

Attachment No. 5
Exhibit G
Applicant's engineers Rebuttal to
Comments Received on Initial Study

Gordon J. Steuck
PLN080454

Board of Supervisors
February 7, 2012

EXHIBIT G

LETTER FROM APPLICANT'S ENGINEER
REBUTTAL TO COMMENTS RECEIVED
ON INITIAL STUDY

r. wayne johnson, architect / civil engineer 20571-B cachagua rd. carmel valley, ca. 93924
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10/31/11

CERTIFIED DELIVERY

Ramon Montano, assistant planner; Taven M. Kinison Brown, planning services manager
Members of the Monterey County Minor / Standard Subdivision Committee

Monterey County Planning & Building, 168 W. Alisal St., Salinas, Ca. 93901

Re : Lot Line Adjustment; Gordon & Sandra Steuck Residence, 570 Aguajito Rd., Monterey, Ca.,
APN : 103 - 061 - 015 - 000 / PLN-080454

Sirs:

With respect to the subject property, I have conducted a review of the claims by the legal firm of Lombardo & Gilles of unresolved grading violations, the related engineering reports produced pursuant to these grading operations -- reports which should be part of the county permit records -- and produced herein my commentary on the validity of the statements by Mr. Lombardo. Below, I have first identified the pertinent statements by Mr. Lombardo which are contained in his letters to county officials, then the related information contained within the reports of the engineering firms, and finally, my analysis of the validity of the issues raised by Mr. Lombardo.

Claims by Lombardo & Gilles of unresolved grading violations :

Letter of June 03, 2009 (to Ms. Philomene Smith, Chair and Members of the Greater Monterey Peninsula Land Use Advisory Committee) :

Page 3: " There is a long and significant history of grading violations on the Steuck property that continue to be unresolved. "

" 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. The 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. "

Letter of June 09, 2009 (to Mr. Tim McCormick) :

Page 1: " Also in the county records is a geotechnical engineering report prepared in May 2008 by Earth Systems Pacific That report identified areas of undocumented fill and made specific recommendations that further investigation be done to identify the full extent of the undocumented fill. The report made additional recommendations to correct those conditions. "

Page 2: " The undocumented fill was not removed. There is no evidence that any testing was done to determine the full extent of the undocumented fill on the property. As described in the CTI letter of March 17, 2009, the grading work which was to be for the removal of all of the undocumented fill became grading work for an engineered fill on the property and created a building pad where one did not exist prior to the illegal fill being placed on the property..... "

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Evidentiary Record supporting grading permit closeout :

Governing Soils Investigation (Earth Systems Pacific Report, May 20, 2008) :

Page 3: " The fill should be entirely removed to expose firm native material and replaced as properly engineered fill, as discussed below. "

Page 4: " The previously placed undocumented fill should be entirely removed and replaced as properly engineered and compacted fill..... The depth and extent of the fill should be identified by the geotechnical engineer at the time of grading..... the previously removed undocumented fill can be re-used as fill provided that is cleared of excessive quantities of potentially deleterious materials. "

Page 5: " The actual depth of and lateral extent of the fill removal should be identified by the geotechnical engineer based on conditions observed at the time of grading. The site preparation, fill removal, and over excavation operations should be observed by the geotechnical engineer prior to continuing grading. "

Site Inspection Report (CTI Construction Testing & Inspection Services, March 17, 2009) :

Page 1: " Our representative was involved in a preconstruction meeting prior to the commencement of the grading restoration of previously filled areas of the site. "

" The initial grading operations were performed as detailed in the recommendation letter and consisted of removing the previously placed fill soils to firm native Monterey Shale Large pieces of concrete and miscellaneous building rubble were removed from the fill and stockpiled to be hauled from the site. "

" During the excavation of the loose material it was noted that the amount of uncontrolled fill was significantly larger than that was detailed by H.D. Peters Co., Inc or Earth Systems, Inc. "

Page 2: " The loose fill soils at the northerly location were stripped to firm original grade. The debris was removed from the fill and exported from the project site. "

The project site was shaped to blend with the surrounding environment, as the finish grade as detailed in the restoration plan would have appeared to have been a building pad or parking area,"

" It is our opinion that the stripping and excavation of loose fill soils, moisture conditioning and compaction of the newly placed fill soils were completed in general accordance with the project plans and specifications. "

Report attachments:

- 1) density testing log, with sketch, indicating depth of fill & excavation.
- 2) field reports which substantiate final report.

Site Inspection Report (H. D. Peters Co. , Inc. and Associates, April 15, 2010) :

" I inspected the grading restoration on the natural slope of 30% or steeper on April 9, 2010, and in my opinion, all of the fill has now been removed from that steeper slope per our Grading Permit Plan. The remaining rubble taken off the slope was hauled off the property,"

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Conclusions :

1) Mr. Lombardo repeatedly references the governing geotechnical report by Earth Systems Pacific, but ignores and / or attempts to distort the recommendations. Specifically, the report identifies that the best method of determining the extent of the undocumented fill is to have a civil / geotechnical engineer on site at the time of grading "*The actual depth of and lateral extent of the fill removal should be identified by the geotechnical engineer based on conditions observed at the time of grading.* "

Soil borings are very abbreviated snapshots of subsurface conditions, and all soils reports are conditioned on having a licensed engineer verify the assumed conditions (from borings) at the site during earthwork operations. By far, having an engineer onsite during earthwork operations is the best method of determining the extent of subsurface conditions, including unwanted earth materials.

