

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

DATE: March 19, 2015

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), pursuant to Section 7134.2 of the County Subdivision Regulations, to confirm the legality of an unimproved 13,138 sq. ft. parcel (consisting of three (3) lots), located at the southeast corner of Bernal Avenue and Alverado Avenue in the unincorporated Moss Beach area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2014-00414 (Lavietes)

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 1, 2 and 3, Block 27, "Riviera Ocean Villa Tract, RSM Vol. 6, Page 20" recorded in 1908) were not conveyed together separately from the surrounding adjacent lots until 1979, 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 triggers 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 2014-00414), 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: Anthony Lavietes

Location: At the southeast corner of Bernal Avenue and Alverado Avenue, Moss Beach

APN: 037-279-060

Size: 13,138 sq. ft.

Existing Zoning: R-1/S-105/GH/DR (Single-Family Residential/20,000 sq. ft. Minimum Parcel Size/Geologic Hazard/Design Review)

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

Parcel Legality: Lots 1, 2 and 3, "Map of Riviera Ocean Villa Tract," recorded in San Mateo County Records on June 15, 1908, into Book 6 at page 20. Confirmation of the legality of these lots is the purpose of this application and discussed in Section A.3 of this report.

Existing Land Use (Lots 1, 2 and 3): All three (3) vacant

Water Supply: Montara Water and Sanitary District

Sewage Disposal: Montara Water and Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, outside the 0.2% annual chance flood plain. Community Panel No. 06081C0119E, dated 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 in land use limitations.

Setting: The subject parcel is located at the southeast corner of Bernal Avenue and Alverado Avenue, approximately 300 feet easterly of the coastal bluff. Bernal Avenue is an improved, County-maintained roadway, while Alverado Avenue is an unimproved non-maintained roadway. The parcel is adjacent to undeveloped land to the south and northwest. However, existing single-family residences to the northeast and southwest have been constructed. 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 and a water connection would be obtained.

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 Moss Beach has a GP Land Use

Designation of Medium Density Residential (6.1 – 8.7 dwelling units per net acre). The Certificate of Compliance, upon recordation, will legalize Lots 1, 2 and 3 as one single, 13,138 sq. ft., developable parcel. The proposal does not exceed this density. This area is correspondingly zoned R-1/S-105, with which the proposed project is not in compliance relative to the proposed lot size (the subject lot is less than 20,000 sq. ft.). However, 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.”

2. 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 “Riviera Ocean Villa Tract” represents in this urban area of Moss Beach]. Should this application be approved, it would allow the potential development of this parcel (pursuant to other constraints as discussed in Section A.3 of this report), 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 in the Seal Cove area. While many such LCP-triggered mergers did occur in this area in the early 1980s, the subject parcel was then and is currently separately owned from any contiguous lots. 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, while substandard in size, 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 development is proposed at this time.

Relative to applicable LCP policies, there are no sensitive habitats near the subject parcel. The impacts relative to Hazards (e.g., being located within the GH zone) will trigger the requirement of the geologic and soils reports cited in Section A.3 of this report at the time of a future development proposal for a

residence. The Community Development Director's discretion – with a CoC (Type B) - to delay that requirement is discussed in Section A.4 of this report.

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

3. Conformance with Zoning Regulations

The subject 13,138 sq. ft. parcel is zoned R-1/105/GH/DR, where the minimum parcel size is 20,000 sq. ft. As such, it is understood that the parcel is nonconforming and that future development of the parcel will be subject to the Zoning Nonconformities Chapter, a separate Coastal Development Permit (and all applicable LCP Policies), the R-1/105 Zoning Regulations and both the Coastsides Design Review (DR) application process and standards. Future development would also be subject to the Geologic Hazard (GH) requirements. The parcel is located in Zone 3 of the GH Overlay District, which the GH regulations consider the most stable part of the Seal Cove area. Pursuant to Section 6296.3, Table 1 stipulates the requirements for geotechnical investigation, such that prior to any development, there shall be an engineering investigation by a certified engineering geologist and a soil and foundation investigation by a registered civil engineer. See Section A.4 of this report for discussion on the Community Development Director's discretion on requiring compliance with all of these zoning requirements at the time that a proposal for residential development is submitted.

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 lot's legality must be confirmed because it is an undeveloped parcel of an antiquated subdivision, in this case, Lots 1, 2 and 3 of the "Map of Riviera Ocean Villa Tract" 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 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 parcel (Lots 1, 2 and 3) was initially part of the cited 1908 Subdivision. The submitted Chain of Title and Grant Deed data confirms that

no deed data or chain of title documents submitted for the years prior to 1979 include the subject parcel conveyed separately from any others. Given that the subject parcel (Lots 1, 2 and 3) was 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 parcel (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 of the division, and which had been established at the time by 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 on a lot 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 “Riviera Ocean Villa Tract” subdivision recorded in 1908.

The subject parcel, totaling 13,138 sq. ft., would have been conforming with the zoning (minimum parcel size) in 1979. However, roadway, sanitary and energy infrastructure exists within this predominantly developed and improved subdivision in Moss Beach. Given these facts, 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 of the submittal and issuance of planning and building permits for home construction. 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 lot represents a minor alteration in the land use limitations applicable to the subject parcel.

C. REVIEWING AGENCY

California Coastal Commission
County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map and Vicinity Map
- C. Original "Riviera Ocean Villa Tract 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 2014-00414 Hearing Date: March 19, 2015

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, whereby 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 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 and water connections would be available. The process of confirming the parcel's legality does not affect any known resources stipulated in the Local Coastal Program, save for the geologic hazard policies, which will be reviewed upon submittal of any future application for residential development on the parcel.

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 21, 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 1, 2 and 3 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. This approval does not authorize the removal of any trees. Any tree removal or tree trimming will require a separate tree removal/trimming permit.
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.

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