

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: August 31, 2006 Time: A.M.	Agenda Item No.:
Project Description: Use permit to allow grading of a walking path on slopes in excess of 30%. Grading of the path has been carried out without benefit of grading or planning permits, the permit would include partial restoration of the cut to correct violation CE060071.	
Project Location: 514 Loma Alta Road, Carmel	APN: 103-102-017-000
Planning Number: PLN060184	Name: Eberhard Lenz, Property Owner Peter Davis, Agent
Plan Area: Greater Monterey Peninsula Area	Flagged and staked: No
Zoning Designation: "RDR/5.1-UR-D-S" or "Rural Density Residential, 5.1 acres per unit with Urban Reserve; Design Approval and Site Plan Review overlay Districts"	
CEQA Action: Categorically Exempt per Section 15304	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Use Permit based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions (**Exhibit C**).

PROJECT OVERVIEW:

The subject parcel is a 5.1 acre lot flanked between Aguajito Road and Loma Alta Road, located at 514 Loma Alta Road, Carmel. The parcel is zoned "RDR/5.1-UR-D-S" or "Rural Density Residential, 5.1 acres per unit with Urban Reserve; Design Approval and Site Plan Review overlay Districts". The parcel is currently vacant but the project requires a Use permit for development on slopes in excess of 30% pursuant to Section 21.64.230.C of the Monterey County Zoning Ordinance (Title 21). This development is required to partially restore a walking path that was graded without securing permits and abate the violation (File No. CE060071). Based on resource information contained in the Greater Monterey Peninsula Area Plan, the Greater Monterey Peninsula Area Plan Inventory and Analysis, application materials and site visits; staff finds that this project has no issues relative to archaeological, historical or biological resources. Therefore, staff is recommending approval of the Use Permit.

Project Issues

The property owner of the subject parcel previously graded a walking path from Loma Alta Road to Aguajito Road. Approximately 100 feet of the path is situated on slopes in excess of 30%. The cut slope ranges from vertical to a 1:1 ratio with a height of about two to two and a half feet. The project consists of the partial restoration of the path and revegetation. The restoration plan includes minimal grading (approximately 74 cubic yards) and revegetation of the cut slope and path pursuant to Section 21.84.130 of Title 21.

A letter dated May 3, 2006, by Soils Surveys Inc., gives recommendations for stabilizing the cut. The cut slope will be scalped back (except in areas where tree roots may be affected), seeded and mulched; jute netting will be stapled to the entire cut slope (See Condition No. 6) to aide in stabilizing the planted area.

Staff discussed the issue of a full restoration with the grading department. Grading staff explained procedures that would be necessary for restoring the cut completely. Basically, to in

fill the walking path and make the entire area stable, a “keyhole” cut would have to be made. This would include further grading of the path to create a trench (possibly 10,000 cubic yards of dirt movement) beneath the toe of the fill slope and then fill and compact the trench with engineered fill for shearing resistance. Depending on the compaction required by the engineer, this may cause problems with the growth of vegetation.

Planning staff and grading staff are in agreement with the soils engineer’s recommendations. Minimal grading and replanting would allow for partial restoration of the path and remedy the violation in such a way where it would cause the least amount of environmental damage. The possibility of having to move tens of thousands of dirt would have the potential to create an erosion hazard and possibly have a significant effect on the environment. The re-compaction of the fill could possibly be up to 95%, which would be close to the denseness of rock. It would be difficult for vegetation to grow in that type of environment.

A letter of concern was submitted to the Monterey County RMA-Planning Department addressing the encroachment onto Aguajito Road. That access from Aguajito Road will be abandoned and restored. The Monterey County Public Works Department has placed a condition on the project (Condition No. 7) where any other encroachment off of a public right of way will require review and issuance of an encroachment permit from public works.

OTHER AGENCY INVOLVEMENT:

- ✓ Carmel Highlands Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by Public Works have been incorporated into the condition compliance reporting plan (**Exhibit C**).

The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review and was considered on June 7, 2006. The LUAC recommended approval of the project subject to conditions that include submittal of a landscaping plan and that the grass is seeded at the appropriate season.

Note: The decision on this project is appealable to the Planning Commission.

