

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

DATE: October 20, 2016

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Coastal Development Permit and a Resource Management-Coastal Zone Development Review Permit, pursuant to Sections 6328.4, 6903, and 6458, respectively, of the County Zoning Regulations; and a Certificate of Compliance (Type B), pursuant to Section 7134.2 and Section 7123, respectively, of the County Subdivision Regulations to confirm the legality of an 6,975 sq. ft. parcel, located on Cedar Street, in the unincorporated Montara area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN 2016-00222 (Patterson)

PROPOSAL

The applicant has applied for a Coastal Development Permit (CDP) and a Certificate of Compliance (Type B) to confirm the subject parcel's legality. The subject parcel's legality must be confirmed prior to any development. A Certificate of Compliance (Type B) is required as part of this application to comply with the County Subdivision Regulations, a CDP to comply with the County's Local Coastal Program,(LCP) and a Resource Management-Coastal Zone (RM-CZ) Development Review Permit to comply with the RM-CZ Development Review criteria.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit, RM-CZ Development Review Permit and Certificate of Compliance (CoC) (County File Number PLN 2016-00222), 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: Pete Earnshaw

Owner: Timothy E. Patterson

Location: Cedar Street, Montara, California

APN: 036-132-210

Size: Approximately 6,975 sq. ft.

Existing Zoning: RM-CZ/CD (Resource Management-Coastal Zone/Coastal Development District)

General Plan Designation: Very Low Density Residential

Parcel Legality: Confirmation of the legality of this parcel is the purpose of this application and is discussed in Section A.3 of this report.

Existing Land Use: Undeveloped

Water Supply: Montara Water and Sanitary District (MWSD); within MWSD's service district boundaries.

Sewage Disposal: Montara Water and Sanitary District (MWSD); parcel is within MWSD's service district boundaries.

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Areas of 0.2% Annual Chance of Flood, Community Panel No. 06081C017E, 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 which do not result in any changes in land use or density.

Setting: The subject parcel is undeveloped and triangular in shape, located at the northerly end of Cedar Street and easterly of Highway 1 in Montara. The parcel is bordered by the State of California's vacant "Devil's Slide By-Pass" right-of-way on the north and to the east. Cedar Street is a County maintained roadway extending well past the subject parcel heading in a northerly direction. While the parcel is adjacent to but just outside the Urban/Rural Boundary, but well within the MWSD Service Area boundaries. Two residentially developed parcels (accessing Cedar just to the south of the subject parcel) and two parcels across the street (facing Drake St.) are also outside the Urban/Rural Boundary but receive service from MWSD (see Attachment C). Of these five developed parcels, two (036-133-010 and 036-132-200) were developed in 1960 and 1948, respectively. The other three were developed after the adoption of the County LCP, between the years 1983 and 2004, all with the requisite CDP, RM permits and, where necessary, variances for setback relief given the RM-CZ zoning regulations.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

This parcel and surrounding area has a General Plan (GP) Land Use Designation of “Very Low Density Residential.” Policy 9.4 (Land Use Objectives for the Rural Lands) seeks to protect and enhance the Rural Lands resources, in order to: (1) protect and conserve vegetation, water, fish and wildlife resources, and productive soils resources for agriculture and forestry, (2) manage and enhance the use, production, and conservation of soils, timber, minerals, and other natural resources, (3) manage and enhance the unique scenic quality and pastoral character of the rural lands, and (4) protect the public health and safety by minimizing the location of new development in potentially hazardous areas.

County maps do not indicate the presence of any special vegetation, water, fish or wildlife resources, or productive agricultural soils on the property. There is no indication that current access to and development of the parcel would result in a significant removal of vegetative resources

There is no evidence that the likely future development of a single-family residence on the parcel would be located in such a manner or of an intensity that would adversely affect any of these cited resources.

While these and many other Rural Lands policies will be applicable to future development on this parcel, this application to confirm the parcel’s legal status includes no development.

2. Conformance with the Local Coastal Program (LCP)

LCP Policy 1.28 (Legalizing Parcels) requires a Coastal Development Permit (CDP) when issuing CoCs (Type B) to legalize parcels. The applicant has submitted an application for said permit. Policy 1.29 provides standards for review when legalizing parcels. On undeveloped parcels created before Proposition 20 (effective date January 1, 1973), it must be determined that the parcel configuration will not have any substantial adverse impacts on coastal resources, in conformance with the standards of review of the Coastal Development District regulations. Permits to legalize this type of parcel shall be conditioned to maximize consistency with LCP resource protection policies. The LCP Maps show no sensitive habitat (Policy 7.2) or prime agricultural soils (Policy 5.2) on the parcel. Relative to the LCP’s Hazards Component, the parcel is not located in a flood zone or located near a mapped seismic fault. Relative to Policy 8.5 (Visual Resources, Location of Development), the parcel is bisected by a State Scenic Corridor. Thus, it is expected that future development could be located to comply with this and other applicable policies of this component.

There is no reason to believe that the current parcel legalization would result in future development impacting any such coastal resources.

3. Conformance with Zoning Regulations

The subject parcel is located in the Resource Management-Coastal Zone (RM-CZ) District. RM-CZ Section 6901 (Applicability of RM-CZ District) does not mandate a minimum parcel size. Section 6903 (Development Review Permit Requirement) requires that all development located in the RM-CZ District comply with the Development Review Procedures cited in Chapter 23 of the Zoning Regulations, of which Section 6458 provides the criteria for requiring a Minor Development review, e.g., an RM Development Review Permit. This CoC application qualifies for that permit (minor division of lands into four or fewer parcels if outside the Skyline area).

While the CoC is tantamount to a minor land division, RM-CZ Section 6903 (Development Review Permit Requirement) defines “development” to include “the division of land into two or more parcels.” However, this CoC serves to legalize only one parcel. That said, it is important to assess the parcel’s future potential development against some applicable Development Review Criteria mandated in Chapter 20A.2. Given the parcel’s size, relatively gentle slope, and accessibility to Cedar Street, it is expected that such development (i.e., a single-family residence) would comply with the Environmental Quality, Site Design, Utilities, Water Resources, Cultural Resources, Hazards and Primary Scenic Resources Areas, and Primary Natural Vegetative Areas criteria, as has been discussed and cited earlier.

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 new development can proceed.

As a result of recent court case decisions, the division of land creating the subject parcel must be legally confirmed because it is an undeveloped lot of an antiquated subdivision. The County Subdivision Regulations Section 7134 allows 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), it must be confirmed that the lot comprising the subject project parcel was conveyed separately from any surrounding lots 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.

While the subject parcel (consisting of portions of Lots 12,13,14,15, and 16) was initially part of the “Map of the Hotel Addition to Montara” recorded in 1908, it continued to be conveyed together with adjacent parcels until May 1972. At this time, the parcel was conveyed for the first time in its current

configuration, thus requiring the COC (Type B). The zoning at that time (predating the County's adoption of the LCP and subsequent adoption of the RM-CZ District regulations), was Resource Management (RM). While the RM regulations were then different than the current RM regulations, the section citing minimum parcel size was no different than that cited earlier; no minimum parcel size was specified. 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 parcel complies with public health and safety standards.

Regarding conditions of approval, Section 7134.2.c(a) of the County Subdivision Ordinance states that the Community Development Director may impose any conditions which would have been applicable to any development on the property. Road access to the subject parcel exists via Cedar Street (running along its southerly border), and power/energy utilities (via PG&E) exist at the southwesterly corner of the parcel. Future domestic water would be provided prior to or concurrent with future development of the parcel. Future waste-water treatment would be provided concurrent with the parcel's future development. With the understanding that these services can reasonably be met at the time of future development, there are no improvement conditions necessary to require prior to recording the CoC document.

Future development would be allowed provided it conforms to the applicable sections of the County General Plan, the Local Coastal Program, and the RM-CZ Zoning Regulations. Upon review of such future development against all these requirements, compliance with all regulations and conditions related to road access, and all utility installation for the parcel will be required.

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, which includes minor alterations in land use limitations in areas where the average slope is less than 20%.

C. REVIEWING AGENCIES

County Counsel
Mid-Coast Community Council

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map and APN 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 2016-00222 Hearing Date: October 20, 2016

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

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt under provisions of Class 5, Section 15305 (Minor Alterations in Land Use Limitations) of the California Environmental Quality Act Guidelines.

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.
5. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program. The legalization will not affect any sensitive habitat, visual resources, or public access to and along the coast.

For the Resource Management Review Permit, Find:

6. That the project conforms with all applicable criteria and standards required for the Resource Management Development Review Permit including the applicable Development Review criteria and standards, as required by Sections 6903 and 6324, respectively, of the County Zoning Regulations.

