



County of Monterey Planning Commission

Item No.3

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Agenda Item No. 3

Legistar File Number: PC 24-075

July 10, 2024

Introduced: 7/1/2024

Current Status: Agenda Ready

Version: 1

Matter Type: Planning Item

PLN200032 - FLORES PAUL H & LINDA S TRS

Continued from the January 10, 2024 Planning Commission hearing, public hearing to consider denying the Combined Development Permit for the construction of a single family dwelling and attached garage, a non-habitable pool cabana and associated site improvements including removal of protected Coast live oak trees and development on slopes in excess of 25%.

Project Location: 25836 El Paseo Real, Monterey

Proposed CEQA action: Find that denial of the project is Statutorily Exempt from CEQA pursuant to CEQA Guidelines section 15270.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution:

- 1) Finding that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270; and
- 2) Denying a Combined Development Permit consisting of:
 - a. Administrative Permit and Design Approval to allow construction of a 6,023 square foot single family dwelling with an 862 square foot attached garage, a 1,090 square foot non-habitable accessory structure and a pool and associated site improvements including 150 cubic yards of cut and 2,200 cubic yards of fill, a paved driveway, patios, retaining walls, paved walkways and a pool within a Visual Sensitivity District;
 - b. Use Permit to allow the removal of 30 protected Coast live oak trees; and
 - c. Use Permit to allow development on slopes in excess of 25% in the amount of 25,395 square feet.

The attached draft resolution (**Exhibit A**) includes findings and evidence necessary for denial of the project.

PROJECT INFORMATION:

Owner: Flores Paul H & Linda S Trs

Agent: Claire Greco, Monterey Design Center

APN: 416-132-010-000

Zoning: Low Density Residential, with Building Site Review and Visual Sensitivity Overlays and a 20 foot height limit ("LDR/B-6-VS (20)").

Parcel Size: 3.8 acres

Plan Area: Greater Monterey Peninsula Area Plan

Flagged and Staked: Yes

Project Planner: Zoe Zepp, Assistant Planner

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PROJECT SUMMARY:

The subject property is a 3.8-acre parcel within the Hidden Hills Subdivision, approximately a third of a mile west from Laureles Grade and 1 mile south of State Route 68. Development on this lot is subject to the policies within the 2010 General Plan, the Greater Monterey Peninsula Area Plan (GMP AP) and the regulations contained in Monterey County Zoning Ordinance, Title 21. The subject property is currently undeveloped and the applicant is proposing a single family dwelling and a pool and cabana. As designed and sited, the removal of 30 protected Coast live oak trees and development on slopes in excess of 25% would be necessary to accommodate the proposed development.

On October 12, 2023, staff provided the applicant with an incomplete letter requesting submittal of a grading/slope map, elevations identifying the height of the proposed structures, floor plans clarifying if the proposed cabana includes a basement and that in accordance with Title 21 section 21.84.120, a violation (case No. 23CE00441) on the property shall be abated prior to deeming the project complete. On November 27, 2023, staff received a revised site plan, floor plans and elevations for the proposed barn, which now included an attached second single family dwelling. Staff replied indicating that none of the requests from October 12th were addressed and the revised plans resulted in additional issues. Subsequent correspondence from the applicant acknowledged that staff's concerns were not address and instead, requested the project be set for the next available hearing for consideration.

On January 10, 2024, staff brought the project before the Planning Commission for consideration. The project was continued due to the uncertainty if the Commission would be allowed to act on an incomplete application. Following the hearing, staff ultimately found that an incomplete application could be acted upon. Pursuant to Government Code section 65956(c), failure of an applicant to submit complete or adequate information may constitute grounds for disapproving a development project. Regardless, the applicant decided to satisfy the incomplete comments from the County to bring forward a complete application.

The applicant has since cleared the code violation and provided the required information for their application to be deemed complete. In addition, the applicant has reduced the project scope by omitting the following components: the second single family dwelling and attached barn and the accessory dwelling unit. They have also reduced the number of protected trees proposed for removal from 69 to 30. However, the project as proposed is still inconsistent with applicable policies and regulations and therefore staff's recommend of denial remains.

DISCUSSION:

The proposed residential development is an allowed use within the Low Density Residential zoning district. However, the development has not been designed and sited appropriately to protect visual resources, conform to topographic and biologic constraints of the lot, or meet the development standards required by the Zoning Ordinance.

