

Exhibit A

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Exhibit B – DISCUSSION:

Project Description and Background:

In October 2009, stormwater runoff concentrated within a drainage course (“arroyo”) located on the southern side of the property at 30650 Aurora Del Mar, Carmel. Concentration of stormwater lead to the failure of the northern arroyo bank. Failure of the arroyo bank undermined the single-family dwelling. Under 2009 conditions, stormwater from residential sites on either bank was discharged from the rooftops and other impervious areas associated with these residential developments, along with stormwater runoff from Aurora Del Mar and Highway 1, directly into the drainage channel. Stormwater runoff also originated from the upper reaches of the arroyo east of Highway 1. The cumulative runoff created flooding situations that exceed the capacity of the arroyo and caused the erosion and ultimate failure of the northern banks of the arroyo below the Otter House. The eroded arroyo sidewall exposed the dwelling’s shallow conventional foundation and pylons supporting the residence. The residence was thus “red tagged” by the Monterey County Building Division, which prohibited people from entering the structure because of structural instability and imminent safety concerns for human occupation. On February 10, 2010, an emergency permit (PLN100094) was issued by RMA to allow the owner to mitigate the emergency situation. The permit allowed construction of a Hilfiker wire retaining wall system of approximately 135 lineal feet with a maximum height of approximately 30-feet, and importation of backfill soil materials to repair and stabilize the foundation on the south side of the existing residence. Soils were also imported to restore the arroyo bottom to its approximate historical elevation. Although not within the scope of the approved Emergency Permit, repairs to the arroyo included the installation of a subterranean storm drainage system, restoration of the arroyo bottom, and restoration of the arroyo’s riparian habitat and coastal scrub or upland habitat. The work performed under the Emergency Permit was completed over the course of 2010-2011 and is currently in place on the property as it was completed in 2011. No other development is proposed.

Consistency Analysis:

The property is zoned rural-density residential, 40 acres per unit, with a Design Control overlay in the Coastal Zone (RDR/40-D (CZ)), which allows development of single-family dwellings and accessory structures (retaining walls, drainage systems) as allowed uses subject to a Coastal Administrative Permit in each case. This project originated as an emergency permit to stabilize a failing slope for the protection of an existing single-family dwelling. The work included installation of a retaining wall and repairs to a drainage course that were necessary to protect the residence at the site. Coastal Development Permits are needed for repairs on slopes greater than 30 percent, for development within a watercourse (environmentally sensitive habitat), for development within 50 feet of a coastal bluff, and for development within 750 feet of known archaeological resources. Based on staff review of the planning application materials, the property complies with all rules and regulations pertaining to zoning uses and other applicable provisions of the 1982 Monterey County General Plan, Big Sur Coast Land Use Plan, and applicable sections of the Monterey County coastal zoning ordinance as more fully described below.

Design Review:

Pursuant to MCC Chapter 20.44, the proposed project site and surrounding area are designated as

a Design Control Zoning District (“D” zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The Hilfiker wall is a wire mesh structure engineered such that it is a retaining wall. Wire mesh is formed to create pockets or cells that are filled with stone and earthen materials, then the completed wall may be planted and thus integrate with its surroundings. In this instance, the wall was planted with native plants typical for a coastal riparian habitat. The plants are now mature, and the wall appears as a vegetated stream bank. The Hilfiker wall is installed at the bottom or toe of the arroyo bank with the top of the wall approximating the finished grade in the vicinity of the dwelling. The wall is not visible from a public viewing area. The wall is visible from Aurora del Mar, a private road with controlled access. However, the wall is not an obvious structure because of the vegetative growth contained within the wall and the structure’s integration into the local fauna. The wall appears as a natural stream bank because of the density and vitality of the native vegetation.

The property is located in an area where the Local Coastal Program requires visual public access (Chapter 20.145.30, Visual Resources Development Standards, Big Sur Coast Implementation Plan). The property is located on the west, or seaward side of Highway 1, overlooking the shoreline. However, the project site is not visible from any public viewing area. The project is located within the built-out Otter Cove neighborhood characterized as an established rural density residential neighborhood fronting the shoreline. The Otter Cove neighborhood, located along Aurora Del Mar, is located approximately 10 feet below the Highway 1 road grade and is screened by dense vegetation. Thus, the project will not interfere with visual access along Highway 1 or the coastline. As proposed and installed, the project does not result in any visual impacts, and the project is consistent with the applicable visual resource and public access policies of the Big Sur Coast Land Use Plan.

ESHA:

The proposed project is located in an area that is considered an environmentally sensitive habitat area (ESHA) according to the County GIS maps. The project is located on a site that is generally level with a natural slope towards granite stone bluff face at the shoreline; an arroyo is located in the southern portion of the parcel, adjacent to the residential dwelling, that flooded during storm events of 2009 and early 2010, causing the northern banks of the arroyo to fail and exposing portions of the residential dwelling foundation. The project site is located within a built-out neighborhood developed during the 1970s through the 1980s. The stream habitat was considered degraded due to the presence and quantity of non-native plants in the arroyo and as a result of the erosion that took place during the flood event. The condition of the arroyo under the residence prompted the issuance of an emergency permit (PLN100394) to mitigate the emergency and preserve the residential dwelling. The project required the removal of vegetation from the arroyo channel that is best described as a mix of native and non-native plants, including poison oak, arroyo willow and the invasive, non-native Ngaio tree (*Myoporum*), Hottentot fig, pride of Madera, and other non-native plants. The western reaches of the arroyo included California sage brush, beach aster, sea cliff buckwheat, and other species typical of coastal chaparral. This part of the arroyo was not disturbed by the project activities and remains in place and was subject to enhancement efforts that removed non-native plants with hand tools. The eastern portions of the arroyo, adjacent to Aurora Del Mar, was not subject to flooding and the in-situ upland habitat remains intact and is dominated by willow and dense thickets of poison oak, and chaparral. This upland habitat segment

of the arroyo lacks biological diversity due to the thick poison oak understory. Regardless, southeastern portion of the site is subject to a conservation easement that would protect the biological resources and any possible cultural artifacts that may be present.

