

Attachment No. 5
Exhibit D
Land Use Advisory Minutes

Gordon J. Steuck
PLN080454

Board of Supervisors
February 7, 2012

EXHIBIT D

LAND USE ADVISORY COMMITTEE
MINUTES
JUNE 3, 2009

MINUTES
Greater Monterey Peninsula Land Use Advisory Committee
Wednesday, June 3, 2009

1. **Site Visit** 2:45pm PLN090125 9621 CITATION CT MONTEREY

Attendees ~~PHIL SMITH~~ ~~ANDREW GIBSON~~ PHIL SMITH

Site Visit 3:15pm PLN080454 570 & 570-A AGUAJITO RD MONTEREY

Attendees PHIL SMITH

2. **Meeting called to order** by SMITH at 4:15 am/pm

3. **Roll Call**

Members Present: CHURCH, DEHOFF SMITH

Members Absent: PIERSON, JACOBS

4. **Approval of Minutes**

A. May 6, 2009 minutes

Motion: ~~CHURCH~~ DEHOFF (LUAC Member's Name)

Second: SMITH (LUAC Member's Name)

Ayes: 3

Noes: 0

Absent: 2

Abstain: 0

5. **Public Comment:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

NONE

6. **Scheduled Item(s)** – please refer to the Project Referral Sheets which follow for each separate file.

7. **Other Items**

A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

B) Announcements

WAC member requested that meetings be held once per month if possible to accommodate projects.

8. Meeting Adjourned: 5:35 am/pm

Minutes taken by: DEHOFF

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas CA
(831) 755-5025

Advisory Committee: Greater Monterey Peninsula

Please submit your recommendations for this application by **June 3, 2009**

Project Name: STEUCK GORDON JOHN & SANDRA LEE

File Number: PLN080454

File Type: LLA

Project Planner: MONTANO

Project Location: 570 & 570-A AGUAJITO RD MONTEREY

Project Description: LOT LINE ADJUSTMENT BETWEEN TWO LEGAL LOTS OF RECORD OF APPROXIMATELY 4.6 ACRES (ASSESSOR'S PARCEL NUMBER 103-061-015-000 CERTIFICATE OF COMPLIANCE NUMBER 079692) AND 4.3 ACRES (ASSESSOR'S PARCEL NUMBER 103-061-015-000 CERTIFICATE OF COMPLIANCE NUMBER 079684), RESULTING IN TWO LOTS OF 5.05 (PARCEL A) AND 3.85 (PARCEL B) RESPECTIVELY. THE PROJECT IS LOCATED AT 570 AND 570-A AGUAJITO ROAD (ASSESSOR'S PARCEL NUMBERS 103-061-015-000), GREATER MONTEREY PENINSULA AREA, NON-COASTAL ZONE.

Was the Owner/Applicant/Representative Present at Meeting? Yes _____ No _____

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
DALE ELLIS - ATTY FOR DR. + MRS. DEL PIERO	✓	✓	- Concerned about demolition of Weaver house - Presented two letters with concerns from neighbors
SANDY STEUCK GORDON		✓	
JEFF CROCKETT (DESIGNER)		✓	Suggested layout was most appropriate for building areas
ERIC BASTAD (CONTRACTOR)		✓	

- Concerns that resulting lots will not be developable

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
<i>Buildable spaces in divided lots</i>		<i>Consistency with General Plan, Subdiv. map</i>
<i>Access to new lots</i>		<i>Resolve access rights to divided lots</i>
<i>Mitigation of dumping - Issue raised by neighbors</i>		
<i>Piecemealing a large project - CEQA violation?</i>		<i>Consider reversing a more complete plan</i>
<i>Fire mitigation and clearing area to mitigate dangers</i>		<i>Clear area and make area safe.</i>

ADDITIONAL LUAC COMMENTS

RECOMMENDATION :

Motion by *DeHoff* (LUAC Member's Name)

Second by *Church* (LUAC Member's Name)

- Support Project as proposed
- Recommend Changes (as noted above)
- Continue the Item

Reason for Continuance: _____

Continued to what date: _____

AYES: *3*

NOES: *0*

ABSENT: *2*

ABSTAIN: *0*

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas CA
(831) 755-5025

Advisory Committee: Greater Monterey Peninsula

Please submit your recommendations for this application by **June 3, 2009**

Project Name: BOMBAY BLUFF LLC & IO PERSO LLC

File Number: PLN090125

File Type: AMEND

Project Planner: MANUGUERRA

Project Location: 9621 CITATION CT MONTEREY

Project Description: AMENDMENT TO A PREVIOUSLY APPROVED PERMIT ZA07286 TO ALLOW A DELI AND RESTAURANT USE IN AN EXISTING OFFICE BUILDING. THE PROJECT IS LOCATED AT 9621 CITATION COURT, MONTEREY (ASSESSOR'S PARCEL NUMBER 173-121-008-000), GREATER MONTEREY PENINSULA AREA PLAN.

