



**MONTE SERENO CITY COUNCIL
MEETING MINUTES**

SEPTEMBER 18, 2012

REGULAR MEETING CALLED TO ORDER

At 7:30 p.m., Mayor Garner called the meeting to order.

PLEDGE OF ALLIEGIANCE

ROLL CALL

Present: Council Members Anstandig, Craig, Malloy, Rogers and Mayor Garner
Absent: None
Staff Present: City Manager Loventhal, City Attorney Powell, Associate Planner Ventura and City Clerk Chelemengos

ORDERS OF THE DAY

There were no changes made.

WRITTEN COMMUNICATIONS

None

CONSENT CALENDAR

1. Approve Minutes Of September 4, 2012 City Council Meeting
2. Approve Warrant List in the amount of \$54,002.22
3. Approve Monthly Treasurer's Report Of Month Of August, 2012
4. Approve Monthly Financial Report For Month Of August, 2012

Council Member Malloy moved to approve the Consent Calendar The motion was seconded by Council member Craig and the motion passed with a 5-0 vote.

PUBLIC HEARINGS

5. SS-12-08A/U-12-02 - 15136 Via Lomita - Property Owner: Khan
The Applicant Is Requesting A Site Development Permit To Construct A New Two Story Single Family Home Of 6,000 Sq. Ft, An Attached Secondary Dwelling Unit Of 400 Sq. Ft., And Two Detached Accessory Structures Of 996 Sq. Ft And 947 Sq. Ft., Respectively. The Applicant Also Includes A Proposed Fence And Columns, Of 4'6", Within The Required Front Yard Setback. The Construction Is Being Proposed On A Vacant Lot. The Applicant Also Requests A Use Permit To Allow More Than One Accessory Structure. The Site Development Permit Was Previously Reviewed And Recommended For Approval By The Site And Architectural Commission At Their August 1, 2012 Meeting.

Associate Planner Ventura provided a staff report to the Council.

Mayor Garner noted that she had skipped over Oral Communications and announced that she would now hold Oral Communications and then come back to the Public hearing matter.

ORAL COMMUNICATIONS

Nancy Hobbs, City representative to the Guadalupe/West Valley Flood Control And Watershed Advisory Committee Flood, updated the Council on recent activities of the Advisory Committee.

PUBLIC HEARINGS

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Associate Planner Ventura answered questions from the Council relative to the application.

At 7:45 p.m., Mayor Garner opened the public hearing

Mr. Khan, applicant, stated that the proposed residence would be his long term residence and provided details on the project. Mr. Khan also offered to answer questions regarding the project.

Kathryn Berry, resident, expressed concern with the number of accessory structures being in consistent with the neighborhood and also expressed concern with previous grading on the lot

and the new project's elevation and its potential impact on privacy of her property. Ms. Berry provided pictures of the subject site.

Lon Allan, resident, stated that he had reviewed the proposal at the Site and Architectural Commission and was opposed to the number of accessory buildings proposed. He also stated that at the Site and Architectural Commission meeting the applicant had indicated that he was a developer and would be selling the property following completion of construction. Mr. Allan asked for clarification.

Since there was no one else wishing to speak, the public hearing was closed at 7:51 p.m.

Council Member Malloy inquired if dirt had been previously moved and wondered if something could be done to confirm the allegation. She stated that basis of the Council's decision on the matter should be on whether or not the proposed development is suitable for the lot and consistent with the required findings, and not on the occupancy or ownership of the property.

Council Member Craig agreed that the subject property is lower toward Ms. Berry's property and can see her concern with regard to privacy.

Council Member Anstandig inquired if there were any recommended conditions from the Site and Architectural Commission addressing the fencing and mitigation of privacy concerns voiced by the neighbor.

Associate Planner Ventura pointed out that a grading plan for the project depicts grading and filling in the area of concern.

City Manager Loventhal noted that a landscape plan has been required of the applicant prior to final inspection and that landscaping would serve better as a visual barrier than a fence.

Mayor Garner expressed concern with the reports of prior grading and wondered if it could be determined if the allegations are accurate.

Council Member Malloy recalled the site from a previous application and stated that her recollection of the topography of the site is that it is unchanged.