The project did include habitat restoration of the arroyo. The restoration plan included native plants typical of a riparian environment. The restoration efforts also included habitat enhancement that included the removal of non-native plants within the arroyo but outside of the limits of the grading and construction. These plants were removed with hand tools, bagged and disposed of in a green waste facility. Currently the arroyo exhibits a healthy riparian and coastal upland habitat dominated by native plants as described in the Biological report submitted with the follow-up permit application (Wandke, Rana Creek 2019).

Development on a Coastal Bluff:

The project site is located on a coastal bluff overlooking a shoreline known as Otter Cove. The shoreline here is rugged, characterized by granite rock overlaid with sandy erosive soils of varying depth. The existing residence was built in the early 1980s on the sandy portions of the lot, approximately 15 feet from the shoreline. The Hilfiker wall was extended beyond the original approved dimension oriented in an east/west orientation so that it wrapped around the top of the bluff face in a north/south orientation. The purpose was to protect the bluff top from potential erosion and thus protect the residence. The project did not include the construction of a sea wall. The location of the existing home in proximity to the bluff has not changed. Precautions were taken during construction to prevent erosion and other contaminants from reaching the bluff and the ocean below.

Development on Slope:

The Hilfiker wall is located on slopes greater than 30 percent. The slope is the northern bank of an arroyo that includes ephemeral drainage. The purpose of the Hilfiker wall was to repair and fortify the northern bank of the arroyo and as such, development on slopes cannot be avoided. Locating the wall on the slopes was the best solution to preserve the existing development of the site. No alternative existed that would better accomplish the goals of protecting the arroyo bank and the existing residence. The project, as it was designed and constructed, better achieves the resource protection objectives of the Big Sur Coast Land Use Plan in that the Hilfiker wall protects the arroyo bank from future flooding events, and the subterranean drainage system required the restoration of the arroyo bottom to the approximate level prior to the flooding events of 2009 – 2010. The drainage system is designed such that water flows up to a two (2) year event remain on the surface and flow to their discharge point at the shoreline. Water flows in excess of a two (2) year event are diverted to the culverts for discharge to the shoreline.

Archaeological Resources:

The project site has been identified as a site that contains midden, contains portions of a recorded archaeological site, CA-MNT-438, and is a site of cultural significance. Human remains were discovered on the site during foundation excavation activities associated with construction of the home in 1983. There is no record confirming that the remains were returned to the site and if they were, where they would be located. Implementation of the project – the Hilfiker wall, subterranean drainage system, and creek restoration – did not include the exportation of soils. The project required the importation of approximately 350 cubic yards of fill materials. The

project then underwent minor revisions to comply with Fish and Wildlife requirements, namely modification of the drain system inlet, and the shaving of the weir tops to match the channel grade, all done to promote water flow. No grading or earth disturbance was required to make these revisions. Additionally, the archaeological survey conducted for this project was conducted in September 2010, after the grading and construction activities were completed. Therefore, it is not practical to conduct exploratory digs in search of possible cultural artifacts for carbon dating in soils that were imported and compacted. The project was reviewed with the Ohlone-Costanoan, Esselen Nation (OCEN) tribal representative on three separate occasions, commencing in June 2019. The tribal representative was informed that bone fragments were discovered while trenching for the residence's foundation was being performed in 1983. The representative was informed that work was halted, and that the archaeologist recommended that the fragments be carbon dated and returned to the site if stakeholders agreed to the action. The property owner at the time and the Native American tribe agreed to have the bone fragments returned to the site for internment after study. However, there is no record that the fragments were returned to the site or where they might be located. The current tribal representative had questions regarding the status of the bone fragments. Staff could not provide a definitive answer as there is no record of the bone fragments being returned to the site. There is a possibility that the fragments may have been scoured to the ocean during the flood events in the arroyo if the fragments were returned to their approximate location of discovery. It is also possible, if the fragments were returned to their approximate point of discovery, that they are in soils under the dwelling. There is no conclusive answer other than that no soils were exported from the site as part of the project to repair the arroyo wall and build the Hilfiker wall and subterranean drainage system. The tribal representative did not provide any written comments from any of the consultations but stated that all tribal lands are sacred.

CEQA:

The Hilfiker wall was constructed after the approval of an Emergency Permit, PLN100394. Monterey County Codes require that a follow-up Coastal Development Permit (CDP) be obtained once the emergency situation is mitigated. Subsequent to the completion of the Hilfiker wall, the applicant submitted an application for the follow-up CDP. Because of the location of the wall and the surrounding area, an Initial Study was prepared pursuant to Section 15064.a.1 of the CEQA Guidelines. Resources that were analyzed were aesthetics, biological resources, and cultural resources. The Initial Study identified potential impacts to the environment, but mitigation measures are incorporated that minimize impacts to a less than significant level. Mitigation measures included habitat restoration, stream restoration that includes drainage design to accommodate surface flows of up to a two (2) year storm event, and the recordation of a conservation easement over the southeastern portions of the property. Furthermore, pursuant to Section 15105 of CEQA, the Initial Study was subject to a public review period of 30 days which commenced on January 3, 2020 and concluded on February 3, 2020. Comments were received from California State Native American Heritage Commission during the preparation of this Staff Report. Staff has reviewed the comments and has verified that consultation was conducted with a representative of the Ohlone-Coastanoan, Esselen Nation (OCEN) on three (3) occasions commencing on June 11, 2018.