



County of Monterey Planning Commission

Item No.4

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Agenda Item No. 4

March 13, 2024

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PLN190155 - ELLA INDUSTRIES INC

Public hearing to consider an after-the-fact approval for the construction of a private road and installation of associated utilities to serve four parcels on slopes in excess of 25%. Approval would partially clear Code Enforcement violation (21CE00499).

Project Location: Less than ½ mile northeast of the intersection of Lewis Road and Vega Road, Royal Oaks (the nearest address is 146 Vega Road, Royal Oaks).

Proposed CEQA action: Find the project categorically exemption pursuant to CEQA Guidelines Section 15303(d) and no exceptions under Section 15300.2 can be made.

RECOMMENDATIONS

It is recommended that the Planning Commission adopt a resolution to:

1. Find that the project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303(d) and none of the exceptions listed under Section 15300.2 apply; and
2. Approve a Use Permit to:
 - a. Legalize grading and paving over a portion of an unimproved road to partially clear Code Enforcement violation (21CE00499); and
 - b. Allow development on slopes in excess of 25% for construction of a private road and a utility trench to serve four future home sites.

The attached draft resolution includes findings and evidence for consideration (**Exhibit A**). Staff recommends approval subject to 8 conditions of approval.

PROJECT INFORMATION

Agent: Trinh Retterer

Property Owner: Ella Industries, Inc.

APN: 117-471-003-000, 117-471-004-000, 117-471-007-000, and 117-471-016-000

Parcel Size: 29.435 acres, 23.029 acres, 27.20 acres, and 21.61 acres

Zoning: Low Density Residential, 5 acres per unit or "LDR/5"

Plan Area: North County Area Plan

Flagged and Staked: No

SUMMARY

This application was initiated and received by the County in May of 2019 for the construction of a private access road to make improvements to an existing logging road/jeep trail, associated utilities to serve four future home sites, stormwater controls, and a water distribution system to service four future

home sites. The Applicant began working on the application process with HCD-Planning when in 2021, the project received a violation (21CE00499) due to the removal of excess soil that had eroded from the hillside following a series of elevated precipitation events. Staff conducted a site inspection on March 30, 2023 and concluded that the project includes development on slopes in excess of 25%. The project has since been revised to remove the water distribution system and allow after-the-fact development on slopes in excess of 25% .

DISCUSSION

Site Development Standards

The project is consistent with the applicable development standards from the base zoning district. The four properties are as follows: Parcel “A” (21.612 acres), Parcel “B” (27.20 acres), Parcel “C” (29.435 acres), and Parcel “D” (23.029 acres). There is an existing access easement on Parcels A, B and C, connecting all four parcels to Vega Road. Following a series of elevated precipitation events in 2021, the Applicant received a Code Enforcement violation (21CE00499) for removing excess erosion dirt from the existing logging road/jeep trail and paving a portion of the access road to help stabilize the soil during high precipitation events. This application includes an after-the-fact Use Permit to legalize grading and paving on slopes to abate the violation and a Use Permit to allow development on slopes for the conversion of the existing logging road within the access easement into a paved private access road. A new utility trench will also be installed within the access road to provide future utilities to all four parcels for future development projects.

Development on Slopes

There is an existing access easement on the parcels to allow access from Vega Road to all four parcels. Within the access easement, there is an existing logging road/jeep trail. The proposed development includes developing the existing road into a new permanent paved road with future utilities installed within the access road for future development of the four parcels. There was evidence of erosion following a series of elevated precipitation events that occurred at the end of 2021. The Owner tried to replace the displaced soil back to its original location and paved a small portion at the beginning of the access road to help stabilize the soil from further erosion and received a code violation in the process. Staff conducted a site inspection on March 30, 2023 confirming that there was development on slopes in excess of 25%, as well as the removal of vegetation, creating a potential hazard for further erosion. The after-the-fact portion of this permit includes a Use Permit to legalize grading that occurred on and adjacent to the logging road within Parcels A and B. The Owner hired Storesund Consulting to provide a Geotechnical Evaluation (see **Exhibit C**) and engineering plan for the new access road and utility trench to provide stability to the road. Proposed development includes grading and paving of the access road with site utilities installed within the road for the future development of the four parcels. Storesund Consulting provided a follow-up Addendum Letter (see **Exhibit D**) confirming that the associated road improvements for the new paved access road will help stabilize the highly erodible soil and provide enhanced site stability as a result of engineered slopes in excess of 25%. The proposed development is also consistent with the Monterey County General Plan Policy OS-3.5 as it would stabilize the highly erodible soil and building the new road within the footprint of the existing road will minimize impacts to the surrounding environment. Storesund Consulting also included a stormwater management plan that includes infiltration ponds to encourage controlled filtration and minimize further erosion.

Tree Removal

An Oak Restoration and Forest Management Plan (see **Exhibit B**) was provided by Ono Consulting, who observed that the eucalyptus plantings on the parcels were planted in uniform rows with spacing of 10-20 feet on center, providing evidence that the eucalyptus trees were used as a plantation and harvested two to three times with multi-clustered stems ranging from 10-24 inches in diameter. There is little native vegetation in the surrounding area around the eucalyptus trees. Due to the high precipitation events that happened at the end of 2021 and subsequent erosion events, some of the eucalyptus trees have been removed due to storm damage on Parcels A and B. Other trees were removed during subsequent grading as a result from the storms, although the total number of trees removed has not been confirmed. Since eucalyptus is not a native tree in the North County Area Plan, the Oak Restoration and Forest Management Plan does not recommend to replace the removed trees with eucalyptus, but rather to plant with native oak and Coast live oak trees instead to help the area recover as a natural oak woodland habitat. The Oak Restoration and Forest Management Plan also addressed removing all eucalyptus trees across all four parcels and replanting with Oak and Coast live oak trees.

However, the plantings of oak trees can take years to mature and provide ample ground stabilization, and there are concerns of potential erosion that still may occur while waiting for the oak trees to mature. **Exhibit D** addresses concerns regarding the implementation of the Oak Restoration and Forest Management Plan, indicating that the years it takes for oak trees to become established and stabilize the soil across all four parcels, as well as the development and growth of native plantings and understory, can leave the site vulnerable to further erosion. The number of trees proposed for removal would be a far greater impact than the impact of the road development. It is the recommendation from Storesund Consulting to not proceed with the Oak Restoration and Forest Management Plan.

Eucalyptus trees are not protected by the County's policies, and Staff agrees that there is not a nexus for implementing the Oak Restoration and Forest Management Plan.

The County has addressed concerns for restoring the site after the road work is complete through implementation of a non-standard restoration plan condition that was reviewed and approved by the Applicant. The restoration plan will focus on replanting the previously removed eucalyptus trees with oak and Coast live oak trees and restoring areas of disturbance due to the proposed road work. The restoration also encourages the removal of invasive species such as Himalayan Blackberry to allow for native plants and understory to grow, replacing removed eucalyptus trees with native oak and Coast live oak trees and an invasive species eradication plan to remove any non-native plants to allow native understory plants to grow.

Violations

The Owner submitted a Use permit application to the County in May of 2019. During the time of working through the permit application process with the County, a series of elevated precipitation events (atmospheric rivers) came through the project site in October of 2021. The Owner experienced high erosion along the existing jeep trail and began to remove the excess soil from the access road and paved a portion that was experiencing a high level of erosion to better stabilize the road. At this time, the Owner received a notice of violation from the County's Code Enforcement for the construction of a new road. During grading to remove the eroded soil, the Owner conducted work within areas of

slopes in excess of 25%. Therefore, it was determined that a Use Permit would be required. The violation will be partially cleared through this entitlement once all conditions have been met. Once the grading permit for the violation is finalized, the violation will be fully abated.

CEQA

CEQA Guidelines section 15303(d) categorically exempts new construction, including water main, sewage, electrical, gas, other utility extensions, and street improvements. The project consists of improving an existing road and installing new utilities in a trench within the road to service four future home sites, consistent with the intent of this exemption, and none of the exceptions from CEQA guidelines section 15300.2 apply in this case:

- The location of a project site is not within any environmentally sensitive habitat areas;
- The surround parcels in the immediate area of location to the four parcels have direct access to established roads and would not require additional access roads. Therefore, successive projects of the same type and in the same place (construction of an access road) would not contribute to a significant cumulative impact;
- The proposed development area consists of highly erodible soil and the proposed roadwork, stormwater controls, and restoration plan will help to stabilize the erodible soil on slopes in excess of 25%. There are no other unusual circumstances regarding this project that would cause a significant effect to the environment;
- The project would not cause damage to scenic resources within view of a state scenic highway;
- The project is not on a hazardous waste site listed pursuant to Section 65962.5 of the Government Code; and
- The project would not cause a substantial adverse change to a historical resource.

OTHER AGENCY INVOLVEMENT

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

HCD-Engineering Services
Environmental Health Bureau
HCD-Environmental Services
North County Fire Protection District

Prepared by: Hya Honorato, Assistant Planner, x5173
Reviewed by: Anna Ginette Quenga, AICP, Principal Planner
Approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Draft Resolution including:

- Recommended Conditions of Approval
- Site Plan

Exhibit B - Oak Restoration/Forest Management Plan (LIB230067)

Exhibit C - Geotechnical Evaluation (LIB230068)

Exhibit D - Geotechnical Addendum Letter (LET_STORESUND)

Exhibit E - Vicinity Map

cc: Front Counter Copy; North County Fire Protection District; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Hya Honorato, Assistant Planner; Anna Quenga, AICP, Principal Planner; Ella Industries, Inc., Applicant; Trinh Retterer (JRG Attorneys at Law), Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Planning File PLN190155

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