City Manager Loventhal stated that a soils engineer could take a core sample from the property to determine if there had been and grading on the site.

Mr. Khan was asked to address the Council regarding the report of previous grading and his intentions to either live on the property or sell it soon after construction.

Mr. Khan stated that he intends to make the proposed house his residence, He further explained that grading will occur to allow for lower building pads for several of the buildings as well as lowering of the proposed pool.

The project builder also discussed the topography of the lot and placement of proposed buildings and pool.

Council Member Craig inquired if Mr. Khan was aware of any previous grading activity. Council Member Craig stated that the subject site appears to have some type of ramp allowing access from the neighboring property.

Mr. Khan stated that he was unaware of any previous grading activity.

Associate Planner Ventura read through the required findings for the Site Development Permit.

City Attorney Powell provided information on the findings and the evidence provided in consideration of the application.

Council Member Malloy made the required findings and moved to approve the Site Development Permit. The motion was seconded by Council Member Anstandig and the motion passed with a 5-0 vote.

Associate Planner Ventura read through the required findings for the Use Permit.

Council Member Anstandig made the required findings and moved to approve the Use Permit. Council Member Malloy seconded the motion and the motion passed with a 5-0 vote.

At 8:15 p.m., Mayor Garner called for a recess. At 8:33 p.m. the meeting was reconvened.

7. Discuss And Consider Adopting A Mitigated Negative Declaration For The Monte Sereno General Plan Amendment, Zoning Code Amendment And Rezoning Of The Site Located At 18840 Saratoga Los Gatos Road.

City Manager Loventhal provided a staff report and answered questions from the Council.

Council Member Anstandig suggested that the public be allowed to speak beyond the 3 minute limit, especially if speaking on behalf of a group.

Mayor Garner stated that she would allow comments beyond the 3 minute limit, but asked that speakers make their points in a timely manner. She stated that those representing a group would be allowed 5 minutes.

City Manager Loventhal spoke with regard to study to change the City's General Plan, the proposed Zoning Ordinance as well as the rezoning of property located at 18840 Saratoga-Los Gatos Road. He introduced Teri Wissler Adam from EMC Planning group, the consulting company that conducted the study and prepared the Mitigated Negative Declaration.

Terri Wissler Adam discussed the Environmental evaluation of multi-family on the subject site. She explained the methodology and touched on the environmental analysis. She noted that had the study been on a specific construction project, that study would have been more specific. Instead, she explained, the study was on the impacts of the maximum range defined by the Council and any impact identified was the most severe and any lesser density would result in a lesser impact. She also explained the classifications of the various potential impacts that could be identified. Ms. Wissler Adam stated that several comment letters had been received by the comment deadline, and one comment letter after the deadline, which did not allow time for the consultant to consider and prepare responsive comments. Ms. Wissler Adam answered questions from the Council.

Council Member Anstandig asked if further study would need to be conducted if a specific project application were proposed. He also inquired if consideration of number and size of units had been included with the study. Council Member Anstandig also inquired if the fact that the subject property lies on Highway 9, a designated scenic highway, had any bearing on the study.

Ms. Wissler Adam stated that if a specific project application were made to the City, it is possible that a supplemental, or even a completely independent study would need to be conducted on the specifics of the proposal. She further explained that population impacts are not related to the size of dwelling unit and that the study looked at multi-family dwelling units that would conform to proposed zoning. With regard to Council Member Anstandig's question pertaining to the subject sites location on Highway 9, Ms. Whistler Adam stated that more development related details would be needed to identify and analyze potential impacts.

Council Member Rogers inquired about the need for another study upon the City's receipt of a development application.

Staff clarified that the cost for a project specific study would be the responsibility of the applicant.

Mayor Garner inquired about the definition of significant impact and about the reference in the report to biological identification of significant trees.

Consultant Wissler Adam provided information on classification of impacts.

City Attorney Powell stated that the City's zoning code already identifies certain types of trees that are classified and significant.

Mayor Garner stated that the report should recognize the on-going safety improvements planned for Highway 9. She further stated that she would like information on the overall current structural coverage of the subject site. In addition, Mayor Garner questioned the number of children forecasted for a project of the specified density.

