

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

DATE: September 18, 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 an unimproved parcel, pursuant to Section 7134.2 of the County Subdivision Regulations, located at the corner of Montana Street and Buena Vista Street in the unincorporated Moss Beach area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2014-00149 (Irish)

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 13 and 14, Block 26, "Moss Beach Heights," RSM Volume 6, page 8, recorded in 1908) was not conveyed separately from the surrounding adjacent lots until 1964, 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, which trigger the accompanying Coastal Development Permit as 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 2014-00149), 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

Applicant: George Irish

Owner: George and Barbara Irish

Location: Corner of Montana Street and Buena Vista Street, Moss Beach

APN: 037-061-060

Size: 7,030 sq. ft.

Existing Zoning: R-1/S-17/DR (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 13 and 14, Block 26, "Map of Moss Beach Heights," recorded in San Mateo County Records on May 4, 1908, into Book 6 at page 8. 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 13 and 14): 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 (area determined to be outside the 0.2% annual floodplain), 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.

Setting: The subject parcel is located at the corner of Montana Street and Buena Vista Street. Both streets are County-non-maintained roadways. The parcel is adjacent to developed lots to the north, east, and across Buena Vista Street to the west. The adjacent homes were built between 1976, 1979 and two in 1985. Sanitary sewer lines are located in the road right-of-way and fire hydrants are also located nearby. The subject parcel is vacant. Approval of this Certificate of Compliance would allow development at a later date, at which time a sanitary sewer connection would be obtained, as well as a domestic water connection from MWSD.

DISCUSSION

A. KEY ISSUES

1. Conformance with Zoning Regulations

The subject 7,030 sq. ft. parcel is zoned R-1/S-17/DR, where the minimum parcel size is 5,000 sq. ft. As such, it is understood that the parcel is legal (pursuant to its initial creation and the subject of this application) and be subject to a Coastal Development Permit (and all applicable LCP Policies), the R-1/S-17 Zoning Regulations, and a Coastsides Design Review (DR) application process and standards.

2. 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 Moss Beach has a GP Land Use Designation of Medium Density Residential (6.1 – 8.7 dwelling units/net acre). The Certificate of Compliance, upon recordation, will legalize Lots 13 and 14 as one single, 7,030 sq. ft., developable parcel. The proposal does not exceed this density. This area is correspondingly zoned R-1/S-17, with which the proposed project is in compliance relative to the proposed parcel size (the subject parcel is greater than 5,000 sq. ft.). The project does comply with Policy 8.14 (*Land Use Compatibility*), in that upon resolution of the parcel's legality, the property's future development with a single-family residence – in compliance with Design Review development regulations and standards – would “protect and enhance the character of existing single-family areas.”

3. Conformance with the Local Coastal Program (LCP)

Under the LCP's “Locating and Planning New Development Component,” Policy 1.8 (*Location of New Development*) seeks to “concentrate new development in urban areas ... by requiring the “infilling” of existing residential subdivisions [of which the “Map of Moss Beach Heights” represents in this urban area of Moss Beach] ...” Should this application be approved, it would allow the potential development (pursuant to other constraints as previously discussed in Section A.1 of this report) of this parcel, in concert with this policy. Policy 1.20 (*Lot Consolidation*) speaks to the consolidation (e.g., merger) of contiguous lots held in the same ownership in residential subdivisions. While many such LCP-triggered mergers did occur in this area in the early 1980s, the subject parcel is currently separately owned from any contiguous lots. In the LCP's Public Works Component, Policy 2.19 (*Sewer Phase 1 Capacity Allocations*) seeks to ensure that the parcel's future sewer connection does not exceed the Phase 1 capacity limitations discussed in the “Sewers” section of this Component. This parcel was considered as a qualified parcel within the Phase 1 capacity limits.

LCP Policy 1.28 (*Coastal Permit Standards for 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 that the project shall also comply with any applicable LCP resource protection policies, depending on whether or not the “parcel” is developed, and/or whether the parcel was created before Proposition 20 (effective date January 1, 1973). Permits to legalize this parcel shall be, where applicable, conditioned to maximize consistency with LCP resource protection policies. Other than the subject

application to confirm the legality of the parcel, no other development is proposed at this time.

Future development of a new residence on the legalized parcel will require Design Review approval, and a Coastal Development Permit.

4. 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 parcel's legality must be confirmed because it is an undeveloped parcel of an antiquated subdivision, in this case, Lots 13 and 14, Block 26 of the "Map of Moss Beach Heights" 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 lot or 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.

The subject parcel (Lots 13 and 14) was initially part of the cited 1908 Subdivision. The submitted Chain of Title and Grant Deed data confirm that no deed data or chain of title documents submitted for the years prior to 1964 include subject Lots 13 and 14, separate from any others. Given that the subject parcel (Lots 13 and 14) was conveyed after July 1945, it therefore requires the CoC (Type B) to confirm the legality of the land division. 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 eventual development on the lot (as a single 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] at the time the applicant acquired his or her interest in the property, and which had been established at the time of the Map Act or the County Subdivision Regulations." The zoning of this parcel and surrounding area was R-1 in 1946 (having first been zoned in 1941). At that time, minimum parcel size was 5,000 sq. ft. Parcels of a lesser size were acceptable if they were "shown as lots on any subdivision map which was recorded in the

Office of the County Recorder”... of San Mateo County. Aside from the need to confirm the subject parcel’s legality pursuant to the previously cited court case, these lots were shown as part of the cited “Map of Moss Beach Heights” subdivision recorded in 1908.

The subject parcel, totaling 7,030 sq. ft., would have been conforming with the zoning (minimum parcel size) in 1975, as well as with the applicable Subdivision Regulations at that time. Additionally, roadway, sanitary and energy infrastructures exist within this predominantly developed and improved subdivision in Moss Beach. Given these facts, along with the nature and intent of the previously cited court cases mandating that these lots 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 uses that do not result in any change in land use or density. The process and documentation to legalize the subject parcel represents a minor alteration in land use.

C. REVIEWING AGENCIES

County Planning Department
County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map and Vicinity Map
- C. Original “Map of Moss Beach Heights”

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2014-00149 Hearing Date: September 18, 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 that do not result in any change in land use or density, whereby the process and documentation to legalize the subject parcel (Lots 13 and 14) represents such a minor alteration in land use.

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

2. That the processing of the Certificate of Compliance (CoC) (Type B) is in 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.
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, where a sanitary sewer connection would be available, as would a domestic water service connection. The process of confirming the parcel's legality does not affect any known resources stipulated in the Local Coastal Program.

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 2, 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 Lots 13 and 14 as one single developable parcel, shall be recorded 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 and issuance shall require that an adequate domestic water source and sanitary sewerage connections are available.
4. The Certificate of Compliance (Type B) is required to establish the legality of the existing parcel, APN 037-061-060, shall be recorded by the Project Planner.
5. 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 \$40.00. The Project Planner will confirm the amount "prior to" recordation.
6. This approval does not authorize the removal of any trees. Any tree removal or tree trimming will require a separate tree removal/trimming permit.

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