

**RESOLUTION NO. 3696**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO  
APPROVING THE PLANNED DEVELOPMENT PERMIT (PD 18-01), THE GRADING  
USE PERMIT (GUP 18-01), AND THE TREE REMOVAL PERMIT (TR 18-02) FOR  
THE MONTALVO OAKS SUBDIVISION LOCATED AT  
18840 SARATOGA-LOS GATOS ROAD**

**WHEREAS**, Hacienda Realty, LLC (“Applicant”) submitted applications to the City of Monte Sereno (“City”) for a Planned Development Permit, a Grading Use Permit, and a Tree Removal Permit supporting a single-family residential development project, also known as the Montalvo Oaks Subdivision (“Project”), on a 4.45-acre site located at 18840 Saratoga/Los Gatos Road and bounded by residential uses to the north, south, and east, and a residence and the Quito Fire Station immediately to the west; and

**WHEREAS**, the project site is comprised of two existing parcels, Assessor’s Parcel Numbers 510-08-018 and 510-08-019 (“Subject Property”); and

**WHEREAS**, the subdivision and redevelopment of the Subject Property consists of 36 single-family residential units consisting of 15 attached units and 21 detached units, a private drive, a public service and emergency vehicle access easement, and a private open space hillside area; and

**WHEREAS**, on April 3, 2018, by Ordinance No. NS-215 the City Council of Monte Sereno adopted an ordinance to amend Title 10 of the City Zoning Code to establish a Planned Development Zoning District and Planned Development Permit Process within the City; and

**WHEREAS**, the City, as lead agency under the California Environmental Quality Act (Pub. Res. Act § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000-15387), has prepared an Initial Study to evaluate the potentially significant environmental effects of the Project; and

**WHEREAS**, on June 12, 2018, by Resolution No. 3692 the Council adopted the Mitigated Negative Declaration in accordance with Section 15070 et seq. of the California Environmental Quality Act guidelines; and

**WHEREAS**, ON June 12, 2018, by Resolution No. 3694 the Council approved an amendment to the City of Monte Sereno General Plan to modify the land use designation of the Subject Property from Multi-Family Residential, 3 units per acre, to Multi-Family Residential, up to 9 units per acre; and

**WHEREAS**, on June 12, 2018, the Council held a first reading of Ordinance No. NS-216 to prezone the Subject Property Planned Development (PD); and

**WHEREAS**, on June 12, 2018, by Resolution No. 3695 the Council approved

annexation of the Subject Property into the Monte Sereno city limits, subject to the successful second reading of the prezone Ordinance; and

**WHEREAS**, a Planned Development Permit is required to be approved in order to effectuate a Planned Development Zoning; and

**WHEREAS**, the Project involves a total cut of 6,044 cubic yards and a total fill of 4,599 cubic yards, resulting in 1,445 cubic yards of exports thus requiring a Grading Use Permit; and

**WHEREAS**, the proposed project includes the removal of 66 trees from the Subject Property, all of which are considered significant by the City's Tree Preservation Ordinance (Chapter 10.15); and

**WHEREAS**, the Applicant submitted an application for a tree removal permit for the removal of the 66 trees, and as a condition of approval and a mitigation measure in the Mitigated Negative Declaration, the developer will be required to prepare and implement a satisfactory replacement tree plan in conjunction with development of the Subject Property; and

**NOW THEREFORE, BE IT RESOLVED** by City Council of Monte Sereno, as follows:

SECTION 1: The City Council of Monte Sereno hereby specifically makes the following findings:

With regard to the Planned Development Permit:

1. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan in that said Planned Development district as discussed above furthers the specific goals and policies of the City's Housing Element Goal H-2. and Policy H-2.4 The City will be meeting the General Plan Goal H-2, *Construct Additional Housing to Meet Identified Needs of all Income Groups in Monte Sereno* and Policy H-2.4 *Ensure That Sites Are Provided As Needed For A Variety Of Housing Types For All Income Levels* through the implementation of Program H-2.5 in the City's adopted Housing Element. Program H-2.5 indicates that the City will provide for alternate multi-family residential opportunities should the actions related to allowing multi-family housing on the First Baptist Church site at 17765 Daves Avenue "not be successful in encouraging multi-family development." The subject property does provide for an alternate opportunity with a property owner in a position to move forward with the development of multi-family housing.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the subject property in that the Planned Development Permit, including the site layout and other project specifics, as

conditioned, conforms in all respects to the Planned Development Zoning of the subject property by meeting all of the zoning standards including, but not limited to, the height, setbacks, and density requirements of the Planned Development Zoning for the project.