Visual Sensitivity

The Greater Monterey Peninsula Area Plan Scenic Highway Corridors & Visual Sensitivity map (Figure 14) illustrates that the subject property is located within a “sensitive” area. In accordance with GMP AP Policy GMP-1.1, the property is designated with a Visual Sensitivity overlay district to regulate the location, height, and design of structures within the unique scenic corridor west of Laureles Grade. General Plan Policy OS-1.2 states that development in designated visually sensitive areas shall be subordinate to the natural features of the area. Further, GMP AP Policies GMP-3.2, GMP-3.3.a, GMP-3.3.e.1 and GMP-3.3.e.6 states that visually sensitive areas are to be protected, development on hilltops shall be designed to minimize the visual impacts, development shall be rendered compatible with the visual character of the area if appropriate siting, design, materials, and landscaping are utilized, and that architectural review of projects shall be required to ensure visual compatibility of the development with the surrounding area. As illustrated in the attached plans, the proposed project has not been designed appropriately to conform to the property’s natural topography and would result in development insubordinate to the visual character of the area. The project includes over 33,559 square feet of development, which is significantly larger than neighboring residential development. In addition, placement of the development within the upper portion of the site would require the installation of 2,200 cubic yards of fill and over $\frac{1}{2}$ acre of paving. As discussed below, there is ample area on the property to site development on the lower portion of the property and avoid development on the hilltop. Resiting development would also reduce development on slopes in excess of 25% as well as reduce the amount of tree removal proposed.

Development on Slopes Exceeding 25%

The applicant has sited the proposed structures on slopes in excess of 25%, which are located on the hilltop of the property, resulting in approximately 25,395 square feet of development on slopes in excess of 25%. Due to the feasible alternatives onsite, the proposed development is inconsistent with multiple County policies and regulations as development on steep slopes is discouraged. General Plan Policy OS-3.5 states that the County shall regulate activity on slopes to reduce impacts to water quality and biological resources. This policy and corresponding implementing regulations contained in Title 21 section 21.64.230 requires that in order to approve such development, decision makers must find that there is no feasible alternative which would allow development to occur on slopes less than 25% and that the development better achieves the goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives. GMP AP Policy GMP-3.3.e.3 states that the impact of any earth movement associated with the development in a visually sensitive area shall be mitigated in such a manner that permanent scarring is not created. Although a portion of the property is encumbered by scenic easement, there are other feasible locations to site the proposed structures on the property to minimize impacts to the natural topography. Further, the location of the development would not better achieve the goals and policies of the General Plan or GMP AP as it conflicts with the protection of a visually sensitive area and the preservation of protected oak trees. The subject parcel and surrounding area would benefit from a smaller project that could be constructed on the lower portion of the property which does not contain slopes exceeding 25%.

Tree Removal

The proposed development would also require the removal of 32 trees, 30 of which are protected Coast live oaks. GMP AP Policy GMP-3.5 states that removal of healthy native oak trees shall be

discouraged. Implementing regulations contained in Title 21 section 21.64.260.D.5 requires that in order to approve removal of more than three protected trees, decision makers must find that the removal is the minimum required under the circumstances of the case and that removal will not involve a risk of adverse environmental impacts. Although the applicants have significantly reduced the number of trees proposed for removal from 69 to 30, the proposed tree removal is still not the minimum amount as there are feasible alternative locations for the structures which could completely avoid tree removal. An existing scenic easement encumbers approximately one third of the property and contains slopes exceeding 25% as well as oak woodlands. At the northern portion of the property, this oak woodland extends outside of the easement and covers the top of the property's ridge. The applicant proposes two structures on top of the ridge abutting the easement within the extended woodland area and this is where the tree removal would occur. The arborist report prepared for the project (see **Exhibit C**) estimates 32 trees to be removed, some of which are within the easement and would be impacted by construction beyond repair. Vegetation on the lower half (southern portion) of the property is limited to grass and weeds and is void of protected trees. Relocating development to this area would potentially avoid tree removal altogether. Therefore, the proposed tree removal is not the minimum amount under the circumstance. Further, the proposed tree removal would have the potential to impact the oak woodland and cause disturbance to the natural habitat contained within a protect scenic easement area. Further, removal is consistent with GMP AP Policy GMP-3.3.e.4, which states tree removal shall be minimized in order to adequately mitigate visual impacts of development in areas mapped as visually sensitive.

OTHER AGENCY INVOLVEMENT:

The following agencies or departments have reviewed the project:

Monterey County Regional Fire District
HCD-Engineering Services
HCD-Environmental Services
Monterey County Environmental Health Bureau

LAND USE ADVISORY COMMITTEE:

The applicant attempted to schedule their project for a LUAC meeting but the Greater Monterey Peninsula LUAC does not have a quorum at this time. Therefore, it was not possible to present before the LUAC due to the lack of quorum.

Prepared by: Zoe Zepp, Assistant Planner
Reviewed by: Anna Ginette Quenga, AICP, HCD Principal Planner
Approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with the HCD:

Exhibit A - Draft Resolution
Exhibit B - Site Plans, Floor Plans, Elevations
Exhibit C - Tree Assessment
Exhibit D - Vicinity Map

cc: Front Counter Copy; Planning Commission; Craig Spencer, Acting HCD Director; Melanie Beretti, AICP, Acting Chief of Planning; Anna Quenga, AICP, Principal Planner; Zoe Zepp, Project

Planner; HCD - Engineering Services; Environmental Health Bureau; HCD Environmental Services; Monterey County Regional Fire Protection District; CalFire; Flores Paul H & Linda S Trs, Applicant/Owner; Claire Greco, Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Christina McGinnis; Planning File PLN200032.

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