



City of Sierra Madre Agenda Report

*MaryAnn MacGillivray, Mayor
Donald Watts, Mayor Pro Tem
John Buchanan, Council Member
Joseph M. Mosca, Council Member
Kurt Zimmerman, Council Member*

*Nancy Shollenberger, City Clerk
George Enyedi, City Treasurer*

TO: Honorable Mayor MacGillivray and Members of the City Council

FROM: Sandra Levin, City Attorney

DATE: January 12, 2010

SUBJECT: SETTLEMENT OF LITIGATION REGARDING STONEHOUSE AND ONE CARTER PROPERTIES

SUMMARY

At the Council meeting of October 13, the City Council was presented with a proposed settlement of the various Stonehouse and One Carter litigation disputes. The City Council rejected the proposal as presented, but identified certain additional terms that would be required to make the proposal acceptable to the City, made a public "counter-offer" to the property owners at that meeting and authorized staff to execute formal settlement documents consistent with those terms. The property owners, CS Stonehouse Homes, LLC and CS One Carter LLC, have accepted the terms offered by the City Council, but have offered one additional term that city staff feels would be mutually beneficial. Accordingly, Staff is returning to council with this consent item to obtain confirmation that the additional term is acceptable to Council and authorization to include it in the settlement documents.

REVISIONS TO REFLECT COUNCIL DIRECTION

At the Council meeting of October 13, the following six changes to the proposed Settlement Agreement were requested by the City Council. Each has been accepted by the Property Owners and will be included in the formal settlement documents:

1. The exceptions for grading within Slope Category 4 on Lots 4, 5 and 6 of the Stonehouse Property shall be removed.
2. The exceptions to the height limits for Lots 4, 5 6, 18 and 19 of the Stonehouse Property shall be removed.
3. Lot 3 at One Carter shall be permanently restricted and dedicated as open space. It shall be privately maintained and no structures or hardscape shall be

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permitted; fencing shall only be allowed as authorized under the terms of the current HMZ ordinance.

4. An exception to the HMZ Ordinance will be added to reduce the size of Lot 1 on the One Carter site to allow a lot line adjustment for that lot only so that the adjacent neighbor's property can be augmented to accommodate a more appropriate property boundary in light of existing structures.

5. The Property Owners shall meet with neighbors at both sites before submitting any applications.

6. Payment of the sums to be paid by the Property under the agreement shall be made early and steps taken to prevent the possibility of default. (In response to this request, the settlement documents will provide that the entire amount shall be placed into escrow within 15 days after execution of the Settlement Agreement by all parties. The sums shall then be released from escrow upon the occurrence of identified events within the City's control (e.g., approval of HMZ Guidelines).

The site plan and various related documents were provided in previous staff reports and have been available on the City's website.

ADDITIONAL MODIFICATION PROPOSED

As originally proposed, the all portions of the agreement were conditional on the City approving the Stonehouse Settlement Proposal Plan (or such other plan as may be accepted by CS Stonehouse). Thus, the terms relating to One Carter were linked inextricably to the outcome at the Stonehouse property. The Property Owners have agreed to "de-couple" the provisions, so that the terms relating to One Carter – including the restriction of Lot 3 as open space – would become effective regardless of the outcome of the Stonehouse process. The sequence of events regarding recordation of restrictions and dismissal of the One Carter litigation would be set forth in the settlement documents and would not be dependent on the processing or outcome of the Stonehouse Settlement Proposal Plan. This additional modification would provide the property owner the advantage of certainty (knowing what development rules and ordinances will apply to One Carter without having to await a decision on the Stonehouse project) and would provide the City the advantage of assuring the restriction on Lot 3, eliminating One Carter from any litigation regardless of the outcome of the Stonehouse application and obtaining a final resolution of the disputes regarding One Carter.

City Staff feels this is a significant advantage to the City and recommends inclusion in the Settlement Agreement.

PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Copies of the report are available at the City Hall public counter and the Sierra Madre Public Library. In addition this report and all related documents have been made available on the City's website.

STAFF RECOMMENDATION

Recommendation that the City Council authorize the Mayor and City Manager to execute the Settlement Agreement between CS Stonehouse Homes, LLC, CS One Carter LLC, and the City based upon the City Attorney's confirmation that the Agreement conforms to the terms and conditions approved by the City Council and approval as to form.