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Founders

Arthur Bonwell
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April 3, 2008

Mayor Will Casey
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Re: Seeno grading at San Marco, and Hillside Development Regulations

Dear Mayor Casey,

Save Mount Diablo would like to request an investigation by the city of what we believe may be illegal and unpermitted grading by the Seeno Companies at the western portion of their San Marco project. I've attached images depicting the grading. It has completely eradicated a seasonal stream—the creek is simply gone—and crests the Los Medanos ridgeline to overlook the city of Concord, scalping a knoll with an elevation of 860'—the highest elevation grading ever carried out in Pittsburg.

We are aware that the San Marco project has received a variety of city approvals, but it undoubtedly needs more, including updated grading permits, etc. Slopes far beyond 10% in steepness have been cut and are already slumping and eroding, some of them downhill toward the city of Concord. This is especially troubling given problems with landslides and earth movement in less steep elevations at the base of the Los Medanos hills.

We believe that the grading violates the Pittsburg General Plan—even though the General Plan does not even categorize the ridgeline between Pittsburg and Concord as a major or a minor ridgeline. Such an assessment boggles the mind, given that it is the most prominent landmark in western Pittsburg and is widely recognized as the boundary between Eastern and Central Contra Costa County.

From conversations with representatives of the California Department of Fish & Game, we know that they have also begun an independent investigation of the grading. It is our understanding that no permits should have been granted by Pittsburg without necessary Fish & Game approvals. The Department has repeatedly penalized the Seeno Companies for previous violations affecting streams and endangered species, including at San Marco.

- 1) SMD requests an evaluation by the city of any and all grading permits for the western half of the San Marco project, and of compliance of actual grading with geotechnical review, grading permits, project approvals, and the General Plan.

- 2) SMD requests an evaluation by the city of project compliance with project mitigations.
- 3) SMD requests an evaluation by the city of the status of and compliance of the project with necessary permits by other agencies, including by the California Department of Fish & Game, the Regional Water Quality Control Boards, Army Corps, U.S. Fish & Wildlife Service, etc.
- 4) We request that work in the western half of the San Marco project be stopped while this review takes place.

Over the past year Pittsburg and Concord have met on an informal basis as the Los Medanos Working Group (made up of two Pittsburg City Council members, two Concord City Council members and staff from both cities) to discuss the issue of preserving viewsheds from the City of Concord and even further west. During Measure P, project proponents also suggested that the measure would result in a greenbelt between Concord & Pittsburg and that Pittsburg development would not be visible from Concord.

That is clearly not true. Grading is already visible from west of the ridge. It is even more visible from Pittsburg.

We are especially concerned because the Council will soon consider Hillside Development regulations.

One of Pittsburg's representatives the Los Medanos Working Group has been Council member Sal Evola. We believe he has a conflict of interest in serving on the Working Group and in considerations of Pittsburg's proposed Hillside Development regulations because almost all of the lands affected are owned or controlled by Seeno Companies with which he is affiliated.

- 5) We ask for a determination by the City Attorney as to this actual or perceived conflict, which has the potential to unduly influence staff as well.

Our opinion is that, despite the best efforts of staff, despite dramatic attendance by the public, and expressions of great concern, the Planning Commission has so far rendered the proposed Hillside development regulations nearly toothless. Although the Seeno Companies have been active participants in the consideration of these regulations, and previous San Marco approvals predate the new regulations, the grading nonetheless appears to violate both the spirit and the letter of the proposed regulations.

