

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

DATE: December 20, 2018

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 the existing parcel, pursuant to Section 7134.2 of the County Subdivision Regulations, located on Bernal Avenue in the unincorporated Moss Beach area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN 2017-00408 (Kin Seto)

PROPOSAL

The applicant has applied for a Coastal Development Permit and a Certificate of Compliance (Type B) to confirm the subject parcel's legality. The subject parcel's legality must be confirmed prior to the approval of any proposed development although no such development is proposed at this time. A Certificate of Compliance (Type B) is required as part of this application to comply with the County Subdivision Regulations, and a Coastal Development Permit to comply with the County's Local Coastal Program.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit and Certificate of Compliance (CoC), County File Number PLN 2017-00408, 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: Kin Seto

Location: Bernal Avenue, Moss Beach, between Park Avenue and San Ramon Avenue

APN: 037-287-110

Size: Approximately 18,025 sq.ft.

Existing Zoning: R-1/S-105/DR/GH/CD

General Plan Designation: Medium Density Residential (6.1 - 8.0 dwelling units/net acre)

Parcel Legality: Lots 11 thru 16 inclusive in Block 16 as shown on that certain map entitled "Map of Riviera Ocean Villa Tract, San Mateo County, California", filed in the office of the County Recorder of San Mateo County, State of California, on June 15, 1908, in Book 6 of Maps at Page 20. The parcel's legal status is the subject of and will be resolved with this application.

Existing Land Use: Vacant

Water Supply/Sewage Disposal: Montara Water and Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Areas of 0.2% Annual Chance of Flood, Community Panel No. 06081C0138E, dated October 16, 2012.

Environmental Evaluation: Categorically exempt under provisions of Class 15, Section 15315, of the California Environmental Quality Act Guidelines (Minor Land Divisions).

Setting: The current parcel is rectangular in shape and located on the southerly side of Park Avenue at its intersection with Bernal Avenue. The adjacent parcels to the northwest, southwest, and south are also vacant. However, existing single-family residences are located across Bernal Avenue to the south and across San Ramon Avenue to the West.

DISCUSSION

A. KEY ISSUES

1. Compliance 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 Low Density Residential (0.3 – 2.2) dwelling units/net acre. This area is correspondingly zoned R-1/S-105 with which the proposed project parcel size (at 18,025 sq. ft.) is not in compliance relative to the required lot size of 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 the development standards of the R-1/S-105 regulations, together with Design Review development would "protect and enhance the character of existing single-family areas".

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, along with the appropriate fees, 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. LCP Policy 9.3 (Regulation of Geologic Hazard Areas) requires the application of the Resource Management (RM) Zoning Ordinance, Section 6326.3 (Seismic Fault/Fracture Area Criteria) to sites located in a designated geologic hazard area. Future development of single-family residential structures are allowed in this area subject to the submittal of a detailed geologic site investigation prepared by a geologist registered in the State of California, and adequate engineering design, indicating that the site is suitable for development. The policy prohibits location of structures across the trace of an active fault.

Legalization of the subject parcel must conform to the LCP's "Locating and Planning New Development" component including policies addressed in Policy 1.5 (*Land Uses and Development Densities in Urban Areas*) incorporating the adopted Montara-Moss Beach-El Granada Community Plan into the Land Use Plan. As mentioned in Section A1, future development of the parcel with a single-family home will comply with General Plan, LCP, and Zoning allowed uses and density.

3. Conformance with Geological Hazards (GH) District Standards

The project site is located in Geological Hazard Zone 3. Zone 3 is the most stable part of the Seal Cove Area; risk to development in this area is considered low to moderate.

Pursuant to Section 6295.4 of the San Mateo County Zoning Regulations, building permits shall not be approved unless the County Geologist has evaluated the project to show compliance with applicable district regulations.

In order to address future development on this parcel, and in accordance with GH District Regulations, planning staff requests to add Condition No.6 which states that: Pursuant to Section 6294.4(2) of the San Mateo County Zoning Ordinance, the applicant shall record the following deed restriction with the San Mateo County Recorder's Office stated as follows, prior to the issuance of the building permit... "This property is located in Zone 3 of the Seal Cove Geologic Hazards District established by Section 6296 of the San

Mateo County Ordinance Code, Zoning Annex. Maps of this district are on file with the San Mateo County Planning and Building Department."

4. Conformance with the 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; in this case, Lots 11 thru 16 in Block 16 as shown on that certain map entitled "Map Of Riviera Ocean Villa Tract, San Mateo County, California, filed to the Office of the County Recorder of San Mateo County, State of California on June 15, 1908. 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 lots comprising the subject project parcel were 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 Lots 11 thru 16 were initially part of the cited "Map of Riviera Ocean Villa Tract" recorded in 1908, they continued to be conveyed together with other parcels until June of 1989. Only at that time were they conveyed separately from adjacent lots, thus requiring the CoC (Type B). 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. Since road access to the subject parcel exists, and water, power, and sanitary sewer services are available, there are no improvement conditions necessary to require prior to recording the CoC document.

B. ENVIRONMENTAL REVIEW

The proposed parcel legalization is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15315, Class 15: Minor Land Divisions, which include the division of property (which a certificate of compliance establishing a parcel's legal status can be considered) in urbanized areas zoned for residential use into four or fewer parcels, when the division is in conformance

with the General Plan, no variances are required, and all services and access to the parcel are available. As mentioned previously, Bernal Avenue, provides access to the parcel, and water and sanitary service lines exist within the roadway.