3. The Planned Development Permit, as approved, is consistent with applicable City Policies, or counterbalancing considerations justify the inconsistency in that *the proposed project and its design create a cohesive community both in housing type, size, and design and supports the necessary infrastructure for the support of the new residents. The proposed project conforms to the City's Design Guidelines through the preservation of the natural resource in the Oak Woodland as a private open space preserve for the neighborhood; the use of architectural elements such as roof treatments, eaves, varying elevations, finish materials, and porches to break up the mass of the structures; the use of native trees in the landscape plan to connect the new development to the existing natural terrain; and the preservation of significant trees on the site including a program to enhance the existing natural areas.*
4. The interrelationship between the orientation, location, mass, and scale of building volumes, and elevations of proposed buildings, structures, and other uses on site are appropriate, compatible, and aesthetically harmonious in that the detached single-family homes and the duets have been designed at a height of two stories and the architecture is varied in design and includes sufficient articulation as to minimize the mass of the structures along the street. The townhomes at the south edge of the project are built into the base of the hill to minimize the height of the structures on site and to work with the topography of the site. Overall, the variety of design and the use of materials include a mix of finishes and color schemes that blend well with each other but continue to offer unique designs throughout.
5. The environmental impacts of the project, for purposes of CEQA, will not have an unacceptable negative effect on the adjacent property or properties in that with the identified mitigation measures set forth in the Mitigated Negative Declaration, the environmental effects of the project will be reduced to a level of less than significant; and

With regard to the Grading Use Permit:

1. The grading is not excessive beyond that necessary for the permitted use of the site in that the subject property has a gentle upslope from north to south until the toe of the hill where the mixed oak woodland starts. The proposed grading allows for the roadway and walkways to be ADA compliant as well as creates flat lots that step up the slope with the site. The proposed grading for the townhomes at the base of the oak woodland minimizes the cut into the hill to accommodate the garages for the units.

2. The slopes can be effectively protected against erosion and slippage in that the proposed project integrates retaining walls were appropriate to ensure against erosion and slippage of the land area.
3. The finish contours are relatively natural and do not distort the natural contours in that the finished grading will keep a gentle upslope along the internal loop road with any retaining wall to the rear of the dwellings.
4. Hillside sites are suitable for development in the manner proposed.in that the proposed project minimizes any encroachment into the hillside on the Subject Property.
5. The removal of natural vegetation is not excessive and that it is done in a manner which will minimize erosion in that the removal of trees is limited to the existing developed site and the base of the hill at the mixed oak woodland. Preservation of a large Valley Oak was made a priority and the townhouse units were shifted on site to accommodate this preservation. A tree protection plan for the mixed oak woodland will be required to ensure protection of remaining trees thus ensuring protection against erosion.
6. Drainage is not constructed or directed in some way so as to damage other property or increase erosion in that the proposed project includes a grading and draining plan ensuring that all drainage and runoff is managed on site both in direction and stormwater treatment.

With regard to the Tree Removal Permit:

1. The tree or trees need to be removed to allow reasonable economic enjoyment of the property or the tree or trees need to be removed due to disease, danger of falling, or threat to owner or surrounding residents in that many of the trees to be removed are part of an older commercial development whose placement would restrict any reasonable site layout for redevelopment as residential. The southern portion of the site is steeply sloped forcing the development of the property towards the north. Encroachment into the hillside has been minimized to allow for a reasonable site plan including circulation in the proposed project.
2. The topography of the land and the effect of the removal of the trees on erosion, soil retention and diversion or increased flow of surface waters in that many of the proposed trees to be removed are from the existing developed area and parking lot. The proposed project increases the amount of pervious area on the site thus increasing the opportunity for landscape areas to capture and filter runoff, as well as the planting of over 100 trees. Any surface runoff will be captured in the bio-retention areas at various locations on site.
3. The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and the

property values in that the existing developed site has a large asphalt parking area along Highway 9 with generally sparse landscape. Many trees have been removed from the subject property over the years such that the site appears barren from the highway. The proposed landscape plan integrates the planting of Coast Live Oak and Redwoods along the Highway 9 frontage thus reestablishing a lush native landscape for this area. As stated before, 66 trees are proposed to be removed while 136 will be planted with the proposed project.

