

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

DATE: December 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 8,157 sq. ft. parcel (consisting of two lots), pursuant to Section 7134.2 of the County Subdivision Regulations, located on Magellan Avenue, west of Cabrillo Highway in the unincorporated Miramar area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2013-00229 (Wu)

PROPOSAL

The applicant has applied for a Coastal Development Permit and a Certificate of Compliance (Type B) to confirm the legality of the parcel referenced above. The Type B Certificate of Compliance is required because the existing two lots (consisting of "Lots 16 and 17, Block 6, as designated on the Map entitled 'Shore Acres Half Moon Bay, California First Addition to the City of Balboa,' which Map was filed in the office of the Recorder of the County of San Mateo, State of California on December 18, 1905, in Book 3 of Maps on Page 95") were not conveyed separately from the surrounding adjacent lots until 1967, which was after July 1945, the effective date of the County's first subdivision ordinance.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit and the Certificate of Compliance (County File Number PLN 2013-00229) 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/Owner: Jason Wu



Location: Magellan Avenue, adjacent to 171 Coronado Avenue, Miramar and west of Cabrillo Highway

APN: 048-013-600 (Lots 16 and 17)

Size: Approximately 8,000 sq. ft.

Existing Zoning: R-1/S-94/DR/CD (Single-Family Residential/10,000 Sq. Ft. Minimum Parcel Size/Design Review/Coastal Development)

General Plan Designation: Medium Density Residential (6.1-8.7 dwelling units/net acre)

Parcel Legality: Lots 16 and 17, Block 6, as designated on the Map entitled "Shore Acres Half Moon Bay, California First Addition to the City of Balboa," which Map was filed in the office of the Recorder of the County of San Mateo, State of California on December 18, 1905, in Book 3 of Maps on Page 95."

Existing Land Use: Vacant (Lots 16 and 17)

Water Supply: Coastside County Water District

Sewage Disposal: Granada Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone V, Coastal Flood with velocity hazard (wave action); No Base Flood Elevations determined. Community Panel No. 06081C0255E, dated October 16, 2012.

Environmental Evaluation: Categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act (CEQA) Guidelines.

Setting: The subject lots are located west of Cabrillo Highway and approximately 300 feet east of the coastal bluff on Magellan Avenue in the Miramar area of San Mateo County. Magellan Avenue is a County-maintained roadway with existing sewer facilities and water mains and fire hydrants within the road right-of-way. Adjacent single parcels to the east, west, and the two parcels across Magellan Avenue to the north are currently undeveloped. Of the two existing parcels to the south, one is undeveloped while the second is developed with a single-family residence built in 2001. The subject lots (048-013-600), though formally merged in 1983, are being legalized under this Certificate of Compliance as a single parcel. Approval of the Certificate of Compliance would allow the applicant to apply for development permits at a later date, at which point the sources of sanitary sewer services and domestic water would need to be secured.

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 Miramar 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 16 and 17 as one single, approximately 8,000 sq. ft. parcel that does not exceed this density. This area is correspondingly zoned R-1/S-94, with which the proposed project is not in compliance relative to the proposed lot size (the subject lot is less than the 10,000 sq. ft. minimum).

The owner was advised that it would be to his benefit to contact the four (4) adjacent property owners, whose lots are vacant and also of sub-standard square footage, to determine if they would be willing to sell their lot to him. If able to purchase one of these lots, this applicant/owner would then have a parcel in excess of the minimum parcel size of 10,000 square feet. The Project Planner has been notified by the applicant that attempts to contact the adjacent owners were made with two of the owners responding and two not responding. The two that did respond had no interest in selling their lot. The Project Planner was able to contact one of the remaining owners that did not reply and he, too, had no interest in selling his lot.

Pursuant to Section 6133.3 of that ordinance (*Development of Non-Conforming Parcels; Development not Requiring a Use Permit*), future development of this parcel would not require a Use Permit if such development otherwise conforms to all R-1/S-94 Zoning Regulations. This is because the threshold for requiring a Use Permit applies only if the parcel is less than 5,000 sq. ft. in size and less than 50 feet in width. Future development will be subject to a new Coastal Development Permit (and all applicable Local Coastal Program Policies), the R-1/S-94 Zoning Regulations, and both the Coastsides Design Review (DR) application process and standards.

The project will also comply with Policy 8.14 (*Land Use Compatibility*) in that upon resolution of the lots' legality, any future residential development will be subject to Design Review development regulations that protect and enhance the character of existing single-family areas.

2. Conformance with the Local Coastal Program (LCP)

Under the LCP's "Locating and Planning New Development Component," Policy 1.18 (*Location of New Development*) seeks to "concentrate new development in urban areas ... by requiring the 'infilling' of existing residential subdivisions, "which the 'Shore Acres Half Moon Bay, California First Addition to the City of Balboa' represents in this urban area of Miramar." Should this application be approved, it would allow the potential development of this parcel in concert with this policy, pursuant to other constraints as previously discussed in Section A.1 of this report. Policy 1.21 (*Lot Consolidation*) speaks to the consolidation (e.g., merger) of contiguous lots, held in the same ownership in residential subdivisions in the Miramar area. In the LCP's Public Works Component, Policy 2.8 (*Reservation of Capacity for Priority Land Uses*) ensures that this parcel, while substandard

in size, is considered as a qualified priority parcel for water and sewer service, as adequate public services are available to serve new development.

LCP Policy 1.29 (*Coastal Permit Standards for Legalizing Parcels*) requires a Coastal Development Permit (CDP) when issuing a CoC (Type B) to legalize parcels. Policy 1.30 provides the standard of review for legalizing parcels. Subsection (d) requires CDP's that legalize parcels to be conditioned to maximize consistency with the Local Coastal Program. Other than the subject application to confirm the legality of the parcel, no other development is proposed at this time. There is no basis to believe that, upon legalization of this lot as a developable parcel, the resultant parcel configuration and location, or future residential development that may be proposed on the parcel, will have any adverse impact on coastal resources among other reasons because the subject site is not located near a sensitive habitat area or coastal viewshed, and because development will need to comply with all Design Review Standards and procedural requirements).

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 16 and 17 of the "Shore Acres Half Moon Bay, California First Addition to the City of Balboa" recorded in 1905. 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 this 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 Lots 16 and 17 were initially part of the cited 1905 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 1967 include the subject lots as a single parcel separate from any others. Given that the subject lots were conveyed after 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(2)(a) of the County Subdivision Regulations states that the Community Development Director may impose “any conditions which would have been applicable [to the division] 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 a lot on any subdivision map which was recorded in the office of the County Recorder ... of San Mateo County.” These lots were shown as part of the previously cited “Shore Acres Tract” subdivision recorded in 1905.

Roadway, sanitary and energy infrastructures exist within this predominantly developed and improved subdivision in Miramar. 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., sewer, water and energy line laterals from the street to a future house) will be triggered and required at the time that residential development is proposed.

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 applicable to the subject lots.

C. REVIEWING AGENCIES

County Counsel
Planning Department

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map and Vicinity Map
- C. Original “Shore Acres Half Moon Bay, California First Addition to the City of Balboa”

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2013-00229 Hearing Date: December 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 (CEQA) Guidelines which exempt minor alterations in land use limitations that do not result in any change in land use or density; whereby, the process and documentation to legalize the subject lots represent 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 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 and water supply could be obtained from the service district. 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 October 13, 2013, 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 16 and 17 as one single, legal 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.
4. 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 \$37.00. The Project Planner will confirm the amount "prior to" recordation.

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