

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

DATE: January 5, 2017

TO: Zoning Hearing Office

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 northwesterly side of Virginia Avenue between Carlos Street and Etheldore Street in the unincorporated Moss Beach area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2016-00352 (Guntren)

PROPOSAL

The applicant has applied for a Certificate of Compliance (CoC) (Type B) to confirm legality of the parcel. The CoC (Type B) is required because the subject lot (Lot 6, Block 68, "Map of Moss Beach, Addition No., 1, Book 6, Page 10", recorded on May 4th, 1908) was not conveyed separately from the surrounding adjacent lots until 1987, which was after July 1945, the effective date of the County's first subdivision ordinance. The 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 2016-00352) 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: Joseph Guntren

Location: Virginia Avenue, Moss Beach

APN: 037-141-100

Size: 2,600 Sq. Ft.

Existing Zoning: C-1/S-3/DR/CD

General Plan Designation: Neighborhood Commercial

Parcel Legality: Lot 6, Block 68, as delineated upon that certain Map entitled "Moss Beach Addition No. 1, San Mateo County, California", filed for record in the Office of the Recorder of the County of San Mateo, State of California, on May 4th, 1908 in Book 6 of Maps, at Page 10.

Local Coastal Plan Designation: Neighborhood Commercial

Sphere-of-Influence: City of Half Moon Bay

Williamson Act: Not Applicable

Existing Land Use (Lot 6): Vacant

Water Supply/Sanitary Sewer Service: Montara Water and Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Community Panel No, 0608ICO117E, dated October 16, 2012 determined to be outside of the 0.2% annual chance flood plain.

Environmental Evaluation: Categorically exempt under provision of Class 5, Section 15305 of the California Environmental Quality Act Guidelines, pertaining to minor alterations in land use limitations.

Setting: The subject lot is located on Virginia Avenue approximately mid-block between Carlos Street and Etheldore Street, both of which are County-maintained roadways. The subject parcel is located within a small block that's entirely zoned C-1/S-3/DR. However, the area bordering this block to the south, east and west is zoned R-1/S-17/DR. The lot is adjacent to an undeveloped lot to the northwest and a developed lot to the southwest. Sanitary sewer lines are located within the road right-of-way, and fire hydrants are also nearby. The subject lot is vacant. Approval of the COC 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 Zoning Regulations

The subject 2,600 sq. ft. parcel is zoned C-1/S-3/DR/CD, where the minimum parcel size is 5,000 sq. ft. As such, it is understood that the parcel is considered a legal (pursuant to its initial creation and the subject of this application), non-conforming parcel. As such, pursuant to the Zoning Nonconformities Regulations, Section 6133.3 (*Development of Non-Conforming Parcels*), subsection b.(1)(a), development of an unimproved parcel less than 3,500 sq. ft. (where 5,000 sq. ft. is the required minimum lot size), will require a Use Permit. In addition to the Use Permit, future development will also require a new Coastal Development Permit (CDP) and Design Review (DR), with all applicable due process and compliance with Local Coastal Program policies and DR standards. 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.

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 one (1) unit per 1,250 sq. ft. of lot area. The Certificate of Compliance, upon recordation, will legalize Lot 6 as one single 2,600 sq. ft. developable parcel. The proposal does not exceed this density. The area is zoned C-1/S-3/DR with which the proposed project is not in compliance relative to both the proposed lot size (the subject lot is less than 5,000 sq. ft.) and lot width (the subject lot is 25 feet wide instead of the requisite 50 feet). However, the project would comply with Policy 8.15 (*Commercial Land Use Compatibility*) in that upon resolution of the lot's legality, the property's future commercial development, in compliance with use permit conditions for a non-conforming parcel and Design Review Standards, would "ensure that commercial development is compatible with adjacent land uses."

3. Conformance with the Local Coastal Program (LCP)

Under the LCP's "Location 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 and commercial areas. Should this application be approved, it would allow the potential development (pursuant to other permits as previously discussed in Section A.1. of this report) of this parcel, in consort 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 Moss Beach 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.