4. The number of trees the particular parcel can adequately support according to good forestry practices in that the proposed landscape plan and required mitigation measure to develop a plan to enhance the oak woodland has been prepared by a licensed landscape architect and will be prepared by a certified arborist respectively with the knowledge of the type and extent of landscaping for the site that is appropriate according to good forestry practices.

SECTION 2: After careful consideration, the City Council of Monte Sereno hereby approves the Planned Development Permit, Grading Use Permit and the Tree Removal Permit for the Project, subject to the following conditions attached hereto as Exhibit A.

**PASSED AND ADOPTED** by the City Council of Monte Sereno on June 12, 2018 by the following vote:

Ayes: Council Member Rogers, Council Member Turner, Council Member Wolsheimer, Mayor Craig  
Noes: Council Member Anstandig  
Abstain: None  
Absent: None

By:   
Burton Craig, Mayor

Attest:   
Andrea Chelemengos, City Clerk

## EXHIBIT A

### CONDITIONS OF APPROVAL

1. **Acceptance of Permit.** Should the applicant fail to contest this Permit within the applicable time period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and condition of this permit or other approval and the provisions of Title 10 applicable to such Permit.
2. **Building Permit.** Procurement of a Building Permit from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions.
3. **Conformance to Plans.** Development of the site shall conform to the approved Planned Development plans entitled "Specific Development Plan "Montalvo Oaks" – Single Family Attached and Detached Residential located at 18840 Saratoga- Los Gatos Road, dated February 16, 2018, on file with the Monte Sereno Planning Department.
4. **Discretionary Review.** The City Council maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of the Planned Development Permit.
5. **Permit Expiration.** This Planned Development Permit shall automatically expire twenty-four 24 months from and after the date of issuance hereof by the City Council, if within such twenty-four (24) months construction of improvements has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The date of issuance is the date this Permit is approved by the City Council. Any request to extend the validity of this Permit must be approved prior to the expiration of this Permit.
6. **Conformance with the Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the Monte Sereno Municipal Code.
7. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
8. **Continuation of Existing Commercial/Residential Uses.** The existing commercial and residential uses shall cease within one (1) year of the issuance of

the Planned Development Permit, with the exception of the existing wireless communication antenna and supporting facilities. Two (2) six month extensions may be approved by the Planning Department if it can be demonstrated that the developer is diligently pursuing securing the necessary Federal, State, and Local permits for the project.

9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Building Official:
  - a. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - b. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
  - c. *Construction Plan Conformance Review.* A project construction plan conformance review by the City Planner is required. Planning review for the project conformance will begin with the initial plan check submittal for a Building Permit and/or Grading Permit. Prior to issuance of any Building Permit and/or Grading Permit, the construction plans shall conform to the approved Planning Development Permit plans.
10. **Fire Clearance for Issuing Permits.** Compliance with all applicable fire and building codes and standards relating to fire and panic safety will be determined by the Santa Clara County Fire Department during the Building Permit Process.
11. **Fire Hydrants.** Public and private fire hydrants shall be provided as required by the Santa Clara County Fire Department.
12. **Fire Flow.** Required fire flow shall be determined by the Santa Clara County Fire Department.
13. **Emergency Vehicle Access (EVA).** Required EVA shall be determined and the final design approved by the Santa Clara County Fire Department.
14. **Grading Permit.** The applicant shall apply for and be issued a Grading Permit in substantial conformance with the approved plans.
15. **Homeowner's Association Required.** A Homeowner's Association shall be established to oversee maintenance of all common areas, including driveways/courtyards, landscaping, and public improvements along Saratoga-Los Gatos Road along the project frontage.

