

JEFF MAIN  
ZONING ADMINISTRATOR

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

RESOLUTION NO. 060184

A.P.# 103-102-017-000

In the matter of the application of  
**Eberhard Lenz (PLN060184)**

**FINDINGS & DECISION**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow grading of a walking path on slopes in excess of 30% continued from an existing encroachment off of Loma Alta Road for access to a well site. 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. The property is located at 514 Loma Alta Road, Carmel, and came on regularly for hearing before the Zoning Administrator on August 31, 2006.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

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.
- (f) The vegetation that was removed included native grasses and poison oak, none of which is a protected or environmentally sensitive species.
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).

**THEREFORE**, it is the decision of said Zoning Administrator that said application for a Use Permit be granted as shown on the attached sketch, and subject to the attached conditions.

**PASSED AND ADOPTED** this 31st day of August, 2006.

  
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JEFF MAIN, ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON SEP 26 2006

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE OCT - 6 2006

#### NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.

<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><b>PBD025 - NOTICE-PERMIT APPROVAL</b>  The applicant shall record a notice which states: "A permit (<b>Resolution No. 060184</b>) was approved by the <b>Director of the Planning Department</b> 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.  <b>(RMA - Planning Department)</b></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><b>PBD030 - STOP WORK - RESOURCES FOUND</b>  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.  <b>(RMA - Planning Department)</b></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	

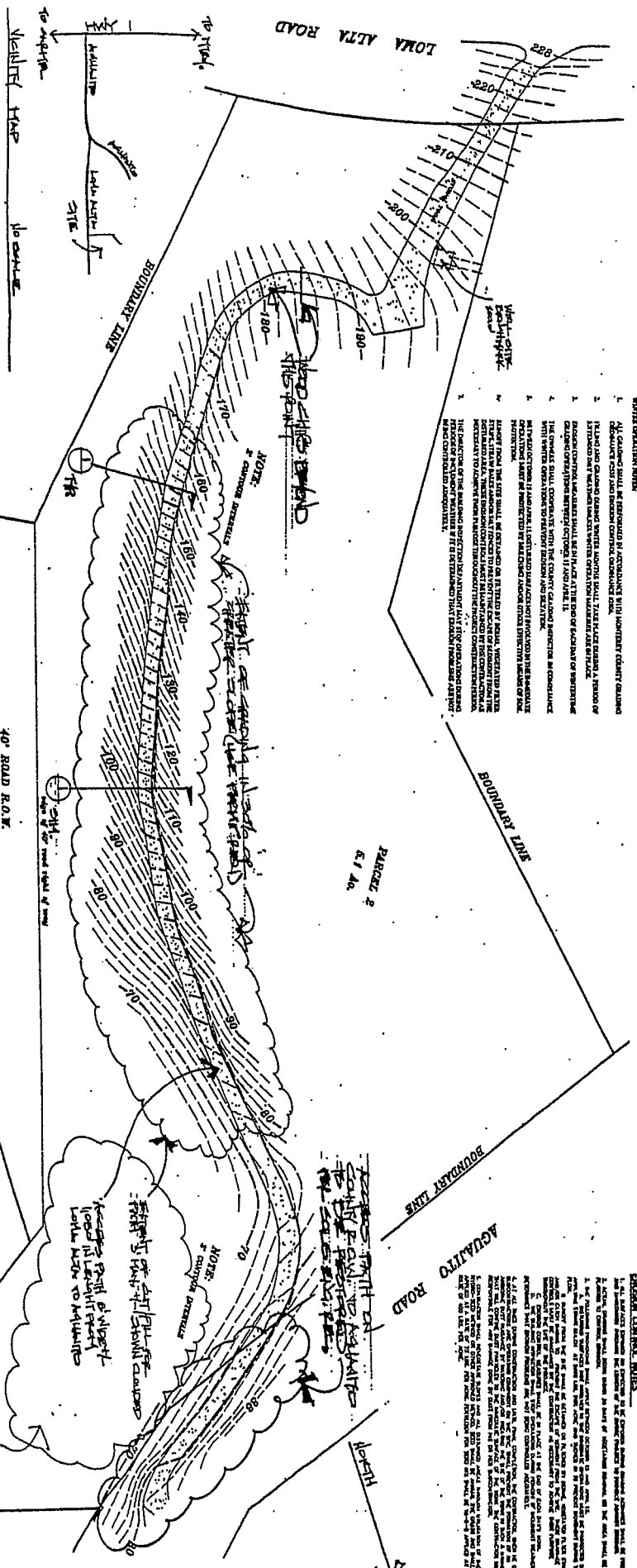
Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
4.		<p><b>PBD011 - EROSION CONTROL PLAN AND SCHEDULE</b></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. <b>(RMA - Planning Department)</b></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> <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>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>Prior to Issuance of Grading and Building Permits</p> <p>Prior to Final Inspection</p>	