The regulations so far

- a) Fail to designate the Los Medanos ridgeline as a ridgeline of any sort.
- b) Lack a vertical setback requirement; it was taken out by the Planning Commission. The city should have a vertical ridgeline setback of at least 200' and increase the size of the horizontal setback to 250' to ensure ridgeline protection.
- c) Allow development visible from Central County. No development or grading should be permitted in any area that is visible from west of the watershed line, i.e. from central county in order to preserve the greenbelt between East and Central County.
- d) Lack a Slope Density Calculation. The Hillside Regulation Standards should include a slope density calculation chart whereby increases in the slope of the grade or visibility would reduce the number of dwelling units permitted. Further, the slope calculation should be based on slopes in their natural state prior to any grading or earth moving. By including a slope density calculation the city would create a transition from dense development to open space as development constraints become more severe.
- e) Don't protect steep slopes. No development or grading should be allowed in natural areas subject to a slope of more than 30% or in areas where soil types that are described as erosion or landslide prone in accordance with the USDA Soil Classification System. Currently the only city requirement is that slopes over 10% require a grading permit.

- f) Don't Protect Important Viewsheds. The Regulations should include identification and protection of specific important viewsheds, especially from major commuter routes such as Kirker Pass and Hwy 4.
- g) Don't require dedication of ridgelines and steep slopes to the public. Ridgelines and steep slopes should be dedicated to the public, in their natural condition, as mitigation for nearby development, to provide scenic, recreational, and wildlife corridors.

Without strong regulations, this grading at the crest of the ridgeline is the tip of the iceberg. Significant portions of Seeno Company properties are located on the Concord side of the ridgeline and watershed line, and are visible from Concord. The development they are proposing there would be even more damaging.

The San Marco grading has already begun eroding downhill toward Concord. It dramatically makes clear the point that Pittsburg's actions in permitting and enforcing development approvals and conditions go beyond the ridgeline and affect the city of Concord and its residents, including planning for the reuse of the Concord Naval Weapons Station. Notably, all of Concord's reuse alternatives protect the Los Medanos hills and the ridgeline adjacent to Pittsburg.

Pittsburg's and Seeno's actions have the potential to cause visual impacts in Concord, to affect landslides and soil stability, to affect hydrology, to affect wildlife habitat, etc.

- 6) Beyond San Marco, the other Seeno parcels are not within the Pittsburg city limits, they are on unincorporated County lands. We request that Pittsburg re-double its efforts with Concord to reach mutually acceptable strategies so that neither city's projects unnecessarily affect each other's cities. Otherwise we believe LAFCO should consider dividing parcels at the ridge and watershed line so that each city can control its own destiny.

We would appreciate a response to our requests.

Sincerely,



Ron Brown, Executive Director
Save Mount Diablo

Cc: Members, Pittsburg City Council
Members, Concord City Council
Marc Grisham, City Manager, Pittsburg
Ed James, City Manager (interim), Concord
Jim Forsberg, Director of Planning & Economic Development, Concord

Encl. Grading images

BACKGROUND

Pittsburg General Plan

The grading at San Marco violates a variety of Pittsburg General Plan policies. General Plan standards relative to creeks and grading are below.

Permits are required for any work within 50 feet of the top of bank of a creek, or where natural or finished slope is greater than 10%--both criteria exist in this situation. The General Plan calls for the minimization of cut-and-fill of natural hillsides and preservation of ridgelines and creeks (and their enhancement), which must first be mapped. Creek setbacks are required along riparian corridors, extending a minimum of 50 to 150 feet laterally on each side of the creek bed, and riparian (creek side) corridor characteristics must be retained. Proposed hillside standards call for special attention above the 500' elevation and no development shall occur within one hundred and fifty feet (150') of a major ridge, as measured from the center line of the ridge.

What's most ridiculous is that Pittsburg, however, fails to recognize the existence of any major or minor ridgeline north of Bailey Road. Although the Los Medanos Hills ridgeline between Concord and Pittsburg is one of the most prominent features in Contra Costa County, the Pittsburg General Plan doesn't even recognize it as a major or a minor ridge. (See attached Pittsburg General Plan Fig 4-2, Major and Minor Ridges, in which we have depicted San Marco and the other Seeno lands in the Southwest Hills.

EXISTING

Pittsburg General Plan

Chapter 2 – Land Use

Section 2.5 – City-Wide Land Use Policies

- Restrict development on minor and major ridgelines (as identified in figure 4-2). Encourage residential construction on flatter natural slopes or non-sensitive graded areas that reduce environmental and visual impacts. Minimize cut-and-fill of natural hillsides.