Anna V. Ginette
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July 10, 2006

cc: Zoning Administrator; Eberhard Lenz, Applicants; Peter Davis, Agent; Carmel

Highlands Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Jacqueline Onciano, Planning & Building Services Manager; Anna V. Ginette, Planner; Carol Allen, Planning File No. PLN060184.

Attachments: Exhibit "A" Project Data Sheet
Exhibit "B" Recommended Findings and Evidence
Exhibit "C" Recommended Conditions of Approval
Exhibit "D" Site Plan
Exhibit "E" Letter from Soil Surveys Inc., dated February 10, 2006

This report was reviewed by Jacqueline Onciano, Planning and Building Service Manager.

EXHIBIT A

Project Information for PLN060184

Project Title: LENZ EBERHARD

Location: 514 LOMA ALTA RD CARMEL	Primary APN: 103-102-017-000
Applicable Plan: Greater Monterey Peninsula Area Plan	Coastal Zone: No
Permit Type: Use Permit	Zoning: RDR/5.1-UR-D-S
Environmental Status: Exempt	Plan Designation: RURAL DENSITY R
Advisory Committee: N/A	Final Action Deadline (884): 8/12/2006

Project Site Data:

Lot Size: 5.1 ACRES	Coverage Allowed: N/A
Existing Structures (sf): N/A	Coverage Proposed: N/A
Proposed Structures (sf): N/A	Height Allowed: N/A
Total Sq. Ft.: N/A	Height Proposed: N/A
	FAR Allowed: N/A
	FAR Proposed: N/A

Resource Zones and Reports:

Environmentally Sensitive Habitat: No	Erosion Hazard Zone: MODERATE
Biological Report #: N/A	Soils Report #: N/A
Forest Management Rpt. #: N/A	
Archaeological Sensitivity Zone: MODERATE	Geologic Hazard Zone: IV
Archaeological Report #: N/A	Geologic Report #: N/A
	Traffic Report #: N/A
Fire Hazard Zone: HIGH	

Other Information:

Water Source: N/A	Sewage Disposal (method): N/A
Water Dist/Co: N/A	Sewer District Name: N/A
Fire District: CARMEL HIGHLANDS FPD	Grading (cubic yds.): 74.0
Tree Removal: N/A	

EXHIBIT B

RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements and standards of the Monterey County General Plan, Greater Monterey Peninsula Area Plan, Greater Monterey Peninsula Area Plan Inventory and Analysis and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for this development.

EVIDENCE: (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project that indicated any inconsistencies with the text, policies and regulations in these documents. However, a letter was received regarding the safety of the walking path encroaching onto Aquajito Road. That concern was addressed by the Monterey County Public Works department and plans show that the encroachment will be abandoned and restored.

(b) The property is located at 514 Loma Alta Road, Carmel (Assessor's Parcel Number 103-102-017-000), Greater Monterey Peninsula Area Plan. The parcel is zoned "RDR/5.1-UR-D-S" or "Rural Density Residential, 5.1 acres per unit - Urban Reserve; Design Approval and Site Plan Review Overlay Districts". The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21, and is therefore suitable for the proposed development.

(c) The project planner conducted a site inspection on April 5, 2006 to verify that the project on the subject parcel conforms to the plans listed above.

(d) The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (GMPLUAC) for review. The GMPLUAC recommended approval of the project on a 3 to 0 vote with one member absent.

(e) The application, plans, and related support materials submitted by the project applicant to the Monterey County RMA-Planning Department for the proposed development found in Project File No. PLN060184.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA-Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and Water Resources. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

(b) A letter from a geotechnical engineer, Soil Surveys Inc., dated May 3, 2006, indicates that there are no physical or environmental constraints that would indicate that the site is not suitable for the use propose. County staff concurs. See letter attached as Exhibit E.

(c) Staff conducted a site inspection on April 5, 2006 to verify that the site is suitable for this use.