16. **Covenants, Conditions and Restrictions (CC&R's).** CC&R shall be developed as required by the State of California and reviewed by the City Planner and City Attorney prior to the issuance of a Building Permit for the project.
17. **Landscaping and Irrigation Design.** Planting shall be provided as indicated on the approved plans with the modification of the proposed oak and redwood trees proposed along Highway 9 to be increased in size to 36" box. In addition, the applicant shall provide additional landscape screening on those properties along the eastern and western boundaries as reasonably agreed to by each adjacent property owner on the eastern and western boundaries of the Subject Property. In the event the property owners are unable to reach agreement, the Planning Department staff shall determine the appropriate level of landscaping to adequately screen the project from the adjacent eastern and western properties. An irrigation plan shall be submitted with the Building Permit submittal and be designed and installed in conformance with the State's Water Efficient Landscape Ordinance. The design of the irrigation system shall be approved and stamped by a California Registered Landscape Architect prior to the final issuance of a final Certificate of Occupancy.
18. **Landscape and Irrigation Installation.** All landscape on and off site and irrigation shall be installed and certificates of substantial completion shall be completed by a licensed or certified professional and submitted to the City Planner prior to approval of the final inspection of the project.
19. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
20. **Lighting.** All lighting shall be as shown on the approved plans. Any new lighting shall be reviewed by the City Planner and shall be in conformance with any applicable environmental mitigation.
21. **Fencing/Walls.** Fence and retaining wall heights and materials shall be as shown on the approved plans. Any changes of the approved fencing or wall shall require review by the City Planner.
22. **Environmental Mitigation Measures.** The following mitigation measures are required to be implemented as conditions of approval:

### ***Air Quality***

- AQ-1. Future development of the site shall include applicable control measures from the air district's current air quality plan. These control measures include, but are not limited to, the following:
  - a. Provision of internal bicycle facilities with connection to State Route 9;
  - b. Provision of sidewalks on internal streets with connections to sidewalks on State Route 9;
  - c. Incorporation of solar hot water or solar electricity in the homes;

- d. Incorporation of “cool roofing” and “cool paving” technologies into the development; and
- e. Inclusion of shade trees in landscaping plans.

AQ-2. The following basic construction mitigation measures shall be incorporated into project construction documents:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
- b. All haul trucks transporting soil, sand, debris, or other loose material off-site shall be covered;
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
- d. All vehicle speeds on unpaved surfaces shall be limited to 15 mph;
- e. All driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points;
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation; and
- h. Post a publicly visible sign with telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The air district’s phone number shall also be visible to ensure compliance with applicable regulations.

### ***Biology***

**BIO-1.** To avoid impacts to nesting birds, the removal of trees and shrubs shall be minimized to the greatest extent feasible. Construction activities that include any tree removal, pruning, grading, grubbing, or demolition shall be conducted outside of the bird nesting season (January 15 through September 15) to the greatest extent feasible. If this type of construction occurs during the bird nesting season, then a qualified biologist shall conduct a pre-construction survey for nesting birds to ensure that no nests would be disturbed during project construction.

If project-related work is scheduled during the nesting season (February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other

raptors), a qualified biologist shall conduct nesting bird surveys. Two surveys for active nests of such birds shall occur within 14 days prior to start of construction, with the second survey conducted with 48 hours prior to start of construction. Appropriate minimum survey radius surrounding each work area is typical 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities.

If the qualified biologist documents active nests within the project site or in nearby surrounding areas, and appropriate buffer between each nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize "normal" bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if birds show signs of unusual or distressed behavior. (e.g. defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). IF buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

Implementation of this mitigation measure will be the responsibility of project site developers.

BIO-2. To avoid impacting active special-status bat roosts, if present, all vacant buildings proposed for removal that are unoccupied and boarded up at the time of development approval (dark in the daytime) shall be opened in the winter months (prior to mid-March) to allow in light, making these areas non-suitable for use as maternity roosts. In addition, any mature trees removed due to project implementation shall be removed in two stages (with the limbs removed one day, and the main trunk removed on a subsequent day) to allow any potentially present day-roosting bats the opportunity to relocate. Implementation of this mitigation measure will be the responsibility of project site developers.

Approximately 14 days prior to start of construction, a qualified biologist shall conduct a habitat assessment for bats within the project area, which will include a visual inspection of potential roosting features (bats need not be present) and search for presence of guano within the project site, construction access routes, and 50 feet around these areas. Cavities,

crevices, exfoliating bark, and bark fissures that could provide suitable features found during the survey shall be lagged or married.

If maternity roosts are observed during the pre-construction survey, a 50-foot buffer shall be established around maternity roosts adjacent to the work area to avoid roost disturbance. Construction proposed adjacent to roosts, including adjacent tree removal, shall not occur within the buffer area until the time of year in which young are able to fly.

If pre-construction surveys determine that there are bats present in the trees to be removed, exclusion structures (e.g. one-way doors or similar methods) shall be installed by a qualified biologist. The exclusion structures shall not be placed until the time of year in which young are able to fly. Information on placement of exclusion structures shall be provided to the CDFW prior to construction.