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. LCP 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). While a COC/Type B and accompanying CDP is required, this application includes no development. Relative to the “Sensitive Habitats” component, there are no sensitive habitats on or in close proximity to the parcel, nor are there any mapped hazards (“Hazards” component) on or in close proximity to the parcel. That said, review of the LCP’s “Locating and Planning New Development” component shows that the parcel is easily accessible via County-maintained roadways and that adequate water and sanitary services are available to serve future development. Regarding the “Visual Resources” component (to assess the visual impacts of development on the parcel), future development will require compliance with the Design Review application process and all applicable DR standards. Those future permits required for such development will be conditioned to maximize consistency with all applicable LCP resource protection policies.

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 the previously cited court decisions, the subject lot’s legality must be confirmed because it is an undeveloped lot of an antiquated subdivision, in this case Lot 6 of the “Map of Moss Beach Addition No. 1” recorded on May 4th, 1908. The County Subdivision Regulations, Section 7134, allow for either a CoC (Type A) or a 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 cited court cases, it must be confirmed that the lot comprising this 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 7134.2.0) shall be required as is the case with this application.

The subject lot (Lot 6) 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 1987 include the subject lot separate from any others. Given that the subject lot was conveyed separately 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.

In 1987, when the subject lot was initially conveyed (at which time the zoning was the same – C-1/S-3/DR and the same minimum parcel size was 5,000 sq. ft. –) such a parcel’s legal status was not questionable, since the prevailing assumption was prior to the previously cited court cases. Parcels of a lesser size were acceptable if they were “shown on a lot 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, this lot was shown as part of the cited “Map of Moss Beach, Addition No. 1” in 1908.

The subject lot, totaling 2,600 sq. ft., would have been non-conforming with the zoning (minimal parcel size) in 1987 as well as with the applicable Subdivision Regulations at that time.

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 their interest in the property and which had been established at the time of the Map Act or the County Subdivision Regulations. Roadway, sanitary and energy infrastructure exists within this predominately 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 at this time. The only additional and applicable improvements (i.e., sewer, water and energy line laterals from the street to future development will be triggered and required at the time of the submittal, approval and issuance of a CDP (including DR compliance) and a building permit for future development. Thus, the Community Development Director, pursuant to Section 7134.1.c. (*Procedure and Criteria for Public Review and Action*) 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, consisting of minor alterations in land use

limitations in areas with an average slope of less than 20% (this site is relatively flat), which do not result in any changes in land use or density. The process and documentation to legalize the subject lot represents a minor alteration in land use limitation and would not affect the allowable land use (for future development) nor the density of allowable development.

D. REVIEWING AGENCIES

County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map and Vicinity/Zoning Map
- C. Original 1908 "Riviera Ocean Villa Tract Map"

PSB:aow – PSBAA0648_WAU.DOCX

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2016-00352 Hearing Date: January 5, 2017

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 predominately developed area, where sanitary sewer and water connections would be available with necessary permits. The process of confirming the parcel's legality does not affect any known coastal 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 this report and plans submitted and approved by the Zoning Hearing Officer on January 5, 2017.
2. The Certificate of Compliance (Type B) required to establish the legality of the existing parcel, APN 037-141-100, shall be recorded. The owner shall provide, to the project planner, a legal description of the parcel for recordation. Once recorded, the above-described parcel will constitute one (1) lot as shown on the attached Assessor's Map.
3. This approval does not authorize the removal of any trees. Any tree removal or tree trimming will require a separate tree removal/trimming permit.
4. All development activities associated and/or required to support any future residential development on the subject property (i.e., sanitary system, domestic water, water for fire suppression, energy/utility connections, improved road access) shall occur at such time that development is proposed. Any planning permits for such activities (i.e. grading permits) shall be applied for and approved prior to the issuance of any building permits or associated development.
5. The applicant is advised that prior to recordation of Certificate of Compliance descriptions, the owner/applicant shall provide the Project Planner with a check to cover the fees now being charged by the Record's Office to record the document. The fee is estimated to be between \$30.00 and \$40.00 and includes a confirmed copy. The Project Planner will confirm the exact amount proper to recordation.