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 by July 9, 2016, and as approved by the Zoning Hearing Officer, on October 20, 2016. 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), shall describe the parcel as one single legal parcel, and shall be recorded prior to the issuance of any other permits related to any development or disturbance 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 and applicable policies and standards of the Resource Management-Coastal Zone (RM-CZ) District requirements, Grading Ordinance requirements and any regulations mandated by the County Departments of Building, Environmental Health and Public Works. That permit application shall include any and all necessary provisions for adequate utility services, as well as any required improvements to Cedar Street.
4. The Certificate of Compliance (Type B) required to establish the legality of the existing parcel, APN 036-132-210, shall be recorded by the project planner. The applicant shall provide the required recording fee of approximately \$37 to the project planner prior to the Certificate of Compliance being recorded.
5. The applicant shall have a "metes" and "bounds" description of the parcel to be legalized prepared by a licensed land surveyor or qualified civil engineer, for submittal to the project planner for review and recording.

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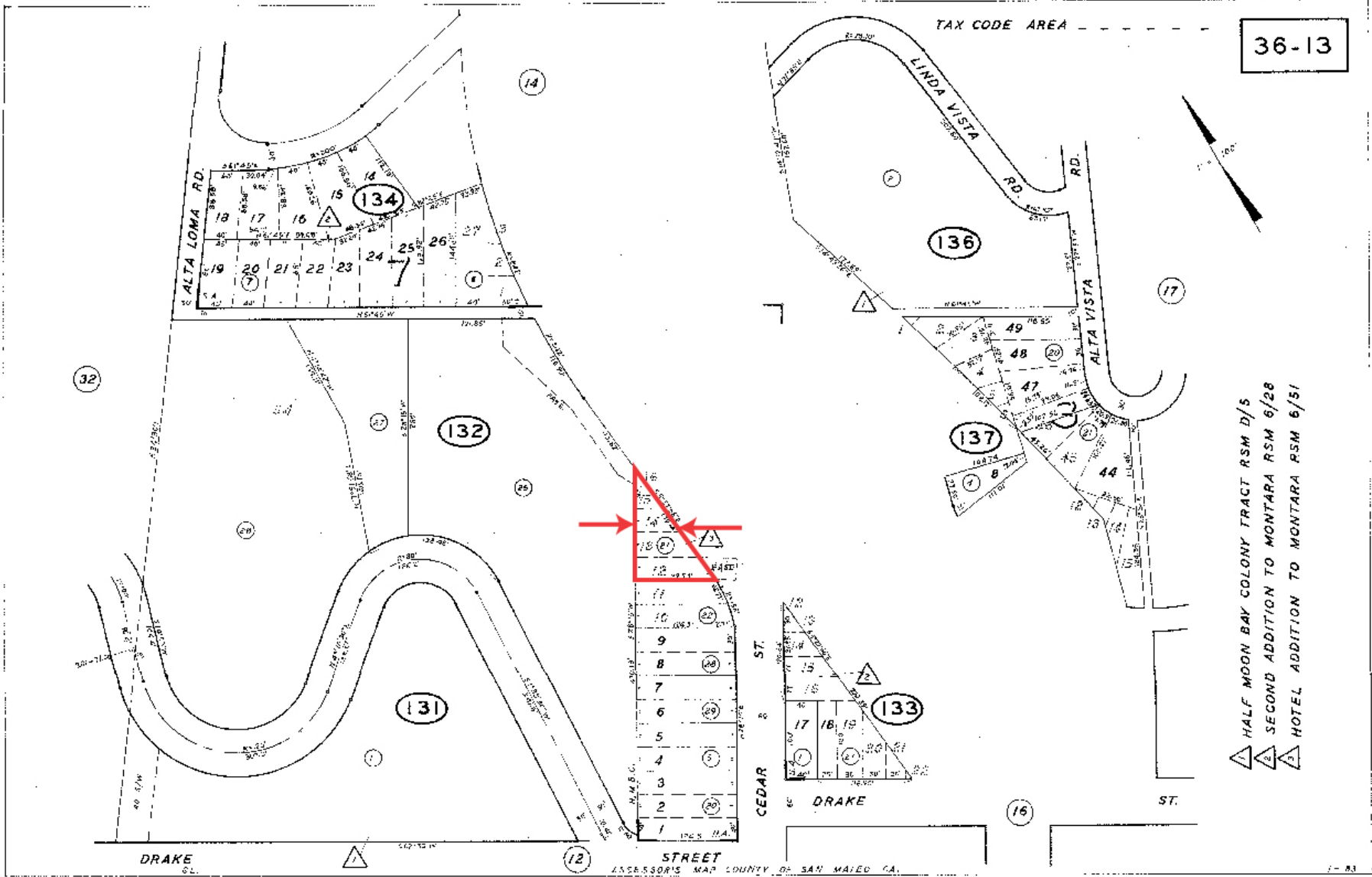


San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



San Mateo County Zoning Hearing Officer Meeting

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Attachment: _____

File Numbers: _____