BIO-3. For the impacted portion of the oak woodland habitat, a qualified arborist shall develop a tree protection plan to include measures that must be taken before, during, and after construction to ensure that the majority of the woodland is not impacted during construction. The arborist shall also provide recommendations that shall be incorporated in the project landscaping phase to enhance the habitat value of the oak woodland. Examples of such measures include the removal or replacement of non-native understory growth and the removal of trash and other human disturbances.

During project construction in and adjacent to the oak woodland, the following measures shall be imposed:

- a. Construction activities shall be restricted to daylight hours;
- b. Elevated floodlights shall not be permitted; any exterior lighting shall be directed inward and not illuminate the oak woodland;
- c. Dust control must be practiced during demolition and grading;
- d. Fencing shall be installed to protect the oaks at a distance recommended by the qualified arborist, at a minimum of five (5) feet from the trunks of the retained trees;
- e. Other protective measures recommended by the arborist's report shall be implemented; and
- f. Permanent exterior lighting shall be directed inward and not illuminate the oak woodland.

Implementation of this mitigation measure will be the responsibility of project site developers.

BIO-4. Prior to initiation of ground disturbance or construction activities that would impact the on-site drainage ditch, the appropriate project site developer shall retain a qualified biologist to determine the extent of the drainage ditch regulated by the U.S. Army Corps of Engineers, Department of Fish and Wildlife, and/or Regional Water Quality Control Board. The U.S. Army Corps of Engineers may issue a negative jurisdictional determination; however, if the U.S. Army Corps of Engineers claims jurisdiction, the project site developer shall retain a qualified biologist to obtain a Clean Water Act Section 404 Nationwide Permit. If the proposed ditch impact does not qualify for a Nationwide Permit, the project site developer shall proceed with the qualified biologist in obtaining an Individual Permit from the U.S. Army Corps of Engineers.

The project site developer shall also retain a qualified biologist to coordinate with the California Department of Fish and Wildlife to determine whether the ditch meets their jurisdictional requirements. If so, the biologist shall assist the developer to obtain a Streambed Alteration Agreement pursuant to California Fish and Game Code Section 1600.

The project site developer shall then retain a qualified biologist to coordinate with the Regional Water Quality Control Board to obtain a Clean Water Act Section 401 Water Quality Certification, or obtain Regional Water Quality Control Board approval through project-specific post-construction requirements through design of the new site drainage system to protect water quality. The project site developer shall comply with any compensatory mitigation or other conditions of approval specified in U.S. Army Corps of Engineers, Department of Fish and Wildlife, and Regional Water Quality Control Board project permits/approvals. Implementation of this mitigation measure will be the responsibility of project site developers.

BIO-5. For each tree removed, the developer shall plant a California native tree species with at least a one-to-one replacement ratio on the project site, unless inconsistent with good forestry practices, and obtain a permit prior to removal of any tree, in compliance with the City of Monte Sereno's Tree Preservation Ordinance and/or Subdivision Ordinance. A qualified arborist shall recommend the appropriate replacement ratio and also survey any trees to be preserved, including the trunk diameter, canopy spread, species, condition, and location, and recommend specific steps that must be taken during construction to ensure that those trees are not impacted during construction. Implementation of this mitigation measure will be the responsibility of project site developers.

### ***Cultural Resources***

CR-1. Due to the possibility that significant buried prehistoric cultural resources

might be found during construction activities, the following language shall be included in all construction documents associated with development of the project site:

“If prehistoric archaeological resources are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The city shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.” Implementation of this mitigation measure will be the responsibility of project site developers.

- CR-2. In the event of an accidental discovery or recognition of any human remains, the following language shall be included in all construction documents associated with redevelopment of the project site in accordance with CEQA Guidelines section 15064.5(e):

“If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Santa Clara County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD may then make recommendations to the City of Monte Sereno or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The City of Monte Sereno or its authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the City of Monte Sereno or its authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.”

Implementation of this mitigation measure will be the responsibility of project site developers.

## ***Geology***

GEO-1. Prior to issuance of a grading permit, the applicant shall provide evidence that the recommendations in the April 24, 2018 project geotechnical report are included in the project grading and building plans.

