo having grey composition roofing. The 10 foot fence is a black metal fencing and the basketball court material is a blue fiber that is durable for outside sport use. The structures would not be visible from Rio Vista Drive and do not impact any public viewsheds as seen from Carmel Valley Road, Highway 1 or any common shopping areas.

The subject parcel is zoned Low Density Residential with a maximum of 1 acre per unit with a Design Control, Site Plan and Recreational Allocation Zoning Overlays or “LDR/1-D-S-RAZ.” Title 21 Section 21.14.030.F allows for non-habitable accessory structures and accessory uses to any permitted use. The subject property has an established single family dwelling consistent with the residential zoning for the property. Required and proposed setbacks for the proposed development are summarized below:

### ***Non-habitable Accessory Setback and Height:***

#### *Gazebo*

##### Required:

Front: 50’ min  
Side: 6’(front)/1’(rear)  
Rear: 1’ min.  
Height: 15’ max.

##### Proposed:

Front: 90’  
Side: 120’  
Rear: 95’  
Height: 14-6’

#### *Fence Structure (Retaining Wall/Metal Fence)*

##### Required:

Front: 50’ min  
Side: 6’(front)/1’(rear) min.  
Rear: 1’ min.  
Height: 15’ max.

##### Proposed:

Front: 100’  
Side: NA(front)/1-5’ (rear)  
Rear: 2’  
Height: 12’

### ***Building Site Coverage***

##### Allowed:

Coverage: 25%, 12,229 square feet

##### Proposed:

Coverage: 5.4%, 2,651 square feet

The proposed project complies with the development standards listed within the LDR zoning district per Title 21, Section 21.14.060.

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