

RESOLUTION NO. 3765

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO DENYING THE SPECIAL USE PERMIT (SP19-01), VARIANCE (V19-02), SITE DEVELOPMENT PERMIT (SS-19-02) AND TREE REMOVAL PERMIT (TR19-07) FOR CONSTRUCTION OF A TWO-STORY ADDITION TO A DESIGNATED HISTORIC HOME DENYING A DETACHED ACCESSORY STRUCTURE AND TREE REMOVALS FOR THE PROPERTY LOCATED AT 18240 DAVES AVENUE (APN 410-29-016).
(GOLL)**

WHEREAS, Peter Goll (referred to as "Applicant") applied for a Site Development Permit, Application No. SS-19-01), Special Use Permit (Sp19-01), Tree Removal Permit (Tr19-07) And Variance (V19-02) for the for the construction of a 1,723 square foot two-story addition to an existing approximately 2,705 square foot historic adobe home as well as a new 661 square foot accessory structure; with a reduced side setback for the primary dwelling for the first and second floor from 15 and 20 feet respectively down to 6 feet 2 inches at its closest, as well as the removal of two (2) significant oak trees (application(s) referred to as "Application(s)"); and

WHEREAS, a public hearing before the Site and Architecture Committee was set and held on October 2, 2019 and continued to November 5, 2019 to take evidence on the Application and at that hearing evidence was given both orally and in writing; and

WHEREAS, on February 4, 2020, the City Council held a public hearing and at their February 11, 2020 meeting the City Council held further deliberations, and has considered all the evidence presented regarding the Application, including reports, written submissions, and testimony made by the Applicant, staff, and members of the public.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTE SERENO AS FOLLOWS:

Section 1. The City Council hereby determines the following with respect to the Site Development Permit:

A. The Monte Sereno Municipal Code ("Code") requires the following:

1. Pursuant to Code section 10.08.040(A) a Site Development Permit ("SDP") is required for any new building or structure exceeding one hundred twenty (120) square feet, except any Accessory Dwelling Unit permitted in accordance with Section 10.06.140; and
2. Pursuant to Code section 10.08.040(B) a SDP is required for any addition that adds five hundred (500) square feet or more to an existing building or structure in the R-1-8 zoning district or seven hundred fifty (750)



square feet or more to an existing building or structure in the R-1-20 or R-1-44 zoning district; and

3. Pursuant to Code section 10.08.040(E) a SDP is required for any additions of a second story to an existing single-story building.
4. In accordance with Code section 10.08.050(B), no SDP may be issued unless certain specific findings can be made.
5. The City Council hereby makes the following findings with respect to the proposed second story addition and accessory structure:
 - a. The proposed addition to the primary structure is not compatible with the character of the surrounding neighborhood in that the vertical mass of the structure creates an appearance of a three-story structure with its vertical mass.
 - b. The proposed two-story addition adjacent to the south wall is in close proximity to the south property line encroaching into the required side setback and creates a visual impact to the property below, and are not consistent with the City's Design Guidelines 4A5 and 4B3.
 - c. The proposed addition has not been designed to respect the natural hillside and stepped down the slope, and is not consistent with Design Guideline 4C1.
 - d. The orientation and location of the accessory structure on site prior to consideration of a larger project may impact the possible alternatives for future expansions of the primary adobe structure.
 - e. The accessory structure and second story addition have been submitted as a single project under a single permit, and because the portion of the project constituting the second story addition cannot be approved, the City Council shall deny the request for the accessory structure.

B. The City Council therefore denies without prejudice the Site Development Permit No. SS-19-01 with respect to the construction of the proposed two story addition and accessory structure.

Section 2. The City Council hereby determines the following with respect to the requested Variance:



A. Section 65906 of the California Government Code only allows a variance to be granted when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

B. With Respect to Variance No. V19-02, the City Council finds:

1. Special circumstances do not exist on this property to justify the variance, because many properties in the area and typical of the R-1-20 and R-1-44 zoning districts have an average slope greater than or equal to 10%, and the existence of the historic structure on the lot is not sufficient to justify the issuance of a variance when considered in light of the size, shape, topography, location and surroundings of the property.
2. Strict application of the requirement for a 15 a 20 foot side setback in this instance would not result in depriving the property of a privilege enjoyed by other property in the vicinity and under an identical zoning classification, because there is space within the existing building envelope set by the setbacks to construct small addition within the required setback
3. The granting of this variance will result in a special privilege for the property not enjoyed by other properties in the vicinity because it would enable them to encroach into a setback area whereas others with similar lots could not.

C. The City Council therefore denies the requested Variance No. V19-02 without prejudice.

Section 3. The City Council hereby finds as follows with respect to the Special Use Permit for alteration of an historic structure:

- A. Per Section 12.01.110 of the City of Monte Sereno Municipal Code, the City Council shall consider the following regarding the issuance of a Special Use Permit for alteration of an historic structure. The issuance of a special use permit is required for alteration of a feature listed on the City's historical inventory.
- B. Due to the denial of the SDP and variance for the construction of the second story addition, the second story addition cannot be constructed as submitted and therefore the City Council denies the requested Special Use Permit Sp19-01 without prejudice.

Section 4. The City Council hereby finds as follows with respect to the Tree Removal Permit:

D. The Monte Sereno Municipal Code ("Code") requires the following:



1. Per Section 10.15.070 of the City of Monte Sereno Municipal Code, no Tree Removal Permit shall be approved unless the following findings are made:
 - a. The significant tree or trees need to be removed to allow reasonable economic enjoyment of the property or the significant tree or trees need to be removed due to disease, danger of falling or threat to owner or surrounding residents.
 - b. If the topography of the land and the effect of the removal of the significant tree will have a significant effect on erosion, soil retention and diversion or increased flow of surface waters
 - c. 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.
 - d. The number of trees the particular parcel can adequately support according to good forestry practices.
2. Because the variance, site development permit and special use permit for the project have been denied and no construction is permitted without such permits, no trees need to be removed and there is no need to approve a Tree Removal Permit at this time, and therefore the Council determines that the Tree Removal permit is denied without prejudice.

Section 5. At the request of the Applicant, the City Council hereby waives any applicable planning fees that would be imposed for another Site Development Permit, Special Use Permit, Tree Removal Permit or Variance for a period of one year from the date of this resolution to enable the Applicant to reapply with a modified project.

Section 6. The City Clerk is hereby directed to give notice of this decision to the Applicant by serving Applicant by first class mail, postage prepaid, with a copy of this resolution.

REGULARLY passed and adopted this 3rd day of March 2020 by the following vote

AYES: Council Members Ellahie and Turner, Mayor Pro Tempore Leuthold and Mayor Lawler
NOES: None
ABSENT: Council Member LaBouve
ABSTAIN: None





BY: Liz Lawler, Mayor

ATTEST:



Andrea Chelemengos, City Clerk