Was the Owner/Applicant/Representative Present at Meeting? Yes _____ No _____

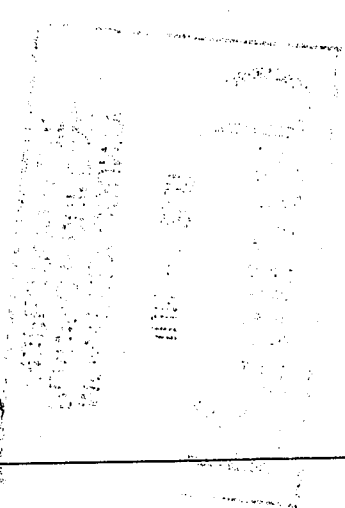
PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
<i>Belinda Taluban</i>		✓	
<i>Francesca Randozza Applicant</i>			

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)

ADDITIONAL LUAC COMMENTS



RECOMMENDATION :

Motion by Debb ff (LUAC Member's Name)

Second by Church (LUAC Member's Name)

- Support Project as proposed
- Recommend Changes (as noted above)
- Continue the Item

Reason for Continuance: _____

Continued to what date: _____

AYES: 3

NOES: 0

ABSENT: 2

ABSTAIN: 0

Anthony L. Lombardo
Jeffery R. Gilles

Dennis C. Beougher
Patrick S.M. Casey
E. Soren Diaz
J. Kenneth Gorman
Koren R. McWilliams
Amy Purchase Reid
Jason Rettler
Paul Rovella
Bradley W. Sullivan
James W. Sullivan
Kelly McCarthy Sutherland

Of Counsel
Sheri L. Damon
Virginia A. Hines



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File No. 00143.003

June 3, 2009

Ms. Philomene Smith
Chair, and Members of the
Greater Monterey Peninsula
Land Use Advisory Committee
168 W. Alisal Street, Second Floor
Salinas, CA 93901

Re: **Steuck Lot Line Adjustment; PLN080454**

Dear Chair Smith and Members of the Committee:

We are writing on behalf of Dr. and Mrs. Eric Del Piero. The Del Pieros are the property owners immediately west of the Steuck property. The Del Pieros share a common driveway access with the Steuck property and have over the years been significantly impacted by illegal grading activities on the Steuck property. The Del Pieros have significant concerns and objections to the proposed development of the Steuck property and the manner in which this application has been brought before the Advisory Committee. The reasons for the Del Pieros' concerns are detailed below:

PIECEMEAL DEVELOPMENT

The matter before the Advisory Committee is noticed as consideration of a lot line adjustment between two lots of record. However, that is not the project before the County. It appears that it is the applicant's intention to pursue the lot line adjustment and then return with the plans for the houses. That approach is inappropriate and flies fully in the face of the legal requirements under CEQA to evaluate the entire project. This project because of its scale, development on slopes over 30% and oak tree removal will require a full environmental review. The full scope of the project and its potential impacts should be before the Advisory Committee.

In a letter to Ramon Montano dated May 6, 2009, Eric Barstad withdrew PLN050209. However, PLN080454 remains active. In that same letter Mr. Barstad also stated that "... on 4/16/09 they submitted a new application for a lot line adjustment only" However, the revised application form also dated April 16, 2009 clearly states that the application is a "lot line adjustment and two new SFDs on slopes in excess of 30%." The application form also states the project will include 1,211 cubic yards of cut and fill, the removal of 28 oak and three Monterey pine trees and includes 10 covered parking spaces. The project plans show two houses with detached garages.

Ms. Philomene Smith
Chair, and Members of the
Greater Monterey Peninsula
Land Use Advisory Committee
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The house on the proposed western lot is 10,950 ft.² with an additional 1,116 ft.² of deck and includes six covered and three uncovered parking spaces. The house on the proposed eastern lot is 9,723 ft.² with 1,576 ft.² of decks and provides four covered parking spaces. The entire project should be fully presented for the Committee's review and consideration, fully evaluated under CEQA and taken forward to the Planning Commission for public hearing.

EFFECT OF THE LOT LINE ADJUSTMENT

Dr. Steuck obtained two Certificates of Compliance for this property. Certificates of Compliance are a determination by the County that based on the provisions of the Subdivision Map Act and local ordinances that there are two legal lots of record. Certificates of Compliance are not a determination that the lots are suitable for development nor are they a guarantee of a subsequent project approval. In this case, one of the lots is used for the existing residence. The second lot is a hillside that is not buildable. Approval of the lot line adjustment could result, arguably, in two buildable lots of record where there is now only one.

