

## RESOLUTION NO. 3693

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM 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 an amendment to the City’s General Plan, a Prezoning, Annexation, a Planned Development Permit, a Grading Use Permit, a Tree Removal Permit, and a Vesting Tentative Subdivision Map, supporting a multi-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**, 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**, the mitigation measures provided in the Initial Study would reduce significant impacts to a less than significant level and therefore, the Project with mitigation measures incorporated, would not have a significant effect on the environment; 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 language of the 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 Multi-Family Planned Development RM(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**, on June 12, 2018, by Resolution No. 3697 the Council approved the subdivision of the Subject Property consistent with the Vesting Tentative Subdivision Map; and

**WHEREAS**, on June 12, 2018, by Resolution No. 3696 the Council approved the Planned Development Permit of the Subject Property; and

**WHEREAS**, on June 12, 2018, by Resolution No. 3696 the Council approved the Grading Permit for the Project.

**WHEREAS**, on June 12, 2018, by Resolution No. 3696, the Council approved the Tree Removal Permit for the Project.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of Monte Sereno, that City Council hereby adopts the Mitigation Monitoring and Reporting Program for the Project 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 Members Rogers, Turner Wolsheimer and Mayor Craig:
- NOES: Council Member Anstandig
- ABSTAIN: None
- ABSENT: None

By: Burton Craig  
Burton Craig, Mayor

Attest: Andrea Chelemengos  
Andrea Chelemengos, City Clerk

Exhibit A – Mitigation Monitoring and Reporting Program

## EXHIBIT A (REVISED)

### MITIGATION MONITORING AND REPORTING PROGRAM 18840 SARATOGA-LOS GATOS ROAD (MONTALVO OAKS SUBDIVISION PROJECT)

Environmental Impact	Mitigation Measures or Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p><b>Air Quality</b></p> <p><b>AQ-1:</b> The project would conflict with or obstruct implementation of the applicable air quality plan</p>	<p><b>Mitigation Measure AQ-1:</b> 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:</p> <ul style="list-style-type: none"> <li>a) Provision of internal bicycle facilities with connection to State Route 9;</li> <li>b) Provision of sidewalks on internal streets with connections to sidewalks on State Route 9;</li> <li>c) Incorporation of solar hot water or solar electricity in the homes;</li> <li>d) Incorporation of "cool roofing" and "cool paving" technologies into the development; and</li> <li>e) Inclusion of shade trees in landscaping plans.</li> </ul>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of a building permit.</p>
<p><b>AQ-2:</b> The project would contribute to construction-related air emissions</p>	<p><b>Mitigation Measure AQ-2:</b> The following basic construction mitigation measures shall be incorporated into project construction documents:</p> <ul style="list-style-type: none"> <li>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;</li> <li>b) All haul trucks transporting soil, sand, debris, or other loose material off-site shall be covered;</li> <li>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;</li> <li>d) All vehicle speeds on unpaved surfaces shall be limited to 15 mph;</li> <li>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;</li> <li>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;</li> <li>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</li> <li>h) Post a publicly visible sign with telephone number and person to contact at the</li> </ul>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of building permit.</p>

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### MITIGATION MONITORING AND REPORTING PROGRAM 18840 SARATOGA-LOS GATOS ROAD (MONTALVO OAKS SUBDIVISION PROJECT)

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	<p>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.</p>		
<p><b>Biological Resources</b></p> <p><b>BIO-1:</b> Construction noise and/or tree removal associated with the project may adversely impact nesting birds (including raptors)</p>	<p><b>Mitigation Measure BIO-1:</b> 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.</p> <p>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 typically 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.</p> <p>If the qualified biologist documents active nests within the project site or in nearby surrounding areas, an 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.</p> <p>Implementation of this mitigation measure will be the responsibility of project site developers.</p>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of tree removal permits and demolition permits</p>
<p><b>BIO-2:</b> The project may adversely impact active pallid bat roosts</p>	<p><b>Mitigation Measure BIO-2:</b> 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</p>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of tree removal permits and demolition permits</p>

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### MITIGATION MONITORING AND REPORTING PROGRAM 18840 SARATOGA-LOS GATOS ROAD (MONTALVO OAKS SUBDIVISION PROJECT)

Environmental Impact	Mitigation Measures or Standard Conditions	Monitoring Responsibility	Implementation and Monitoring Timeline
<p><b>BIO-3:</b> The project would result in the disruption of oak woodland habitat</p>	<p>opportunity to relocate.</p> <p>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 potential nest or roost habitat for bats shall be surveyed. Potential roosting features found during the survey shall be flagged or marked.</p> <p>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.</p> <p>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.</p> <p>Implementation of this mitigation measure will be the responsibility of project site developers.</p> <p><b>Mitigation Measure BIO-3:</b> 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.</p> <p>During project construction in and adjacent to the oak woodland, the following measures shall be imposed:</p> <ul style="list-style-type: none"> <li>a) Construction activities shall be restricted to daylight hours;</li> <li>b) Elevated floodlights shall not be permitted; any exterior lighting shall be directed inward and not illuminate the oak woodland;</li> <li>c) Dust control must be practiced during demolition and grading;</li> <li>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;</li> <li>e) Other protective measures recommended by the arborist's report shall be implemented; and</li> </ul>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of tree removal permits and demolition permits</p>