(d) Materials in Project File No. PLN060184.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review.
- EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15304 (f) categorically exempts minor alterations to land (minor trenching and backfilling) where the surface is restored.
- (b) A letter from Soil Surveys Inc., dated May 3, 2006 (Exhibit E), addresses the stability of the cut and fill slopes of the walking path. It was determined that the “cut slope appears to be stable except for some minor slough found along the toe of the slope”. The engineer recommends that the top two feet of soil be scalped back at 1:1 ratio. Where oak tree roots would be cut off and the trees undermined, the slope should be undisturbed. The scaled off top of slope should be seeded and mulched for grass and jute netting should be stapled to the entire cut slope to add in the stabilizing of the area. See condition No. 6.
- (c) Staff met with the grading division and went over the possible options for restoring the site. Grading staff concurs with the letter dated May 3, 2006 from Soil Surveys Inc., soils engineer. A full restoration of the site would include a tremendous amount of grading and have a significant effect on the environment.
- (d) No adverse environmental effects were identified during staff review of the development application during a site visit on April 5, 2006.
- (e) See preceding and following findings and supporting evidence.
4. **FINDING: 30% SLOPE** – There is no feasible alternative that would allow development to occur on slopes in excess of 30% and the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and Greater Monterey Area Plan than other development alternatives.
- EVIDENCE:** (a) Partial restoration of the cut slope will require grading and planting on slopes in excess of 30%, there is no alternative to this partial restoration plan.
- (b) Partial restoration of the grading better meets the goal of Section 21.84.130 of Title 21 and will abate the violation CE060071.
5. **FINDING: NO VIOLATIONS** - The subject property currently has a violation (CE060071). The grading for the walking path was done without benefit of permit. The proposed project will be in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County’s zoning ordinance if approved. Zoning violation abatement cost, if any, have been paid.
- EVIDENCE:** See project description.
6. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:** Preceding findings and supporting evidence.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission.
EVIDENCE: Section 21.80.040 Monterey County Zoning Ordinance (Title 21).

EXHIBIT C Monterey County Resources Management Agency - Planning Department Condition Compliance and/or Mitigation Monitoring Reporting Plan	<i>Project Name:</i> Lenz <i>File No:</i> PLN060184 <i>Approved by:</i> Zoning Administrator	<i>APNs:</i> 103-102-017-000 <i>Date:</i> August 31, 2006
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.		PBD029 - SPECIFIC USES ONLY This Use permit (PLN060184) allows grading of a walking path on slopes in excess of 30%. Grading of the path has been carried out without benefit of grading or planning permits. The permit includes a partial restoration of the cut to correct violation CE060071. The property is located at 514 Loma Alta Road, Carmel (Assessor's Parcel Number 13-102-017-000), Greater Monterey Peninsula Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. [Resource Management Agency (RMA) - Planning Department]	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		<p>PBD025 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution No. _____) was approved by the Director of the Planning Department for Assessor's Parcel Number 103-102-017-000 on August 31, 2006. The permit was granted subject to 7 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (RMA - Planning Department)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	
3.		<p>PBD030 - STOP WORK - RESOURCES FOUND</p> <p>If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (RMA - Planning Department)</p>	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner/ Applicant/ Archaeologist	Ongoing	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
4.		<p>PBD011 - EROSION CONTROL PLAN AND SCHEDULE</p> <p>The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of Planning and Building Inspection. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. (RMA - Planning Department)</p>	<p>1) Evidence of compliance with the Erosion Control Plan shall be submitted to PBI prior to issuance of building and grading permits.</p>	Owner/ Applicant	Prior to Issuance of Grading and Building Permits	
			<p>2) Evidence of compliance with the Implementation Schedule shall be submitted to PBI during the course of construction until project completion as approved by the Director of PBI.</p>	Owner/ Applicant	Prior to Final Inspection	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		<p>PBD016 - INDEMNIFICATION AGREEMENT</p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)</p>	Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to PBI.	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
6.		PBD028 – PARTIAL RESTORATION OF NATURAL MATERIALS (NON-STANDARD) In order to restore and stabilize the cut slope area, the top two feet of soil shall be scalped back at a 1:1 ratio. At places where oak tree roots would be cut off and the trees undermined, the slopes shall be left as is at these areas. The scalped off top of slope shall be seeded and mulched for grass and jute netting shall be stapled to the entire cut slope. The graded path area within the Aquajito Road right of way shall also be seeded with grass. (RMA - Planning Department)	Submit restoration plans as part of the grading permit to PBI for review and approval.	Owner/ Applicant	Prior to start of use.	
7.		PW – ENCROACHMENT (NON-STANDARD) Obtain an encroachment permit for any work within the public right of way. (Public Works)	Submit application to Public Works for review and approval.	Owner/ Applicant	Prior to the issuance of grading and building permits.	