C. REVIEWING AGENCIES

County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map
- C. Original Map of Riviera Ocean Villa Tract filed on June 15, 1908.

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00408 Hearing Date: December 20, 2018

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 15, Section 15315 of the California Environmental Quality Act Guidelines, related to minor land divisions.

For the 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 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 habitats, visual resources, or public access to and along the coast.
6. That the project conforms to the applicable policies of the Local Coastal Program (LCP) as discussed.

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 September 26, 2017. 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 11 thru 16, Block 16, as one single legal 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 including compliance with the GH zone regulations/requirements, as well as with any applicable policies of the County Local Coastal Program. The approval and issuance shall require that adequate domestic water source and sanitary sewerage connections are available.
4. The Certificate of Compliance (Type B) required to establish the legality of the existing parcel, APN 037-287-110, shall be recorded by the project planner.
5. The applicant is advised that prior to recordation of the Certificate of Compliance description, the owner/applicant shall meet with the project planner. Together they will go to the Recorder's Office where the owner will provide payment for the recording of the document.
6. Pursuant to Section 6294.4(2) of the San Mateo County Zoning Ordinance, the applicant shall record the following deed restriction with the San Mateo County Recorder's Office stated as follows, prior to the issuance of the building permit...
"This property is located in Zone 3 of the Seal Cove Geologic Hazards District established by Section 6296 of the San Mateo County Ordinance Code, Zoning Annex. Maps of this district are on file with the San Mateo County Planning and Building Department."

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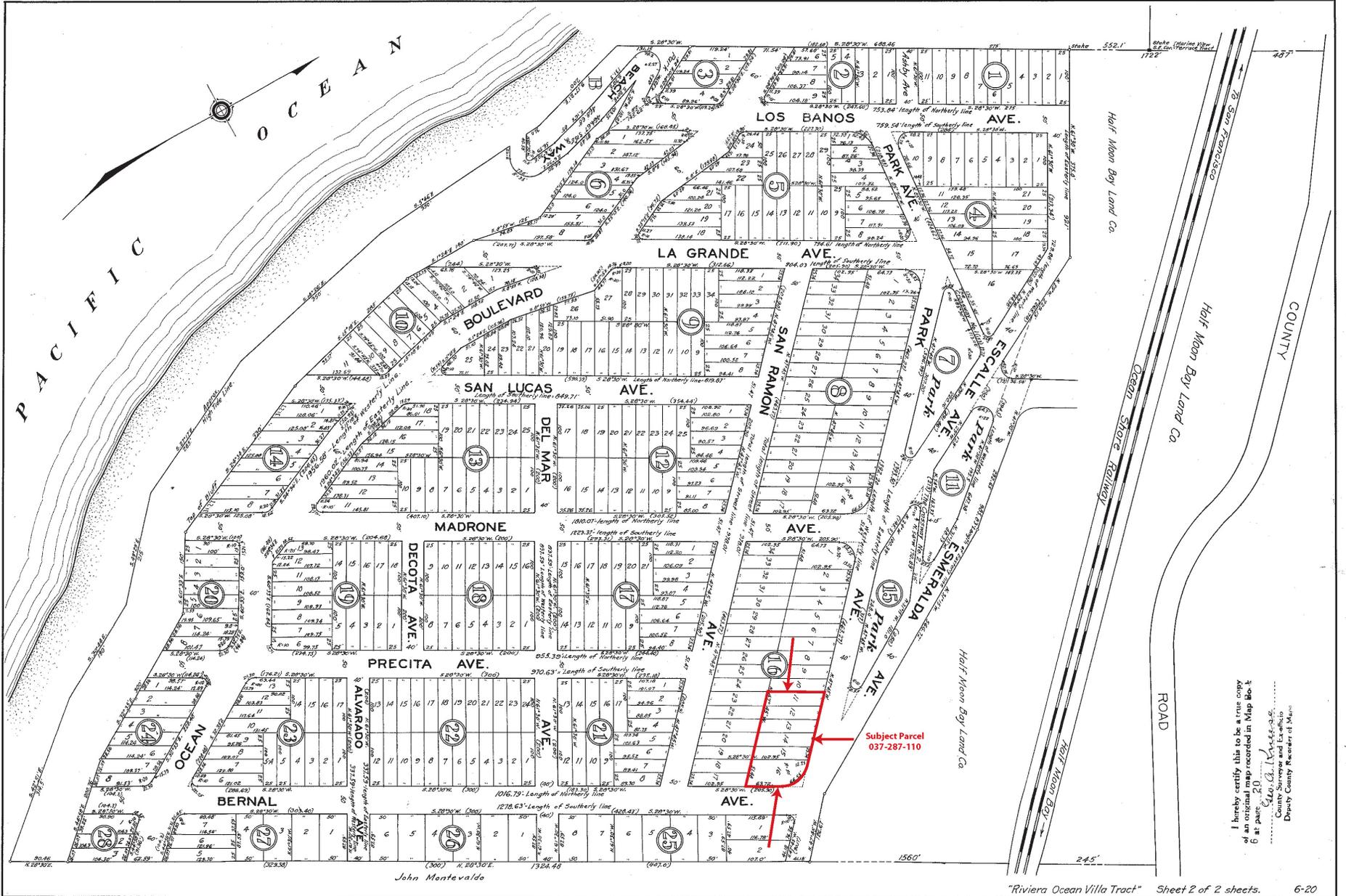


San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



I hereby certify this to be a true copy of an original map recorded in Map Book 6 at page 20.

Lois L. Varisco
County Clerk
County Recorder's Office

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:

Attachment:

File Numbers: