

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: November 20, 2014

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Coastal Development Permit, pursuant to Section 6328.4 of the County Zoning Regulations, and a Certificate of Compliance (Type B) to confirm the legality of a 6,000 sq. ft. unimproved parcel, pursuant to Section 7134.2 of the County Subdivision Regulations, located at 340 - 13th Street in the unincorporated Montara area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2014-00191 (Dayton)

PROPOSAL

The applicant has applied for a Certificate of Compliance (Type B) to confirm legality of the parcel. The Type B is required because the subject parcel (Lots 10 and 11, Block 35, "Resubdivision of Farallone City," RSM Volume 6, page 2, recorded in 1908) was not conveyed separately from the surrounding adjacent lots until 1997, which was after July 1945, the effective date of the County's first subdivision ordinance. The Certificate of Compliance (CoC) ensures compliance with the County Subdivision Regulations. The accompanying Coastal Development Permit is required by the County's Local Coastal Program.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit, and the Certificate of Compliance (County File Number PLN 2014-00191), by making the required findings and adopting the conditions of approval identified in Attachment A.

BACKGROUND

Report Prepared By: Pete Bentley, Project Planner, Telephone 650/363-1821

Owner/ Applicant: Richard Dayton

Location: 340 - 13th Street, Montara

APN: 037-014-420

Size: 6,000 sq. ft.

Existing Zoning: R-1/S-17/DR/CD (Single-Family Residential/5,000 sq. ft. Minimum Parcel Size/Design Review)

General Plan Designation: Medium Density Residential (6.1 – 8.7 dwelling units per net acre)

Parcel Legality: Lots 10 and 11, Block 35, “Resubdivision of Farallone City,” recorded in San Mateo County Records on January 18, 1908, into Book 6 at page 20. Confirmation of the legality of this parcel is the purpose of this application and discussed in Section A.3 of this report.

Existing Land Use (Lots 10 and 11): Vacant

Water Supply and Sewage Disposal: Montara Water and Sanitary District (MWSD)

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X (areas outside the 0.2% chance flood plain), Map No. 06081C0117E, effective date October 16, 2012.

Environmental Evaluation: Categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines, related to minor alterations on land use limitations.

Setting: The subject parcel is located on the southerly side of 13th Street, approximately 450 feet east of Highway 1. Thirteenth Street (in this area) is a County maintained roadway. The parcel is adjacent to developed lots in all directions developed between 1949 and 2008. Sanitary sewer lines are located within the road right-of-way, and fire hydrants are also located nearby. The subject parcel is vacant. Approval of the Certificate of Compliance would allow development at a later date, at which point a sanitary sewer connection would be obtained, as well as a domestic water connection from MWSD.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

The proposal complies with General Plan (GP) Policy 8.13 (*Appropriate Land Use Designations and Locational Criteria for Urban Unincorporated Areas*) in that this portion of unincorporated Montara has a GP Land Use Designation of Medium Density Residential. The proposal – confirming the legality of both lots as a single, zoning compliant and developable parcel – does not exceed this density, and this area is correspondingly zoned R-1/S-17, with which the proposed project is in compliance relative to lot size (the subject lot exceeds

5,000 sq. ft.). The project also complies with Policy 8.14 (*Land Use Compatibility*), in that upon resolution of the lots' legality, the property's future development with a single-family residence – in compliance with all S-17 and Design Review development regulations and standards – would “protect and enhance the character of existing single-family areas.”

2. Conformance with the Local Coastal Program (LCP)

LCP Policy 1.28 (*Legalizing Parcels*) requires a Coastal Development Permit (CDP) when issuing a CoC (Type B) to legalize parcels. The CDP is included as an element of this application. Policy 1.29 provides standards for review when legalizing parcels. Subsections (a) through (e) all require a CDP, and compliance with applicable LCP resource protection policies. Permits to legalize this parcel shall also be, where applicable, conditioned to maximize consistency with LCP resource protection policies. Other than the subject application to confirm the legality of the two lots for development as a single parcel, no other development is proposed at this time. There is no basis to believe that, upon legalization of these lots as one developable parcel, the resultant parcel configuration and location, or the future residential development that may be proposed on the parcel, will have any adverse impact on coastal resources, because the subject site is not located near sensitive habitat areas or coastal viewsheds.

3. Conformance with Subdivision Regulations

A Conditional CoC (Type B) is required to legalize parcels in compliance with provisions of the County and State subdivision laws in effect at the time of creation. This process is required before any new development can be approved or proceed.

As a result of recent court case decisions, the subject lots' legality must be confirmed because they are undeveloped lots of an antiquated subdivision, in this case, Lots 10 and 11, Block 35, of the “Resubdivision of Farallone City” Subdivision recorded in 1908. The County Subdivision Regulations, Section 7134, allow for either a CoC (Type A) or CoC (Type B) to resolve and confirm a parcel's legality. As such, to qualify for a CoC (Type A) (pursuant to Section 7134.1), relative to the tenants of the cited court cases, it must be confirmed that the lots comprising the subject project parcel were conveyed separately from any surrounding lots (beyond the subject property whose legality is to be confirmed) prior to the County's adoption of its first Subdivision Ordinance in July 1945. If such conveyance is confirmed to have occurred after that date, a CoC (Type B) (pursuant to Section 7134.2) shall be required, as is the case with this application.

Both the subject lots that comprise the proposed parcel (Lots 10 and 11) were initially part of the cited 1908 subdivision. The submitted Chain of Title data confirms that both Lots 10 and 11 continued to be conveyed along with other

adjacent lots until 1997, when they were finally sold together as only lots 10 and 11. Given that the two subject lots were conveyed after 1945, it has been determined that both lots together – since their legality is sought as a single, developable parcel – require the CoC (Type B). Section 7134.2.c allows for the approval and recordation of a CoC subject to a public hearing and the imposition of conditions of approval to ensure that development on the lots (as a single, zoning compliant parcel) complies with public health and safety standards.

Regarding conditions of approval, Section 7134.2.c(a) of the County Subdivision Regulations states that the Community Development Director may impose “any conditions which would have been applicable [to the division of the property] at the time the applicant acquired his or her interest in the property, and which had been established at that time by the Map Act or the County Subdivision Regulations.” The subject two lots, totaling 6,000 sq. ft., would have been compliant with the zoning (minimum parcel size was then and still is 5,000 sq. ft.) in 1997 as well as with the applicable Subdivision Regulations at that time (road access, sewer, water and power availability). This portion of 13th Street, which is maintained by the County, serves approximately twenty (20) parcels of which fifteen (15) have been developed previously with “single-family” residences. Additionally, sanitary and energy infrastructure exists within this predominantly developed and improved subdivision in Montara. Given these facts, along with the nature and intent of the previously cited court cases mandating that lot legality be confirmed, there are no additional improvements (typical of an urban subdivision) that must be required via conditions. The only additional and applicable improvements (i.e., house planning and building permits, sewer, water and energy line laterals from the street to a future house) will be triggered and required at the time of the submittal and issuance of those respective permits. Thus, the Community Development Director, pursuant to Subsection (c) of the above-cited Section, stipulates that “compliance with the conditions of the Conditional Certificate of Compliance is not required until the time which a permit or other grant of approval for development of the property is issued by the County.”

B. ENVIRONMENTAL REVIEW

The proposed parcel legalization is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15305, Class 5: minor alterations in land use limitations that do not result in any change in land use or density. The process and documentation to legalize the subject lots represent a minor alteration in land use limitations.

C. COUNTY AGENCY REVIEW

Current Planning Section
County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location and Vicinity Map
- C. Original 1908 Subdivision Map

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2014-00191 Hearing Date: November 20, 2014

Prepared By: Pete Bentley, Project Planner For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines which exempts minor alterations in land use limitations that do not result in any change in land use or density. The process and documentation to legalize the subject lots represents such a minor alteration in land use limitations.

For the Conditional Certificate of Compliance (Type B), Find:

2. That the processing of the Certificate of Compliance (CoC) (Type B) is in full conformance with the County Subdivision Regulations Section 7134 (*Legalization of Parcels; Certificate of Compliance*) particularly Section 7134.2(a), (b), and (c).
3. That the processing of the Conditional CoC (Type B) is in full conformance with Government Code Section 66499 et seq.

For the Coastal Development Permit, Find:

4. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms to the plans, policies, requirements and standards of the San Mateo County Local Coastal Program. The project includes no other development at this time, nor will any conditions result in development prior to the recordation of the Certificate of Compliance document.
5. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program. Future development of this property represents infill within an otherwise predominantly developed residential area. The process of confirming the parcel's legality does not affect any known resources stipulated in the LCP.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal as described in those plans, supporting materials and reports submitted on May 30, 2014 and August 18, 2014 and as approved by the Zoning Hearing Officer. Minor revisions or modifications to the project may be made subject to the review and approval of the Community Development Director, if they are consistent with the intent of and in substantial conformance with this approval.
2. The subject Certificate of Compliance (Type B), which shall represent and join Lots 10 and 11 as one single developable parcel, shall be recorded, by the Project Planner, prior to the issuance of any other permits related to any development on this property.
3. The applicant is hereby informed that any future development on this parcel would be subject to compliance with the zoning regulations in place at that time, as well as with any applicable policies of the County Local Coastal Program. The approval shall require that an adequate domestic water source and sanitary sewerage connection is available.
4. Prior to the issuance of a building permit, water connection plans and a description of the availability of a water connection shall be included as part of a building permit application.
5. This approval does not authorize the removal of any trees. Any tree removal or tree trimming will require a separate tree removal/trimming permit.
6. The applicant is advised that, prior to recordation of the Certificate of Compliance description, the owner/applicant shall provide the Project Planner with a check to cover the fee now charged by the Recorder's Office. The fee is estimated to be \$50.00, if "confirmed" copies are requested by the owner/applicant, and \$40.00 without confirmed copies. The Project Planner will confirm the amount "prior to" recordation.

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