



## Legislation Details (With Board Report)

<b>File #:</b>	RES 15-050	<b>Name:</b>	Public Hearing to Consider Adopting a Resolution for Flores Appeal
<b>Type:</b>	BoS Resolution	<b>Status:</b>	Passed
<b>File created:</b>	5/1/2015	<b>In control:</b>	Board of Supervisors
<b>On agenda:</b>	5/12/2015	<b>Final action:</b>	5/12/2015

**Title:** Public hearing continued from April 14, 2015 to consider adopting a resolution to:

- a. Deny the 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) until full site restoration has been completed;
- b. Find the project Statutorily Exempt per Public Resources Code Section 21080(b)(5) and Section 15270(a) of the CEQA Guidelines; and
- c. 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 3) Design Approval to allow the construction of a 7,200 square foot single family dwelling and 1,200 square foot accessory dwelling unit (ADU). (Appeal - PLN140300/Flores, 564 Monhollan Road, Carmel, Greater Monterey Peninsula Area Plan)

**Sponsors:** Planning / RMA

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Attachment A-Project Discussion, 3. Attachment B-Draft Board Resolution, 4. Attachment C-Notice of Appeal, 5. Attachment D-Planning Commission Resolution No. 15-010, 6. Attachment E-Planning Commission Staff Report (January 28, 2015), 7. Completed Board Order & Resolution, 8. Revised Board Order

Date	Ver.	Action By	Action	Result
5/12/2015	1	Board of Supervisors	adopted	Pass

Public hearing continued from April 14, 2015 to consider adopting a resolution to:

- a. Deny the 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) until full site restoration has been completed;
- b. Find the project Statutorily Exempt per Public Resources Code Section 21080(b)(5) and Section 15270(a) of the CEQA Guidelines; and
- c. 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 3) Design Approval to allow the construction of a 7,200 square foot single family dwelling and 1,200 square foot accessory dwelling unit (ADU). (Appeal - PLN140300/Flores, 564 Monhollan Road, Carmel, Greater Monterey Peninsula Area Plan)

RECOMMENDATION:

It is recommended that the Board of Supervisors Adopt a Resolution (Attachment B) to:

- a. Deny the 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) until full site restoration has been completed;
- b. Find the project Statutorily Exempt per Public Resources Code Section 21080(b)(5) and Section 15270(a) of the CEQA Guidelines; and
- c. 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 3) Design Approval to allow the construction of a 7,200 square foot single family dwelling and 1,200 square foot accessory dwelling unit (ADU).

**PROJECT SUMMARY:**

This hearing is on the appeal by applicants Paul and Linda Flores ("applicant" or "appellant") from the Planning Commission's January 28, 2015 denial of 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 project was originally scheduled for consideration before the Board of Supervisors on April 14, 2015. On this date, the applicant requested a continuance of the hearing on the matter to May 12, 2015, to allow time to develop and present alternatives to restoration to the Board. The continuance request was granted and the project scheduled to return for consideration on May 12, 2015.

As of April 30, 2015, no alternatives have been submitted to the County for analysis or review; therefore the matter is before the Board without any alternatives.

**Code Enforcement Action Summary**

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 shown on the plans. Another prior permit was issued for construction of the barn and again no tree removal was shown 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 D). The Planning Commission found restoration of the site is feasible and restoration does not pose a danger to public health and safety. The zoning ordinance specifies that

alternatives to restoration may be pursued only if the applicant shows that restoration would endanger the public health and safety, or that restoration is infeasible due to circumstances beyond the control of the applicant. 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 Planning Commission 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; Water Resources Agency; Cypress Fire Protection District; RMA-Building Services

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.

Prepared by: David J. R. Mack, Associate Planner ext. 5096  
Approved by: Mike Novo, Director, RMA-Planning, ext. 5192  
Carl P. Holm, 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; 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; 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	Draft Board Resolution
Attachment C	Notice of Appeal
Attachment D	Planning Commission Resolution No. 15-010
Attachment E	Planning Commission Staff Report (January 28, 2015)