Chapter 4 – Urban Design

Section 4.2 – Hillside Development

- 4-G-4 Encourage development that preserves unique natural features, such as topography, rock outcroppings, mature trees, ridgelines, in the design of hillside neighborhoods.
- 4-P-9 Encourage new hillside development to preserve unique natural features by mapping all natural features as part of development application, including landforms, mature trees stands, rock outcroppings, creek ways, and ridgelines. During development and design review, ensure that site layout is sensitive to such mapped features. (emphasis added)
- 4-P-14 Preserve natural creeks and drainage courses as close to possible to their natural location and appearance.
- 4-P-15 Minimize the visual prominence of hillside development by taking advantage of existing site features for screening, such as tree clusters, depressions in topography, setback hillside plateau area, and other natural features.

Chapter 9 – Resource Conservation

Section 9.2 – Drainage and Erosion

- 9-G-4 Minimize the runoff and erosion caused by earth movement by requiring development to use best construction management practices (BMPs).
- 9-G-5 Preserve and enhance Pittsburg's creeks for their value in providing visual amenity, drainage capacity, and habitat value.

- 9-P-9 Establish creek setbacks along riparian corridors, extending a minimum of 50 to 150 feet laterally on each side of the creek bed. Setback buffers for habitat areas of identified special status species and wetlands may be expanded as needed to preserve ecological resources.
- 9-P-10 Prohibit development within creek setback areas, except as part of a greenway enhancement (for example, trails and bikeways). Encourage developers to reserve space outside of the creek setbacks where endangered species habitat makes trail development inappropriate.
- 9-P-11 Ensure that riparian corridor characteristics are retained. Encourage the retention and/or reestablishment of creeks in the design of new development.
- 9-P-24 Reduce sedimentation and erosion of waterways by minimizing the site disturbance and vegetation removal along creek corridors.

EXISTING

Pittsburg Municipal Code

Title 15

15.88.030 Permit Required

A. No person may grade, fill, excavate or store or dispose of soil and earth materials or perform any other land-disturbing or land-filling activity without first obtaining a permit as set forth in this chapter.

No permit shall be granted until the applicant has obtained approval of all his legislative requirements, such as, but not limited to, use permits, hillsides planned development permit, tentative map, building permit or site plan review, where required. The environmental impact report shall be considered in the granting of a permit, and conditions may be imposed by the city to minimize or mitigate the negative environmental impacts of the proposed work.

B. All land –disturbing or land-filling activities or soil storage shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation. A person performing such activities need not apply for a permit pursuant to this chapter, if all the following criteria are met:

2. The natural and finished slopes are less than 10 percent;
7. The activity does not take place within 50 feet, by horizontal measurement, from the top of the bank of a watercourse, the mean high water mark (line of vegetation) of a body of water or within the wetlands associated with a watercourse or water body, whichever distance is greater.

PROPOSED

Chapter 18.88 – Hillside Development Regulations

18.88.060 Site Development Standards

A. Creeks. No structures shall be constructed within one hundred and fifty feet (150') of the centerline of a creek, or within fifty feet (50') from the top of bank, whichever is greater. To ensure creek stabilization, Best Management Practices (BMP's) shall be utilized to reduce potential erosion and sedimentation.

C. Grading. Grading on land zoned HPD and land above the 500-foot elevation, shall conform to the provisions contained within Title 15 and Title 17 of the Pittsburg Municipal Code. (See Above)

18.88.070 Ridge Preservation

The requirements of this section are intended to preserve the views of important topographical features from within and outside the project area.

A. Horizontal setback. Each designated major or minor ridge, as identified on Figure 4-2 of the General Plan, shall be preserved in its natural state. No development shall occur within one hundred and fifty feet (150') of a major ridge, as measured from the center line of the ridge.

B. Obstruction of skyline. No structure shall be located such that it is silhouetted against the skyline as seen from any freeway, highway, or major arterial streets