GEO-2. Prior to issuance of a grading permit, the developer shall submit an erosion control plan to ensure that erosion is controlled during grading and construction activities and does not result in deposition of the soil off site.

### **Noise**

N-1. Prior to issuance of a grading permit, the following measures shall be included in the grading and construction plans:

#### *Operational and Situational Controls*

- a. All work on site should be restricted to 8:00 a.m. to 8:00 p.m. Weekdays, 9:00 a.m. to 8:00 p.m., Saturdays and no work allowed on Sundays and Federal Holidays.
- b. All construction noise control measures currently imposed on the project shall be maintained unless the measures outlined herein are more restrictive.
- c. All exterior stationary equipment shall be kept at least 100 ft. from neighboring residential property line unless acoustically shielded.
- d. No material deliveries are allowed on Sundays or Federal Holidays.
- e. Cranes shall be located at least 100 ft. from any neighboring residential property line with the exception of cranes or lifts necessary to dismantle scaffolding.
- f. Minimize material movement along the south and west sides of the site.
- g. Locate stockpiles adjacent to residential neighbors as much as possible to help shield residences from on-site noise generation.
- h. Driveways and other vehicle travel paths shall be graded smooth to minimize vibration and "bangs" from vehicles traveling over rough surfaces.
- i. Music shall not be audible off site.
- j. Dirt berming and stockpiling materials whenever possible can also help reduce noise to sensitive receptor locations.
- k. Place long-term stationary equipment as far away from the residential areas as possible.
- l. Keep mobile equipment (haul trucks, concrete trucks, etc.) off of local streets near residences as much as possible.
- m. Keep vehicle paths graded smooth as rough roads and paths can cause significant noise and vibration from trucks (particularly empty trucks) rolling over rough surfaces. Loud bangs and ground-borne vibration can occur.

- n. Limit the extent of heavy diesel engine equipment work to less than 10 consecutive days when working within 40 feet of the east property line.

### *Interior Work*

- a. For interior work, the windows of the interior spaces facing neighboring residences where work is being performed shall be kept closed while work is proceeding.
- b. Noise generating equipment indoors should be located within the building to utilize building elements as noise screens.

### *Equipment*

- a. Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
- b. Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either dozers or loaders.
- c. Ground Preparation: Use a motor grader rather than a bulldozer for final grading. Wheeled heavy equipment is less noisy than track equipment. Utilize wheeled equipment rather than track equipment whenever possible.
- d. Building Construction: Nail guns should be used where possible as they are less noisy than manual hammering.
- e. Generators and Compressors: Use generators, compressors and pumps that are housed in acoustical enclosures rather than weather enclosures or none at all.
- f. Utilize temporary power service from the utility company in lieu of generators wherever possible.
- g. All stationary equipment shall be rated no higher than 85 dBA @ 25 feet under the equipment's most noisy condition.
- h. Circular saws, miter/chop saws and radial arm saws shall be used no closer than 50 feet from any residential property line unless the saw is screened from view by any and all residences using an air-tight screen material of at least 2.0 lbs/square feet surface weight, such as ¾" plywood.
- i. Use electrically powered tools rather than pneumatic tools whenever possible.
- j. Mitigation of the construction phase noise at the site can be accomplished by using quiet or "new technology" equipment.
- k. The greatest potential for noise abatement of current equipment should be the quieting of exhaust noises by use of improved mufflers.
- l. It is recommended that all internal combustion engines used at the project site be equipped with a type of muffler recommended by the vehicle manufacturer.

- m. All equipment should be in good mechanical condition so as to minimize noise created by faulty or poorly maintained engines, drive-trains and other components. Worn, loose or unbalanced parts or components shall be maintained or replaced to minimize noise and vibration.
- n. Utilize wheeled equipment rather than tracked equipment whenever possible.
- o. Diesel vibrating compaction equipment shall not be used within 100 feet of a residential structure.

#### *Noise Complaint Management*

- a. Designate a noise complaint officer. The officer shall be available at all times during construction hours via both telephone and email. Signs shall be posted at site entries.
- b. Notify, in writing, all residents within 300 feet of the site of construction. The notification shall contain the name, phone number and email address of the noise complaint officer. A flyer may be placed at the doors of the residences.
- c. A log of all complaints shall be maintained. The logs shall contain the name and address of the complainant, the date and time of the complaint, the nature/description of the noise source, a description of the remediation attempt or the reason remediation could not be attempted.