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San Mateo County Zoning Hearing Officer Meeting

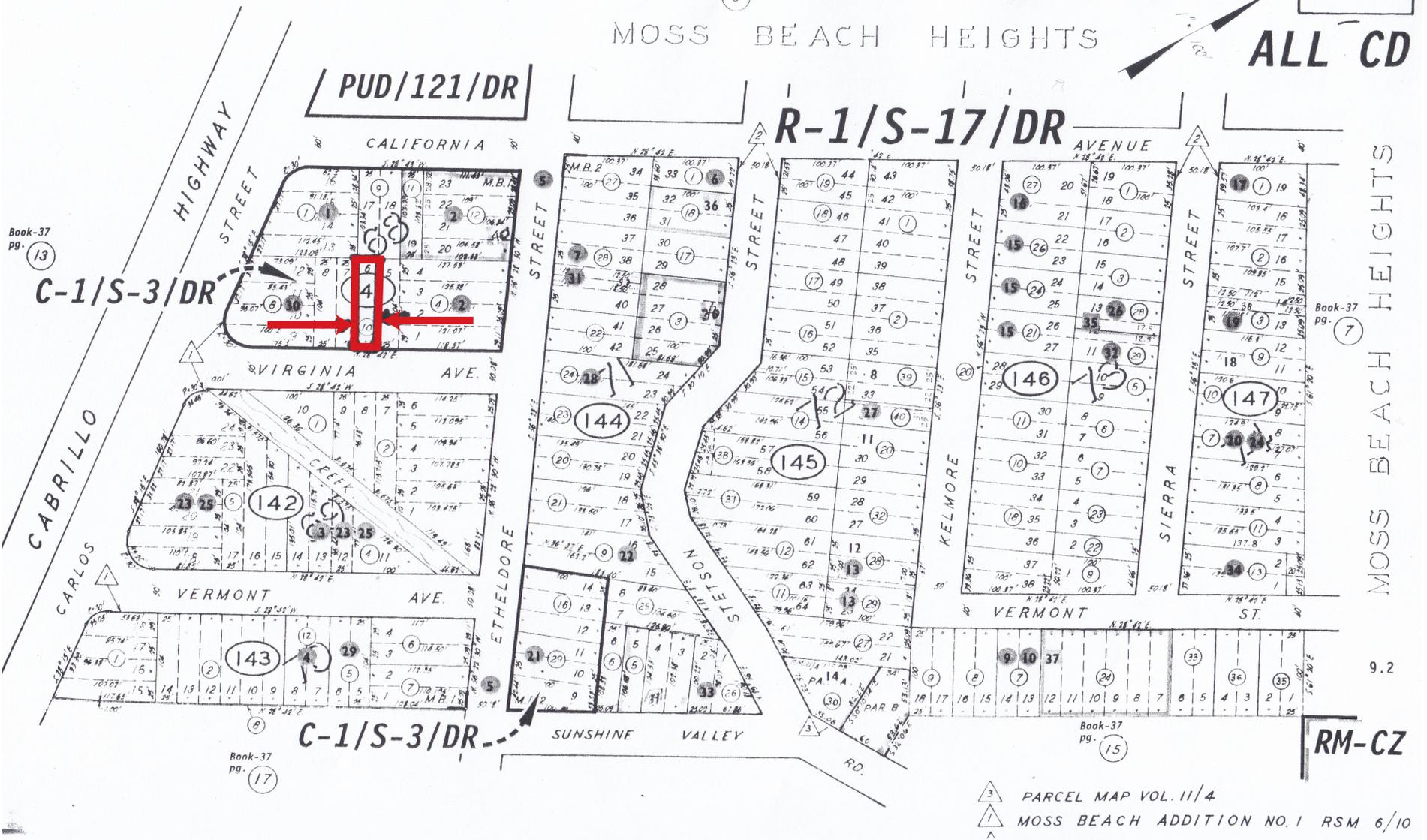
Owner/Applicant: _____

Attachment: _____

File Numbers: _____

MOSS BEACH HEIGHTS

ALL CD



▲ 3 PARCEL MAP VOL. 11/4
 ▲ 1 MOSS BEACH ADDITION NO. 1 RSM 6/10
 ▲

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____

MAP OF MOSS BEACH

ADDITION NO. 1 SAN MATEO CO. CAL. SCALE: 1"=100'

The owners and proprietors of, and the parties interested in the lands shown and delineated on the within and accompanying Map or plat, do not by the Filing and recording of said map or plat, in any manner dedicate to the public the parcels of land designated on said map or plat as: Corbis Street, Vallemar Street, Ceres Street, Ellendale Street, Beach Street, Vermont Avenue, Virginia Avenue, California Avenue, from the Southwesterly line of Vallemar Street produced to a line parallel to, and 135 feet Southwesterly from the Southwesterly line of Beach Street. Said parcels of land so designated and named, not being offered for public use, or dedicated to public use, and the same not being offered for sale, and said parcels and each of them being expressly reserved for the owners use.

Geo. O. Rich, C.B. Smith, John Foley, Peter F. Foley, and Catherine Foley, as persons interested therein (said parties being the only parties in interest and the only parties whose consent is necessary to give a clear title to the lands and premises included in the within and accompanying map or plat) have caused said map or plat of lands known as Map of Moss Beach Addition No. 1 to be made, mapped and plotted, and we each of us, do hereby dedicate to the public the following Street and Avenue. California Avenue from the Southwesterly line of Vallemar Street produced