Mr. Lombardo repeatedly states that " *There is no evidence that any testing was done to determine the full extent of the undocumented fill on the property.* " **That is a false and misleading statement.**

2) The governing geotechnical report by Earth Systems Pacific, repeatedly states that the native soil materials which are mixed with the demolition materials (mostly concrete rubble) should be separated from the rubble and reused as engineered fill. It would be foolish to expend the energy to remove from the site hundreds of cubic yards of acceptable native soils only to have to import hundreds of cubic yards of offsite material to be placed as engineered fill in order to restore the land to natural contours.

Mr. Lombardo repeatedly states that " *the work that was ultimately approved by the County was not removal of the undocumented fill but instead approval of engineered fills.* " **That is a false and misleading statement.**

3) The engineering firms retained in order to verify that the work was conducted in accordance the permit documents repeatedly verified this, including statements that the extent of the work was larger than estimated in the earlier reports:

" During the excavation of the loose material it was noted that the amount of uncontrolled fill was significantly larger that was detailed by H.D. Peters Co., Inc or Earth Systems, Inc. "

" The loose fill soils at the northerly location were stripped to firm original grade. The debris was removed from the fill and exported from the project site. "

" It is our opinion that the stripping and excavation of loose fill soils, moisture conditioning and compaction of the newly placed fill soils were completed in general accordance with the project plans and specifications. "

The statement by Mr. Lombardo " *The undocumented fill was not removed.* " is a **false and misleading statement.**

4) The reference in the CTI report, page 2 " *as the finish grade as detailed in the restoration plan would have appeared to have been a building pad or parking area "* is referring to the knoll of the hill, which indeed was historically used as a building pad for a residence long ago-demolished. No new building pad was created or was there an attempt to create one.

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The following photographs, taken by myself many years earlier, clearly identify this area, which today remains as it existed before grading operations commenced.



The statement by Mr. Lombardo " ...the grading work which was to be for the removal of all of the undocumented fill became grading work for an engineered fill on the property and created a building pad where one did not exist prior to the illegal fill being placed on the property. " is yet **another false and misleading statement.**

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5) At the last meeting of this committee, Mr. Lombardo produced an old, hand drawn contour plan with superimposed contours of a recently produced computer generated plan, implying that they must match in order for the land to be considered restored.

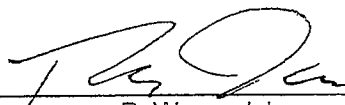
As I discussed during this meeting, contour maps are drawn based on three dimensional data points taken in the field by surveying instruments, based on bench marks which vary from time to time as a result of shifting surface soils. Different surveyors often use different benchmarks. Surface soils continually change and readjust based on environmental conditions such as rainfall, earthquakes, landslides, etc.

Older plans, such as the one Mr. Lombardo produced, are rough approximations, drawn entirely off site, in offices, based on data points recorded by hand in the field. Newer methods utilize computer programs which generate the contours based on data points collected in the field and stored internally in the computer program. No two contour maps, even ones drawn by computer programs, precisely match. Since my involvement is this property, I have seen many contour maps authorized by Dr. Steuck, most drawn by computer programs, and none precisely match the others. The assertion by Mr. Lombardo that a hand drawn contour plan, produced decades earlier, does not match one recently drawn by computer program, is yet another legal parlor trick.

A disinterested party to this discussion could easily come to the conclusion that statements such as those by Mr. Lombardo would have been preceded by at least a rudimentary investigation of these matters, including a few telephone calls to the participating engineering firms involved in order to verify preliminary assumptions. This engineer has indeed investigated this question and spoken directly to the engineers involved in the report production, field reviews and testing. None of these professional engineers has heard from Mr. Lombardo in any manner.

Furthermore, Mr. Lombardo has produced no statements by licensed professional engineers who support his position, and for good reason - his statements in the letters in question are, in my professional opinion, dishonest fabrications of legal parlor tricks, whose transparent purpose is to delay and obstruct Dr. Steuck's lawful use of his property.

In conclusion, the statements by Mr. Lombardo in his letters of June 03, 2009 and June 09, 2009 are overwhelming false and misleading. The facts of the process of permit closeout, signed by licensed professional engineers, approved by county grading inspectors, and retained in the county files, unequivocally refute the statements of Mr. Lombardo.



Sincerely,

R. Wayne Johnson

architect C-20317
civil engineer C-46677

enclosures: Earth Systems Pacific report # SH-10917-SA, pg. 3, 4, 5, 05/20/2008
Construction Testing & Inspection Services, final report, 8 pages, including plan sketch & field reports, 03/17/2009
H. D. Peters Co. Inc. and Associates, Final Report, 04/15/2010

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