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<p><b>BIO-4:</b> The project would impact a potentially jurisdictional drainage feature</p>	<p>f) Permanent exterior lighting shall be directed inward and not illuminate the oak woodland.</p> <p><b>Mitigation Measure BIO-4:</b> 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, California 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.</p> <p>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.</p> <p>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, California 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.</p>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of tree removal permits and demolition permits</p>
<p><b>BIO-5:</b> The project would remove a total of 66 significant trees</p>	<p><b>Mitigation Measure BIO-5:</b> [The developer shall prepare a tree removal plan subject to review and approval by the City Planning Department.] 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.</p>	<p>City of Monte Sereno Planning Department</p>	<p>Prior to issuance of tree removal permits</p>

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<b>Cultural Resources</b>			
CR-1: Construction associated with the project may result in accidental discovery or recognition of archaeological resources	<p><b>Mitigation Measure CR-1:</b> 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:</p> <p>"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."</p>	City of Monte Sereno Planning Department	Prior to issuance of demolition and grading permits
CR-2: Construction associated with the project may result in accidental discovery or recognition of human remains	<p><b>Mitigation Measure CR-2:</b> 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):</p> <p>"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 descendant (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 descendant identified fails to make a recommendation; or c) the City of Monte Sereno or its authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner."</p>	City of Monte Sereno Planning Department	Prior to issuance of demolition and grading permits
<b>Geology and Soils</b>			
GEO-1: Exposure of people or structures to strong seismic ground shaking	<p><b>Mitigation Measure GEO-1:</b> 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.</p>	City of Monte Sereno Building Department	Prior to issuance of a grading permit
GEO-2: Erosion	<p><b>Mitigation Measure GEO-2:</b> Prior to issuance of a grading permit, the developer shall submit an erosion control plan to ensure that erosion is controlled during grading and</p>	City of Monte Sereno Building Department	Prior to issuance of a grading permit

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<b>Noise</b>	<p>construction activities and does not result in deposition of the soil off site.</p>		
Construction noise	<p><b>Mitigation Measure N-1:</b> Prior to issuance of a grading permit, the following measures shall be included in the grading and construction plans:</p> <p><i>Operational and Situational Controls</i></p> <ul style="list-style-type: none"> <li>a) All work on site should be restricted to 8:00 a.m. to 8:00 p.m. Weekdays, 9:00 a.m. to 5:00 p.m., Saturdays and no work allowed on Sundays and Public Holidays.</li> <li>b) All construction noise control measures currently imposed on the project shall be maintained unless the measures outlined herein are more restrictive.</li> <li>c) All exterior stationary equipment shall be kept at least 100 ft. from neighboring residential property line unless acoustically shielded.</li> <li>d) No material deliveries are allowed on Sundays or Federal Holidays.</li> <li>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.</li> <li>f) Minimize material movement along the south and west sides of the site.</li> <li>g) Locate stockpiles adjacent to residential neighbors as much as possible to help shield residences from on-site noise generation.</li> <li>h) Driveways and other vehicle travel paths shall be graded smooth to minimize vibration and "bangs" from vehicles traveling over rough surfaces.</li> <li>i) Music shall not be audible off site.</li> <li>j) Dirt berming and stockpiling materials whenever possible can also help reduce noise to sensitive receptor locations.</li> <li>k) Place long-term stationary equipment as far away from the residential areas as possible.</li> <li>l) Keep mobile equipment (haul trucks, concrete trucks, etc.) off of local streets near residences as much as possible.</li> <li>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.</li> <li>n) Limit the extent of heavy diesel engine equipment work to less than 10</li> </ul>	City of Monte Sereno Planning Department	Prior to issuance of a grading permit

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	consecutive days when working within 40 feet of the east property line.		
	<i>Interior Work</i>		
	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.		
	<i>Equipment</i>		
	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 3/4" 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		

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	<p>be equipped with a type of muffler recommended by the vehicle manufacturer.</p> <ul style="list-style-type: none"><li>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.</li><li>n) Utilize wheeled equipment rather than tracked equipment whenever possible.</li><li>o) Diesel vibrating compaction equipment shall not be used within 100 feet of a residential structure.</li></ul>		
	<p><i>Noise Complaint Management</i></p> <ul style="list-style-type: none"><li>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.</li><li>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.</li><li>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.</li></ul>		