northwesterly to the southwesterly line of Ellendale Street, and Ellendale Street and we and each of us do hereby acknowledge the making, mapping and plotting of said lands, and our consent thereto, and the dedication of said above mentioned Street and Avenue to public use, and our consent to said dedication. In witness whereof said parties have hereunto set their hands this 24th day of April 1908.

John Foley
by Joseph J. Bullock
His attorney in fact

Peter F. Foley
Catherine Foley
C. B. Smith
Geo. O. Rich

I do hereby certify that there are no liens for unpaid State County or other taxes, against the lands, or any part of the lands shown on the within and accompanying map
Dated this 1st day of May A.D. 1908.
(SEAL)

W. H. Underhill County Auditor.

California Avenue from the Southwesterly line of Vallemar Street produced northwesterly to the southwesterly line of Ellendale Street, and Ellendale Street, as designated and delineated on this map are hereby accepted by the Board of Supervisors, of the County of San Mateo, State of California, on behalf of the public as dedicated to public use, and Corbis Street, Vallemar Street, Ceres Street, Ellendale Street, Beach Street, Vermont Avenue, Virginia Avenue, and California Avenue from the Southwesterly line of Vallemar Street produced Northwesterly to a line parallel to and 135' Southwesterly from the Southwesterly line of Beach Street, are hereby rejected by said Board of Supervisors in accordance with and subject to the terms of the resolution of said Board of Supervisors adopted this 4th day of May A.D. 1908.
(SEAL)

Jos. H. Nash
Clerk of said Board.

Filed at request of C.B. Smith May 4th A.D. 1908, at 30 min. past 1 o'clock P.M. San Mateo County Records.
J.F. Johnston, County Recorder,
by Pauline E. Hanson, Deputy Recorder.

