

# MEMORANDUM

## COUNTY OF SAN MATEO PLANNING AND BUILDING DEPARTMENT

**DATE:** December 12, 2014  
**TO:** Zoning Hearing Officer  
**FROM:** Dave Holbrook, Senior Planner; Telephone 650/363-1837  
**SUBJECT:** STAFF REPORT ADDENDUM: Item No. 1 on the December 4, 2014  
Zoning Hearing Officer Hearing Agenda:

**Property Owners: Lorraine Burns & Deborah Kleffer**  
**Applicant: William Cook**  
**File No.: PLN 2014-00030**  
**Location: Cloverdale Rd., Pescadero**  
**APN: 086-061-120, -130 and -080**

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### **BACKGROUND & DISCUSSION**

On December 4, 2014, the Zoning Hearing Officer (ZHO) considered the above-cited item and continued it to the December 18, 2014 agenda to allow for resolution of the following issues, as raised by the Committee for Green Foothills (attached):

1. Agricultural Advisory Committee's (AAC) required consideration of the project. The AAC considered the item at their December 8, 2014 meeting and recommended approval, with no comments.
2. Status of Grading Violation Relative to Certificate of Compliance. On November 18, 2014, the applicant submitted a Grading Permit/CDP/ PAD permit (PLN 2014-00445) to legalize a substantial amount of grading done in association with constructed roadways into the parcel. As of this date, that application is still incomplete. However, the ability to proceed with consideration of the Certificate of Compliance (COC), where there is a pending permit to legalize unpermitted grading, has been reviewed by County Counsel and deemed appropriate.

In making this decision, County Counsel assessed two sets of seemingly competing regulations that: a) prohibit the granting of development permits on parcels where a violation occurs (as is the case here) and, b) prohibits the issuance of permits or approvals on parcels whose legality has not been established.

- a. Zoning Regulations, Chapter 1.5, Section 6105.0 (*Legal Lot Requirements and Zoning and Building Violations*) states that no permit for development shall be issued for any lot which is not a legal lot. That said, the LCP defines a COC/Type B as “development,” even though that process, in and of itself, includes neither any proposed or required development.
- b. Subdivision Regulations, Section 7133 (*Denial of Development Permit Approvals*) prohibits the issuance of any permit or granting of any approval on any real property that has been divided or resulted in a division in violation of the provisions of the County Subdivision Regulations, if the decision maker (e.g., the ZHO) having authority to issue such permit finds that development of such property is contrary to the public health or safety. Again, the COC itself neither proposes nor requires development.

Counsel’s decision reconciles both these sections, since a condition of approval of the COC is recommended to ensure that the COC cannot be recorded until the subject Grading permit is approved (final decision; no appeals).

As regard to the graded road itself, erosion control measures were installed, as confirmed by the applicant’s engineer. While the roadways have already been graded, staff review of the application against all applicable zoning regulations and LCP policies will determine to what degree any of the roads are compliant and thus approvable. However, pursuant to Counsel’s cited opinion, that review and analysis need not occur prior to a decision on the subject COC. However, a final decision of the Grading permit will have to occur prior to the COC being recorded.

3. Clarity of Staff Report’s Recommended Action Relative to Density Credits. The staff report clearly states in its recommendation what the action is. As regard to the issue of density credits, Section A.2.b. of that report discussed the density allocation as it would be assigned to the subject property upon recordation of the COC. As stated there, the COC approval would result in all three parcels being consolidated as one legal parcel. Upon legalization, the 110.47-acre parcel would comprise of only one density credit and thus could not be subdivided in the future. This is because a 1990 Density Analysis (File No. 703(90)), done on both the subject property (currently comprised of the three parcels) and the 64.89-acre parcel to the north (APN 086-061-060), yielded only two density credits (DCs), one of which was utilized when that northern parcel itself was legalized with a COC (PLN 2013-00085) and recorded in 2013. Thus, of the two DC’s calculated in 1990, the subject property captures the second remaining density credit. To clarify this point, staff recommends that Condition No. 4 be amended (shown in **bold**) to read as follows:

*The Certificate of Compliance (Type B) shall be recorded prior to the issuance of any other future development or approvals on the subject parcel (other than the CDP/Grading Permit to legalize the road construction as cited in Condition No. 3). **The Certificate of Compliance document shall include the statement confirming its allocation of only one density credit, with no additional credits calculable on the subject property.***

4. Conflicting Owner vs. Applicant Information. The staff report cited the Applicant/Owner as being William Cook/Deborah Kleffer. The correct reference is that while the project applicant is William Cook, the property owners are Deborah Kleffer and Lorraine Burns.

## **RECOMMENDATION**

That the Zoning Hearing Officer approve the Coastal Development Permit, Planned Agricultural District Permit, and Certificate of Compliance (Type B), County File PLN 2014-00030, by making the required findings and adopting the conditions of approval (including revised Condition No. 4 as stated) listed in Attachment A.

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