



County of Monterey

Item No.

Board Report

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

Legistar File Number: RES 24-160

September 17, 2024

Introduced: 8/27/2024

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

PLN200032- FLORES PAUL H & LINDA S TRS

Public hearing to consider denying the appeal of the Planning Commission's July 10, 2024 decision to deny a Combined Development Permit for the construction of a single-family dwelling and attached garage, a non-habitable pool cabana with an attached garage, 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 Board of Supervisors adopt a resolution:

1. Finding that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270; and
2. Denying the Flores's appeal of the Planning Commission's decision at the July 10, 2024, Planning Commission hearing to deny a Combined Development Permit; and
3. 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 (**Attachment 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 polices 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 describing the need for applicant to clear violation for unpermitted tree removal (case No. 23CE00441) on the property 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 included an attached second single family dwelling. Staff replied indicating that none of the requests from October 12 were addressed and the revised plans resulted in additional issues. Subsequent correspondence from the applicant acknowledged that staff's concerns were not addressed 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. The Planning Commission continued the hearing because the application was found to be incomplete and hence, not ripe for a decision or determination. Following the hearing, staff concluded that an incomplete application could, in fact, 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 complete the application.

The applicant cleared the code violation and provided the required information for their application to be deemed complete. The complete or incomplete determination is limited to having application materials sufficient for County review of the application. Here, the application materials were reviewed and found inconsistent with applicable policies and regulations governing development. Completeness and consistency of an application are not reviewed in a silo. Staff had communicated potential inconsistencies with the applicant prior to making the complete determination and provided the opportunity for changes or revisions in the application materials to address the inconsistencies. The applicant submitted materials needed for review without changing the materials to address the inconsistencies. On July 10, 2024, the Planning Commission reviewed the complete application, found that the project would be inconsistent with visual protection, tree protection, and slope protection policies of the General Plan and zoning ordinance, and adopted a resolution to deny the permit.

Within 10 days of receiving the denial, the applicant appealed the decision to the Board of Supervisors. County staff scheduled the appeal hearing for the September 17 Board of Supervisors hearing. No changes from the plans submitted to the Planning Commission have been proposed.

The appeal contends that the Planning Commission decision was not supported by the evidence and there was a lack of a fair and impartial hearing. The appeal argues that the County approved a permit for a house on this site in the past, the neighbors have developed large homes on slopes with tree removal, additional grading would be required if the home site was changed, and the house is in a location that provides the best views from the residence.

Staff has reviewed the appeal contentions and after careful consideration, is recommending that the Board deny the appeal and uphold the Planning Commission denial due to inconsistencies of the design with adopted policies. In summary, the project has been redesigned since the Board's prior approval to be more intense than prior approvals and prior approvals do not limit the County's review of this proposal. Indeed, the home can be moved to reduce the number of trees proposed and to substantially reduce or eliminate development on slopes over 25% and visual impacts when viewed from Laureles Grade.

The hearing on this appeal is de novo.

DISCUSSION:

Included as **Attachment H**.

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 enough active members to form a quorum at this time. Therefore, there is no LUAC recommendation for this project.

Several letters have been received from neighbors. Those letters are attached as Attachment E.

FINANCING:

Funding for staff time associated with this project is included in the FY2024-25 Adopted Budget for Housing and Community Development Appropriation Unit HCD002, Unit 8543. A fee for the appeal has been collected.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective response to our HCD customers. Processing this Appeal in accordance with all applicable policies and regulations also provides both the applicant and interested

parties the opportunity to ensure that land use decisions are given appropriate consideration by decision-makers.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Zoe Zepp, Assistant Planner

Reviewed and Approved by: Craig Spencer, Director of County of Monterey HCD

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The following attachments are on file with the HCD-Planning:

- Attachment A - Draft Resolution
- Attachment B - Site Plans, Floor Plans, Elevations
- Attachment C - Tree Assessment
- Attachment D - Vicinity Map
- Attachment E - Public Comment
- Attachment F - Planning Commission Resolution (Resolution No. 24-023)
- Attachment G - Notice of Appeal
- Attachment H - Discussion

cc: Front Counter Copy; Planning Commission; Craig Spencer, 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; Chad Brown, Agent; The Open Monterey Project; LandWatch (Executive Director); Lozeau Drury LLP; Christina McGinnis; Planning File PLN200032.