Under the Subdivision Map Act, the County must limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan and zoning and building ordinances. The County General Plan, Greater Monterey Peninsula Area Plan and zoning require 5-acre minimum parcels. In this case, the existing lots are not 5 acres in size and there is no way to reconfigure the lots to result in 5-acre lots. We recognize it is the County's practice and policy in cases like this to allow lot line adjustments as long as the parcels are compatible with the objectives and policies of zoning and the applicable plans. In this application, however, Dr. Steuck proposes to take two lots that are approximately equal in size (4.6 and 4.3 acres) and realign them to result in two lots of substantially different size (5.05 and 3.85 acres) rather than maintaining the current sizes or equalizing the lot sizes. Further, the resulting lot configuration will, contrary to Plan policy and County ordinance, establish building areas that are on slopes in excess of 30% and will require removal of oak trees. Those issues do not appear to be addressed in the review of the lot line adjustment.

The lots are served by a private easement that may not provide legal access to two residences on the Steuck property. There is no evidence by way of a title report or other analysis that clearly shows that Dr. Steuck has the right to use the easement for more than one house. This question should be fully researched addressed and resolved prior to any approval of the lot line adjustment or overall project.

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UNRESOLVED GRADING VIOLATIONS

There is a long and significant history of grading violations on the Steuck property that continue to be unresolved. The Del Pieros have worked diligently with the County in an effort to resolve these issues. However, the illegal grading remains.

The grading violations documented by the County date back to at least 1987 and involve the deposit of hundreds, if not thousands, of cubic yards of undocumented and unsuitable fill material on steep slopes. Numerous letters were written to Dr. Steuck by the County between 1987 and 1990 in effort to obtain compliance. The violations were ultimately referred to the District Attorney's office for prosecution. Unfortunately no further action was taken by the County.

Dr. Steuck made an application to the County in 2005 for a lot line adjustment and two large homes on the property. Part of the application materials included a geotechnical engineering report prepared by Earth Systems Pacific. That report identified the large areas of undocumented fill. That report made recommendations for further exploration to identify the full extent of the undocumented fill and that undocumented fill material to be removed from the property. When the content of that report was found, we met with Tim McCormick the Director of Building Services and Mike Novo the Director of Planning for Monterey County. The result of that meeting was an agreement that, among other things, Dr. Steuck would be required to retain a registered civil engineer to determine the full extent of undocumented fill and prepare a plan for the removal of that undocumented fill. The County issued a grading permit to Dr. Steuck earlier this year. That scope of work for that permit was to "clear CE08413: remove the existing fill and restore site back to original grade." However, the work that was ultimately approved by the County was not removal of the undocumented fill but instead approval of engineered fills. Much of that engineered fill is on slopes over 30%. It is that engineered fill that is now proposed to be building sites on the realigned lots.

The Del Pieros believe that the County's actions to correct the long-standing, extensive grading violations are inadequate and inappropriate. The Del Pieros believe there are still grading violations and possible violations related to protection of the oak trees on the property. They are currently evaluating their alternatives for further action on this issue.

SUMMARY

The Del Piero's do not object to the construction of a new home on the Steuck property. In fact, they would welcome construction of a home that would be compatible and consistent with the area. They do, however, object to the project as currently planned. They believe that:

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Chair, and Members of the
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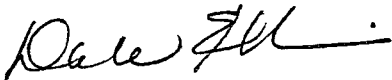
1. The lot line adjustment is inappropriate and inconsistent with the historic zoning, the General Plan and Area Plan.
2. The two homes proposed are inappropriate in their scale, would be inconsistent with County's policies and regulations pertaining to development on slopes over 30% and oak tree removal.
3. No action should be taken until such time as questions regarding the long-standing grading violations are fully resolved.

The Del Pieros request that the Advisory Committee either recommend the lot line adjustment be denied outright or that the application be tabled until such time as the entirety of the project is brought before them.

Thank you for your consideration.

Sincerely,

Lombardo & Gilles, LLP



Dale Ellis, AICP
Director of Planning and Permit Services

DE:ncs

cc: Dr. and Mrs. Eric Del Piero



Aguajito Property Owners Association

P.O. Box 1234 Carmel, California 93921

May 29, 2009

To: The Greater Monterey Peninsula Area Planning Advisory Committee
Michael Novo, Director of Planning
Monterey County Minor Subdivision Committee

From: The Aguajito Property Owners Association Board

Re: Opposition to Steuck Lot Line Adjustment due to Illegal Dumping of Contaminated and Uncompacted Fill (Gentry Hill Lane) and lack of Deeded Access (File Number: PLN080454, 570 & 570A Aguajito Rd)

Gentlepersons:

Our Homeowners Association strongly objects to the proposed Steuck Lot Line Adjustment because we believe:

1. Existing, contaminated waste has been dumped on and remains on the property, and neither the land owner nor the County has caused the contaminated and uncompacted waste materials to be excavated, tested, and removed as is required by Monterey County Codes and state law.
2. Lot line adjustments may not be approved if existing violations of state health and water quality protection regulations and county ordinances exist on a property, even if the county has failed to enforce its own codes and has failed to order the full excavation of the unpermitted and contaminated fill.
3. The creation of the new, buildable lot by the county will illegally burden the access easement across the Bliss property and Gentry Hill Lane, a private road. The smaller and currently unbuildable lot (all of it is in excess of 50% slope) is only allowed access from Aguajito Road. No access can be developed from Aguajito because the lot is almost vertical in slope. The proposed lot line adjustment would cause access to the proposed lot to come from Gentry Hill Lane, a private road that the County has no right to grant additional access or encroachment upon.
4. Visual inspection of the site will not disclose the thousands of yards of contaminated fill that has been dumped on the property because the owner has graded the top of the material to make it look like nothing is wrong.
5. The proposed lot line adjustment will create one non-conforming lot that is even more non-conforming than the current parcels. This proposal flies in the face of California law and the legislative intent governing such lot line adjustments. It violates both our zoning (5.0 acre minimum) and our deed

restrictions and may lead to litigation if the County attempts to take actions beyond their authority or power. The motive for this lot line adjustment is purely for profit at the expense of our property owners.

Members of our homeowners association have known and objected for years to the illegal activities and illegal dumping of contaminated waste on the Steuck property. As has been documented by complaints since the mid-1980's, the dumping of waste and contaminated fill on that parcel, although repeatedly cited by county inspectors, remains an existing and present threat to our groundwater supplies.

We have reason to believe that, along with the broken asphalt, garbage, rebar, chunks of concrete, and pieces of broken metal that have been buried on the site, contaminated fill was deposited on the property. Our members have asked for this material to be fully excavated and tested in compliance with Monterey County Codes before any permit request is granted on the properties.

As you know, although there have been repeated assurances from multiple county employees over the years, the County of Monterey has failed to demand the full and complete excavation of this toxic waste material from the site. Further, the County has mysteriously released "Red Tags" that were placed on the property due to the illegal dumping without requiring any remediation of the contaminated waste or the full excavation and removal of the illegal contaminated fill as is required by state and local codes.

Additionally, the illegal fill has covered the bases of mature oak trees, threatening these protected species.

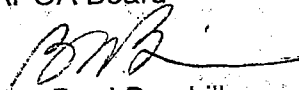
We strongly object to any processing or approval of any permit, and specifically we object to the lot line adjustment application, on the Steuck property until all of the illegal and contaminated fill has been excavated and removed, until the original natural grade of the property is restored, until all of the toxic contaminants that threaten our groundwater supplies are removed, and until the County has taken punitive action against the land owners for their wrongful past actions.

We ask that you deny any and all applications until each and all of the above violations and illegal acts have been resolved by the full removal of the illegal and contaminated fill from the property, and until access from Aguajito Road for the currently unbuildable lot is secured with a county encroachment permit, a county grading permit, a county variance, a General Plan amendment, and a Scenic and Design permit approval.

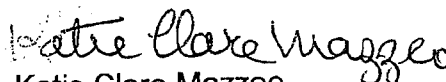
Respectfully, The APOA Board



David Hughes



Brad Burchill



Katie Clare Mazzeo

Edwin E. Bliss
579 Aguajito Road
Carmel, California 93923

May 31, 2009

To: Monterey County Planning Department
Attn: Greater Monterey Peninsula Land Use Advisory Committee

Re: Steuck Application, PLN080454

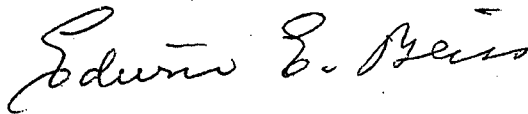
I am writing this letter to strongly object to the proposed lot line adjustment on the Steuck application. This lot has no access across my property and has no easement rights to use Gentry Hill Lane. The existing unbuildable lot is essentially a cliff with no building site. Additional traffic congestion on the narrow access road would also be a dangerous problem.

Unfortunately, I am not physically able to attend your meeting. I am ninety years old and have lived here most of my adult life. We, who live in this area, purchased our properties knowing that it is zoned five acre minimum. It is difficult for me to understand why the County wants to violate this zoning ordinance. I am going to ask Dave Potter to explain this to me.

The approval of this lot line adjustment to allow building on a smaller 3.85 acre parcel is not fair to the other property owners in the area who honor and support our five acre zoning. It is sad to learn that some people are much more interested in making a fast buck than maintaining the integrity of the area.

I strongly oppose this application as it violates my property rights.

Sincerely,



Edwin E. Bliss