

Access corridors on slopes 30 percent and greater shall have a site specific review of soil type, vegetation, drainage contour, and site placement to encourage proper site selection and mitigation. Septic systems may only be located on slopes under 30 percent. Roads needed to complete circulation/access and for emergency access may be constructed on such cross slopes if all other standards are met.

As stated in the above policy, the County may consider and allow development or disturbance on slopes 30 percent and greater when **reasonable use** of the property would otherwise be denied. Thus, the applicant seeks a determination by your Commission that the level of proposed site disturbance constitutes a reasonable use of the subject property.

Interim Interpretive Guidelines for Policy 7.1.2.1:

On June 22, 2006, the Planning Commission adopted Interim Interpretive Guidelines for the implementation of General Plan Policy 7.1.2.1 (Attachment 1). These Guidelines address the “reasonable use” exception to the policy but do not alter the policy itself. The Guidelines outline the factors to be considered in making a “reasonable use” determination and identify when staff or your Commission is the decision-maker for such a determination. The adopted Guidelines include the following four components:

- A. Staff Authority Threshold: An area of disturbance within staff’s authority to determine constitutes a reasonable use.
- B. Minimization of Grading: An evaluation of whether grading is minimized.
- C. General Requirements: Conformance of the project with various general design requirements and ordinance/code standards.
- D. Consistency with the General Plan: Design of the project to minimize inconsistency with all applicable policies of the General Plan.

With regard to the Staff Authority Threshold (Item A), there is some confusion regarding the application of the square footage values in the case where a portion of the proposed site disturbance is located on slopes with less than 30 percent gradient and a portion on slopes above 30 percent gradient. The Guidelines will be brought back to the Planning Commission at a separate noticed hearing on August 10, 2006, for clarification of the use of the square footage values and other issues. Regardless of the square footage value established for the limit of staff authority, the project design must be consistent with items B through D above. Staff has referred the requested reasonable use determination for the Haubner project to your Commission based upon the magnitude of the proposed grading on this unusual site.

DISCUSSION

Parcel Information

Applicant:	Greg and Melissa Haubner
Location:	Southeast corner of Clearview Drive and North Shoreline Circle in Vista Del Lago, Unit 1, subdivision (Lot 13) (Exhibits 1 and 2)
Assessor's Parcel Number:	110-633-02
General Plan Designation:	Medium Density Residential
Zoning Designation:	R1A (Residential- 1 acre minimum)
Parcel Size:	1.54 acres
Utilities:	Public water and sewer (EID)
Access:	On-site driveway off Clearview Drive

Project Request

The applicant requests that the proposed level of site disturbance on slopes greater than 30 percent be found necessary to establish reasonable use of the subject property. The project consists of grading related to the construction of a 6,800 square foot single-family dwelling, three-car attached garage, two-car detached garage, swimming pool, and level lawn area. The proposed level of disturbance of the site is summarized in the Table 1 below.

Table 1: Project: Disturbed Area Summary (in Square feet)

Total lot area	67,294 square feet
Undisturbed area	31,793 square feet
Total disturbed area	35,501 square feet
Disturbed area related to access and previously graded areas	9,330 square feet
Total disturbed area minus disturbed area related to access and previously graded areas	26,161 square feet
Disturbed Area above 30 percent slope:	13,675 square feet
Disturbed Area under 30 percent slope	12,496 square

Reasonable Use Determination by the Planning Commission:

Consistent with Policy 7.1.2.1, the County may allow development or disturbance on slopes 30 percent and greater when **reasonable use** of the property would otherwise be denied. Your Commission is tasked with making the determination as to whether the proposed level of disturbance on slopes greater than 30 percent is necessary to establish reasonable use of the subject property. Factors to consider in making this determination include:

1. Minimizes grading through some or all of the following measures:
 - a. The use of stepped foundations
 - b. Depth of excavation or fill outside of the building footprint is limited to no more

- than five feet.
- c. The location of the proposed disturbance serves to minimize the length of necessary driveways on steep slopes
 - d. Structures and the configuration of the area of disturbance are designed to parallel the natural contours to the extent feasible.
 - e. Patio decks are utilized to minimize the need for graded yard areas.
2. Natural features of the site are preserved.
 3. The design compliments the natural terrain and surrounding properties.
 4. The project complies with the applicable requirements of the County Zoning Ordinance, Grading Ordinance and Building Code.

The above-listed factors are included in the Interim Interpretive Guidelines adopted by your Commission on June 22, 2006.

Staff Comments:

Because of steep topography and the configuration of the parcel boundaries, the Haubner property is very constrained for a parcel of 1.54-acres in area and would, of necessity, require substantial site alteration to develop. This unusual property is largely comprised of steep slopes from 27 to 35 percent in gradient and is elongated parallel to Clearview Drive. When zoning-required setbacks are accounted for, the resulting building area is less than 100 feet in width. The applicant is proposing to install buildings with a combined total footprint of 6,799 square feet.

