



Monterey County

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Board Report

Legistar File Number: 15-0347

Scheduled p.m.
April 14, 2015

Introduced: 4/8/2015

Version: 1

Current Status: Agenda Ready

Matter Type: General Agenda Item

- a. Public hearing to consider an appeal by Paul and Linda Flores from the Planning Commission's decision to deny a Combined Development Permit (Flores/PLN140300) consisting of: 1) Use Permit to allow after-the-fact removal of approximately 24 protected trees; 2) Use Permit to allow the removal of approximately 15 additional protected trees; and the Planning Commission's decision to find incomplete the Design Approval application to allow the construction of a single family dwelling and accessory dwelling unit (ADU) and the demolition of an existing 1,200 square foot single family dwelling until full site restoration has been completed: or
- b. Consider the appellant's request for continuance of the public hearing to May 5, 2015. (Combined Development Permit - PLN140300/Flores, 564 Monhollan Road, Carmel, Greater Monterey Peninsula Area Plan)

PROJECT INFORMATION:

Planning File Number: PLN140300

Owner: Paul & Linda Flores

Project Location: 564 Monhollan Road, Carmel

APN: 103-071-025-000

Agent: Anthony Lombardo & Associates

Plan Area: Greater Monterey Peninsula Area Plan

Flagged and Staked: Yes

CEQA Action: Statutorily Exempt per 15270(a) of the CEQA Guidelines / Negative Declaration Prepared

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Consider the appellant's request for continuance of public hearing; and
- b. Continue the public hearing to May 5, 2015.

SUMMARY

Applicants Paul and Linda Flores ("applicant" or "appellant") appealed the Planning Commission's January 28, 2015 decision on their application for a Combined Development Permit (Flores/PLN140300). The Planning Commission denied the Use Permit components of the application which would have sanctioned tree removal after the fact, and the Planning Commission found the Design Approval component of the application incomplete until full site restoration has been completed.

The applicant/appellant submitted a request to continue this matter to identify modifications of the project. In 2003, the Board of Supervisors adopted a policy pertaining to continuance requests (**Attachment E**). This policy allows one continuance of any item without conducting a full public hearing on the item, if the request is received no later than 5:00 p.m. the Tuesday preceding the scheduled hearing date.

In this particular case, the continuance request was received from the appellant in compliance with the policy. The applicant/appellant initially requested a continuance to a date uncertain (**Attachment F**). However, this is a unique circumstance in that the permit is to clear an open code violation case. As such, staff indicated that there must be a definitive timeframe to continue progress toward clearing the violation. In subsequent communications, the applicant indicated they could be available in early May, which is why the applicant's request for a continuance references May 5, 2015. Alternatively, due to an active code enforcement case and the substantial public interest generated by this project, the Board could conduct the public hearing on the appeal and continue the hearing to May 5, 2015 with direction to staff relative to the Board's intended action on the appeal and application.

Due to the request for a continuance, no resolution is presented for action by the Board of Supervisors. The Board is presented with two options:

- 1) Consider the appellant's request and continue the hearing to May 5, 2015; or
- 2) Conduct a public hearing on the item, provide direction to staff relative to the Board's intended action on the appeal and application, and continue the hearing to May 5, 2015.

DISCUSSION:

The Flores application was initiated in response to a code enforcement action related to the unpermitted removal of trees. The unpermitted tree removal was discovered during review of a Design Approval for a proposed 7,200 square foot house. The review of this application attracted the attention of many neighbors who were concerned with the amount of grading which had been done on the site and with the removal of trees. A prior grading plan had been issued for the site, but the grading plan had been submitted in such a form that no tree removal was acknowledged. Another prior permit was issued for construction of barn and again no tree removal was acknowledged with that application.

The applicant chose to pursue after-the-fact permitting for tree removal, as opposed to site restoration. Restoration of the site would involve restoration of the natural grade and planting of replacement trees. In this particular case, the applicant moved approximately 4,958 cubic yards of soil (1,263 cut/3,695 fill), including 2,432 cubic yards of imported fill throughout the site, and did not want to remove the fill and restore the site.

The Planning Commission denied the Use Permits for tree removal and found the Design Approval application incomplete on a 10-0 vote (**Attachment C**). The Planning Commission found that the findings for alternatives to restoration and tree removal could not be made. Concerns were expressed related to unpermitted tree removal, and the fact that previous issued permits did not correctly/adequately depict required tree removal. Questions also arose during the hearing about whether Cal-Am or an on-site well would be the source of water for the proposed development.

The Planning Commission received a significant amount of testimony from neighbors of the site expressing concern with the grading, impacts on hydrology, house design, lack of permits relative to tree removal, and lack of water available to the site.

For a more detailed discussion of the project and related impacts, see **Attachment A**.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau
RMA-Public Works
RMA-Environmental Services
RMA-Building Services
Water Resources Agency
Cypress Fire Protection District

The project was referred to the Greater Monterey Peninsula Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project involved development requiring CEQA review (Negative Declaration). The LUAC reviewed the project on June 18 and August 20, 2014. On August 29, 2014, the LUAC recommended approval of the project by a 3-1 vote (1 member absent) with a request to include landscaping to block the neighbors line of site and all graded slopes.

FINANCING:

Funding for staff time associated with this project is included in the FY14-15 Adopted Budget for RMA-Planning. Applicable fees have been paid in accordance with the Board adopted Fee Resolution.

Prepared by: David J. R. Mack, Associate Planner ext. 5096
Approved by: Mike Novo, Director, RMA-Planning, ext. 5192
Carl P. Holm, AICP, Acting Director Resource Management Agency

This report was reviewed by John H. Ford, RMA-Services Manager

cc: Board of Supervisors; Front Counter Copy; Cypress Fire Protection District; RMA-Public Works Department; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; John H. Ford, RMA Services Manager; David J. R. Mack, Project Planner; Paul & Linda Flores, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); David Beech, Interested Party; Walter Wagenhals, Interested Party; Sam Ezekiel, Interested Party; Planning File PLN140300

The following attachments are on file with the Clerk of the Board:
Attachment A-Project Discussion; Attachment B-Notice of Appeal; Attachment C-Planning Commission Resolution No. 15-010; Attachment D-Planning Commission Staff Report (January 28, 2015); Attachment E-Board of Supervisors Policy (2003); Attachment F-Continuance Request from Applicant/Appellant dated March 20, 2015; Attachment G-Staff Response to Continuance Request dated March 20, 2015