Permit Cond. bet	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
5.		<p><b>PBD016 - INDEMNIFICATION AGREEMENT</b>  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. <b>(RMA - Planning Department)</b></p>	<p>Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to PBI.</p>	<p>Owner/ Applicant</p>	<p>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</p>	

<i>Permit Cond. bet</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.		<b>PBD028 – PARTIAL RESTORATION OF NATURAL MATERIALS (NON-STANDARD)</b> 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 <u>or as recommended by the soils engineer and approved by the Director of Planning.</u> 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. The toe of the slope shall remain undisturbed. <b>(RMA - Planning Department)</b>	Submit restoration plans as part of the grading permit to PBI for review and approval.	Owner/ Applicant	Prior to start of use.	
			<u>Submit a letter from the soils engineer stating that all recommendations have been met.</u>	<u>Owner/ Applicant</u>	<u>Prior to final.</u>	
7.		<b>PW – ENCROACHMENT (NON-STANDARD)</b> Obtain an encroachment permit for any work within the public right of way <u>for subject permit or any previous work that was done subject to the approval of the Public Works Department. If required, obtain an encroachment permit for the existing well access off of Loma Alta Road.</u> <b>(Public Works)</b>	Submit application to Public Works for review and approval.	Owner/ Applicant	Prior to the issuance of grading and building permits.	

END OF CONDITIONS

LOMA ALTA ROAD



- WRITE OPERATIONS NOTES**
1. ALL CONDUITS SHALL BE INSTALLED IN ACCORDANCE WITH NEARBY EIGHTY (80) FEET
  2. ALL CONDUITS SHALL BE INSTALLED IN ACCORDANCE WITH NEARBY EIGHTY (80) FEET
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- DESIGN CONTROL NOTES**
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TOPOGRAPHIC MAP  
 OF THE  
 ACCESS PATH  
 TO THE  
 HATCHED SECTION  
 OF THE  
 PROPERTY  
 OWNED BY  
 THE  
 CITY OF  
 LOS ANGELES

- NOTES:**
1. Elevation shown is based upon a mean sea level datum.
  2. Contour interval is 10 feet.
  3. Spot elevations are shown in feet.
  4. Elevation of 100.00 feet is shown at the top of the map.
  5. Elevation of 100.00 feet is shown at the bottom of the map.
  6. Elevation of 100.00 feet is shown at the left of the map.
  7. Elevation of 100.00 feet is shown at the right of the map.
  8. Elevation of 100.00 feet is shown at the center of the map.
  9. Elevation of 100.00 feet is shown at the top right of the map.
  10. Elevation of 100.00 feet is shown at the bottom right of the map.

**TOPOGRAPHIC MAP**  
 OF THE  
 ACCESS PATH  
 TO THE  
 HATCHED SECTION  
 OF THE  
 PROPERTY  
 OWNED BY  
 THE  
 CITY OF  
 LOS ANGELES

**ACCESS PATH SECTION**

1. The proposed access path is shown as a dashed line on the topographic map.

2. The access path is 40 feet wide.

3. The access path is shown as a dashed line on the topographic map.

4. The access path is shown as a dashed line on the topographic map.

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**SECTION OF MAP**

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**PROPOSED ACCESS PATH**

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# GREATER MONTEREY PENINSULA



APPLICANT: LENZ

APN: 103-102-017-000

FILE # PLN060184

 300' Limit  2500' Limit  City Limits



PLANNER: GINETTE