Staff reviewed the project plan dated October 2005 and provides the following comments for consideration by your Commission:

1. Except for previously-graded areas located at the proposed driveway and attached garage, most of the area outlined on the project plans as "less than 30 percent slope" is at slope gradients from 27 percent to just under 30 percent. Thus, the development of level building pads or yard areas on any part of the subject property would involve substantial grading.
2. The foundation elements between the lower and middle levels are proposed to be stepped in a manner that would reduce the grading necessary to accommodate the proposed dwelling footprint. However, a more linear design for the proposed dwelling would allow the structure to more closely parallel the natural topographic contours.
3. The location of the structures would not result in a driveway of excessive length. Also, the proposed driveway design serves to minimize grading as it is located where access was previously graded on the parcel. (Refer to 7d. below regarding the proposed motor court or "access area.")
4. Almost all of the footprint of the main residence and attached garage would be located on slopes less than 30 percent. The detached garage, however, would be located almost entirely on slopes exceeding 30 percent.

5. The proposed grading plan depicts a 2,000 square foot area at the northern end of the disturbance area (outside of the proposed level yard area) where a layer of fill (three feet thick or less) would be placed on slopes from 29 to 32 percent. This disturbance appears avoidable with minor project revisions.
6. The level yard area proposed north of the residence is proposed to include about 800 square feet of slopes over 30 percent. The grading needed to create these areas would involve about 100 cubic yards of cut and 50 cubic yards of fill. The yard area and associated retaining walls could be redesigned to reduce the disturbance of the adjacent slopes that exceed 30 percent gradient.
7. Cut slope along the east property line:
 - a. The cut slope proposed along the east property line would encompass about 9,500 square feet and require about 2,300 cubic yards of cut. Cuts up to 22 feet in depth are proposed.
 - b. Two stepped retaining walls, each five-feet high, are proposed at the toe of this cut slope along the east boundary of the proposed motor court area. The extent of excavation could be reduced by increasing the height of the proposed retaining walls or reducing the width of the motor court to the minimum necessary for vehicle turnaround (approximately 25 feet).
 - c. This cut, as proposed, would have a two-foot setback from the property line and a drainage swale within the two-foot setback area. The Building Code generally requires a five-foot setback from property lines for cut slopes of the proposed height (up to 35 feet). The applicant's Civil Engineer could provide justification for this alternate design subject to approval by the Development Services Department Director.
 - d. The proposed detached garage would be located on slopes of approximately 35 percent gradient and require cuts from 14 to 22 feet in depth. The adjacent motor court area would be located primarily on slopes exceeding 30 percent and also require cuts up to 22 feet in depth. The design of the garage and motor court account for a substantial portion of the volume and the area of grading on slopes exceeding 30 percent. Your Commission can consider whether this design is "necessary for access" consistent with Policy 7.1.2.1.
 - e. Toward its southern end, the proposed cut slope is up to 35 feet in height. Above 30 feet in height, a mid-slope level terrace is required pursuant to Section 15.14.590 of the County Grading Ordinance and Section 3315.2 of the Chapter 33 Appendix of the Building Code. The grading plan would have to be revised to accommodate this terrace.

8. The submitted plan shows a portion of the proposed residence located closer to the property line than the required 30-foot setback. This design would need to be revised as part of the Building Permit application to meet the required setback.
9. The volume of cut appears to exceed the proposed volume of fill in the proposed grading plan. Estimates of cut and fill prepared by the project engineer are needed to complete application processing. A permitted receiver site should be identified for any necessary material export.
10. The subject property is located within an identified area of Naturally Occurring Asbestos. The onsite grading and any export of material must be coordinated with the Air Quality Management District.

RECOMMENDATION

Staff has provided findings in Attachment 2 for your Commission to consider. The Commission may:

- 1) Find that the grading proposed for the project is necessary to provide for reasonable use of the parcel and adopt Finding A in Attachment 2; or
- 2) Find that the grading proposed for the project exceeds what is necessary to provide for reasonable use of the parcel and adopt Finding B in Attachment 2. Finding B includes a menu of potential revisions to the project plans that would reduce the disturbance of 30 percent slopes. The Commission may select some or all of these suggested revisions and incorporate them into its findings to provide direction to staff and the applicant regarding revisions of the plans.

It should be noted that the Commission's action does not constitute approval of the project plans. The plans are still required to comply with all land use, zoning, building, grading and other development regulations applicable to the property. The Commission's action establishes whether the amount of disturbance of slopes greater than 30 percent as proposed is necessary to ensure reasonable use of the property pursuant to General Plan Policy 7.1.2.1.

EXHIBITS

- 1) Location Map
- 2) Assessor's Parcel Map
- 3) Final Map H-46
- 4) Full Size Site Plans (1"=10' and 1"=20' scales)

ATTACHMENTS

- 1) Adopted Interim Interpretive Guideline for General Plan Policy 7.1.2.1
- 2) Optional Findings for the Planning Commission