

# MONTEREY COUNTY PLANNING COMMISSION

MAY 31, 2017

AGENDA ITEM NO. 2



## Additional Correspondence

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OROSCO (BROOKS) PLN160108

**Contact Info:**

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## **Nickerson, Jacquelyn x5240**

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**From:** Laura Lawrence <laura@aengusljeffers.com>  
**Sent:** Friday, May 26, 2017 4:38 PM  
**To:** Amy Roberts; Ana Ambriz; Padilla, Cosme; Rochester, Don; Jose Mendez; Keith Vandervere; Hert, Luther; Martha Diehl; Melissa Duflock; Getzelman, Paul C.; lutherhert@att.net  
**Cc:** Mack, David x5096; Swanson, Brandon xx5334; Onciano, Jacqueline x5193; Nickerson, Jacquelyn x5240; Holm, Carl P. x5103; Aengus Jeffers  
**Subject:** May 31 PC Hearing: Orosco (Brooks) PLN160108 (Item #2)  
**Attachments:** PLN160108 PC Continuance Request Signed.pdf

Dear Honorable Members of the Planning Commission:

Attached you will find a letter on behalf of our clients, Amanda Brooks and Patrick Orosco. This letter requests a continuance of our May 31, 2017 hearing to allow the Applicant reasonable time to respond to Planning Staff's conclusion that restoration of the unpermitted retaining wall is neither infeasible nor a matter of public health or safety. This is a critically important determination and we feel it is imperative that all parties understand the impacts associated with full restoration of the site, particularly in regard to removal of the unpermitted retaining wall.

Thank you, in advance, for your consideration of this request.

Regards,

Laura

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May 26, 2017

**VIA EMAIL**

Don Rochester, Chair  
Monterey County Planning Commission  
168 W. Alisal Street  
Salinas, California 93901

**Re: PLN160108: Construction of an Addition and a Retaining Wall at 47070 Highway One, Big Sur, California (portion of APN 419-211-006-000)**

Dear Honorable Members of the Planning Commission:

I am writing on behalf of my clients, Amanda Brooks and Patrick Orosco ("Applicant"). The purpose of this letter is to request of continuance of our upcoming May 31, 2017 hearing to allow the Applicant reasonable time to respond to Planning Staff's conclusion that restoration of the unpermitted retaining wall is neither infeasible nor a matter of public health and safety. This is a critically important determination and we feel it is imperative that all parties understand the impacts associated with full restoration of the site, particularly in regards to removal of the unpermitted retaining wall.

Until a couple of weeks ago, the Applicant was not aware that Planning Staff had concluded that the Applicant's after-the-fact permit application ("Application") failed to demonstrate the infeasibility of restoring the retaining wall. I do not want to give the impression that Planning Staff never mentioned that this might be an issue. It was mentioned by David Mack prior to submitting the Application when we briefed him on the unpermitted work back in March of 2016. However, since submitting our formal application, together with supporting soils engineering, in October of 2016 we were not informed that Planning Staff felt that the Application failed to demonstrate that restoration of the retaining wall was infeasible and thus they would only be recommending full restoration. To the contrary, given the unanimous Application support during the December 13, 2016 Big Sur LUAC site visit and hearing, we were under the impression that Planning Staff agreed that restoration of the retaining wall would cause substantial upslope disturbance in order to key in engineered soils upslope to transition the hillside to a stable 2:1 slope. Grice Engineering's conclusions in this regard were brought up during the site visit without anyone questioning the recommendation to avoid these upslope impacts. It is also important to note that the property experienced erosion during the last winter in undisturbed, un-retained areas proximate to the wall, and that the retaining wall successfully protected the existing caretaker unit.

If we are granted this continuance, we would use the time to commission a peer review of Grice Engineering's report regarding the infeasibility of removing the retaining wall. We were unsuccessful commissioning this peer review report between the time when we learned about Planning Staff's pending recommendation and next week's hearing. We believe a second opinion

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Don Rochester, Chair  
Monterey County Planning Commission  
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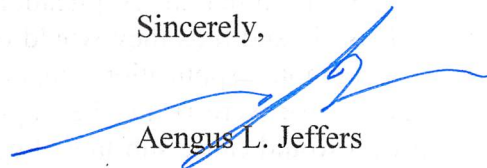
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regarding Grice Engineering's 'infeasibility' conclusion should be provided to the Planning Commission before the critical issue of both feasibility and public health and safety are formally addressed. We would also seek to use the continuance to respond to Planning Staff's statement that "no evidence has been submitted to demonstrate that the completed grading better achieves the goals, policies or objectives of the Monterey County Local Coastal Program (Big Sur Coast Land Use Plan) or that no feasible alternative existed." In short, we were not asked to demonstrate as part of the Application that the Application elements would have been permissible 'as if no work has been done'. I consider this a fair question but we do ask for the opportunity to respond to it.

I want to be clear that I am not stating that Planning Staff in any way assured us of their support for the Application. I am merely asking for this continuance because following the LUAC hearing we were not made aware of the extent of Planning Staff's concerns until a couple weeks ago and only able to review their specific analysis after the Staff Report was circulated Wednesday, May 24<sup>th</sup>. Before making a decision to require full site restoration, it is vitally important that everyone is aware of the upslope impacts as well as health and safety impacts downslope of removing the retaining wall.

The Applicant deeply regrets that clean up, maintenance, and repair work following the purchase of the property in July of 2014 was allowed to incrementally snow ball to the extent that it did. The Applicant intends to personally address the Planning Commission in this regards at hearing. The Applicant agrees that CEQA review will be required if any proposed 'after-the-fact' Application elements may be considered. The Applicant also accepts that not all of the Application elements will be able to be approved, but the Applicant certainly welcomes the opportunity to discuss with Planning Staff a resolution based upon what could have been permitted before-the-fact but which also avoids this situation being used to motivate or justify unpermitted development on any other properties.

Sincerely,



Aengus L. Jeffers

ALJ:lm1  
Enclosures