The consultant stated that the number of school age children was obtained from the school district based on their statistics.

At 9:03 p.m., Mayor Garner opened the Public Hearing.

Mo Nobari, representing Mr. Baktari, an owner of property abutting the subject site, spoke in support of adoption of the Mitigated Negative Declaration. He submitted a letter on behalf of Mr. Baktari.

Malcolm Stewart, county resident, representing a group of property owners surrounding the subject site, expressed confusion with Mr. Baktari's position in that he had signed a petition in objection to the matter before the Council. Mr. Stewart spoke with regard to the points made in his petition and discussed the group's concerns and requested that the City conduct an Environmental Impact Report.

Greg Hall, representing Kathy Hall and Sally Goodfriend, resident, stated that the matters of multi-family housing and development of the Hacienda site need to be separated. He stated that the Council should focus on how to pair multi-family zoning with current surrounding zoning and density.

Al Ersclubaum, resident, stated the number of students represented in the report as residents of a multi-family zoning district was unrealistic. He stated that a majority of the property owners are opposed to multi-family zoning at the subject site and the City should withdraw its intent to annex the Hacienda site. Mr. Ersclubaum expressed concern with safety impacts and visual impacts relative to a multi-family development at the identified site.

Michael Durkee, representing Mr. Stanley, owner of La Hacienda, spoke with regard to the letter submitted earlier in the day. He stated that he found the Mitigated Negative Declaration to be legally flawed and stated that an Environmental Impact Report should be conducted. He stated that the matter is being hurried through to meet the City's obligated deadline.

Bryan Mekechuk, resident, urged the Council to move forward in adoption of the Mitigated Negative Declaration.

Lon Allan, resident, stated that he feels the Hacienda site is the best site for multi-family zoning if the City is forced to comply with the State mandate to allow for various housing types. He

stated that multi-family zoning does not have to be high density and that the Council should move ahead to comply with the state mandate with minimal density.

Since there was no one else wishing to speak, the public hearing was closed at 9:43 p.m.

City attorney Powell suggested that the Council consider continuing the matter to the meeting of October 16 to allow staff and the consultants to consider and respond to the comments received.

Council Member Craig moved that the City Council continue the matter of the Mitigated Negative Declaration For The Monte Sereno General Plan Amendment, Zoning Code Amendment And Rezoning Of The Site Located At 18840 Saratoga Los Gatos Road to the meeting of October 16, 2012. The motion was seconded by Council Member Rogers and the motion passed with a 5-0 vote.

UNFINISHED BUSINESS

8. Set Public Hearing Date To:

- Discuss And Consider Adopting A General Plan Amendment Adding A New Land Use Designation (Multi-Family Residential, 3 To 8 Dwelling Units Per Acre) To The General Plan Land Use Element. The General Plan Amendment Also Includes A Description Of The New Land Use And Other Text Changes Necessary For Internal Consistency Of The Document; And
- Discuss And Consider Introducing And Holding The First Reading Of An Ordinance Of The City Of Monte Sereno Amending The Monte Sereno Municipal Code Title 10, Chapter 10.05, Adding Section, 10.05.045 -Multi-Family Residential District; And
- Discuss And Consider Introducing And Holding The First Reading Of An Ordinance Of The City Of Monte Sereno Rezoning The Property Located 18840 Saratoga Los Gatos Road With The RM (3 To 8 Dwelling Units Per Acre) Zoning Designation.

Following a brief report regarding the setting of the Public Hearing, there was consensus of the Council for staff to coordinate a meeting date with the Council Members. Once a date is set the City will announce the date.

COMMITTEE/COMMISSION REPORTS

The Council Members reported on the activities of the various committees on which they serve.

COUNCIL MEMBER COMMENTS

None

CITY MANAGER'S REPORT

City Manager Loventhal discussed various administrative matters.

ADJOURNMENT

At 10:06 p.m., Mayor Garner adjourned the meeting, to Tuesday October 2, 2012 to be held in the City Council Chambers located at 18041 Saratoga-Los Gatos Road, Monte Sereno, California.

Susan Garner, Mayor

ATTEST:

Andrea M. Chelemengos, City Clerk