State of California }
City and County of San Francisco }

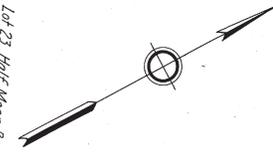
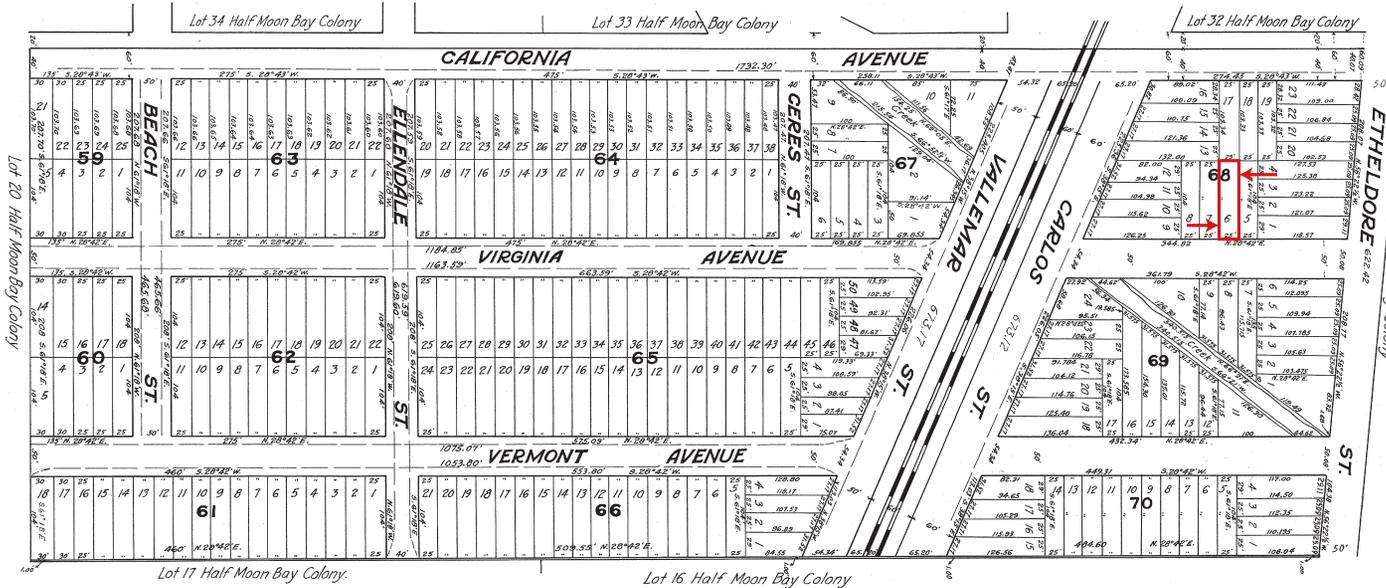
On this 24th day of April in the year of our Lord One Thousand Nine Hundred and Eight (1908) before me George Pattison, a Notary Public in and for the City and County of San Francisco State of California, residing therein, duly commissioned and sworn, personally appeared Geo. O. Rich, C.B. Smith, Peter F. Foley and Catherine Foley, known to me to be the persons described in and whose names are subscribed to the within instrument and they acknowledged to me that they executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal of my office, in the City and County of San Francisco, the day and year in this certificate first above written.

(SEAL)
George Pattison
Notary Public in and for said City and County of San Francisco,
State of California.

State of California } S.S.
County of San Mateo }

On this 2nd day of May, in the year one thousand nine hundred and eight before me Jos. T. O'Keefe, a Notary Public in and for said San Mateo County residing therein, duly commissioned and sworn, personally appeared Joseph J. Bullock known to me to be the person whose name is subscribed to the within instrument as the Attorney in fact of John Foley and acknowledged to me that he subscribed the name of John Foley hereto as principal, and his own name as Attorney in fact. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, the day and year in this certificate first above written.

(SEAL)
Jos. T. O'Keefe
Notary Public in and for the County
of San Mateo, State of California.



I hereby certify this to be a true copy of an original map recorded in Map Book 6 at page 10.
Geo. A. Kneese
County Surveyor and Ex-officio
County Clerk of Maps

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:

Attachment:

File Numbers: