

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

DATE: August 1, 2019

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 5 th Street in the unincorporated Montara area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN 2018-00370 (Wilbur Andrews TR)

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 the approval of any proposed development. 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 2018-00370, 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: Carolyn Butts

Owner: Wilbur D. Andrews II TR

Location: 5 th Street, Montara, between La Conte Avenue and Audubon Avenue.

APN: 036-067-300 (Lot 7 – Block 56)

Size: Approximately 5,000 sq. ft.

Existing Zoning: R-1/S-17/DR/CD

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

Parcel Legality: Lot 7 in Block 56 as shown on that certain map entitled "Amended and Supplemental Map of Montara, San Mateo County, California", filed in the County Recorder of San Mateo County, State of California, on October 16, 1907, in Book 5 of Maps at Page 35. 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: 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 5 th Street between LeConte Avenue and Audubon Avenue. The adjacent parcel to the west is vacant. However, existing single-family residences are located across 5 th Street to the north and adjacent to Lot 7 on the west.

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 Montara has a GP Land Use Designation of Medium Density Residential (6.1 - 8.0 dwelling units/net acre). The proposal does not exceed this density, and this area is correspondingly zoned "Single-Family Residential/5,000 sq. ft. Minimum Lot Size" (R-1/S-17), with which the proposed project is in compliance relative to lot size (the subject lot exceeds 5,000 sq. ft.). The project also complies with Policy 8.14 (*Land Use Compatibility*), in that the parcel's future and potential development with a single-family residence 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. There is no evidence or reason to believe that the current parcel legalization would result in future development impacting coastal resources, since a review of the parcel does not reveal any proximity to any coastal resources regulated by the LCP.

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 the Subdivision Regulations

Pursuant to Section 7134, before development permits may be issued, the issuance of a CoC confirming the parcel's legal status is required, except as provided in Section 7134.1.

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, Lot 7 in Block 56 as shown on that certain map entitled "First addition to Farallone City, RSH 4/29, San Mateo County, California", filed in the office of the County Recorder of San Mateo County, on August 6, 1906. 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 Lot 7 was initially part of the cited "First Addition to the Farallone City RSM 4/29 recorded in 1906, it continued to be conveyed together with other parcels until May of 1999. 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 and zoning (the parcel size meets the 5,000 sq. ft. minimum), no variances are required, and all services and access to the parcel are available. As mentioned previously, 5th Street provides access to the parcel, and all 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 First Addition to Farallone City, RSM 4/29

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2018-00370

Hearing Date: August 1, 2019

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.

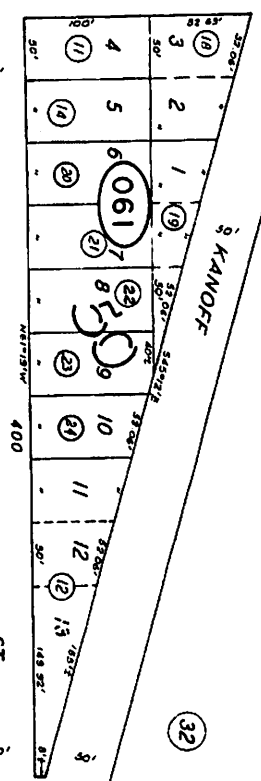
RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal as described in those plans, supporting materials, and reports submitted on September 20, 2018 and as approved by the Zoning Hearing Officer on January 17, 2019. 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 Lot 7, Block 56, 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, 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 036-067-300, 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 provide the project planner with a check to cover the fee now charged by the Recorder's Office, generally between \$50.00 and \$100.00. The project planner will confirm the amount prior to recordation.

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AVE. 8



32

TAX CODE AREA

36-6

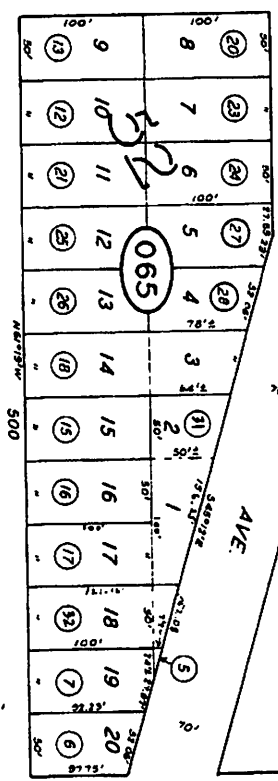
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3RD ST.

ST.

3RD

AVE. 6



AVE. 6

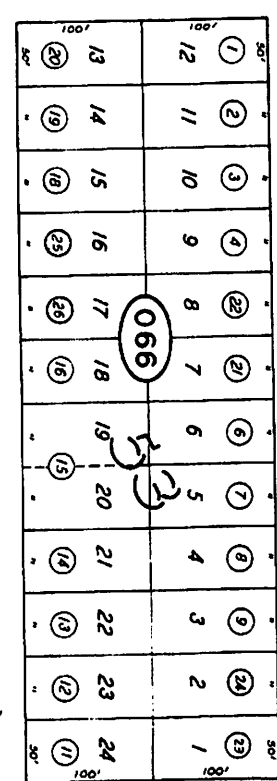
ST.

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4TH

1

10

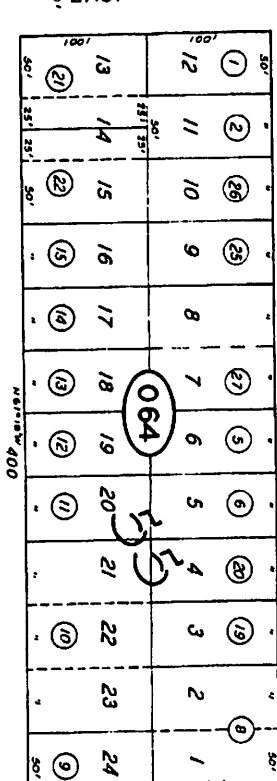


ST.

500

5TH

AVE. 4



LE CONTE

ST.

500

6TH

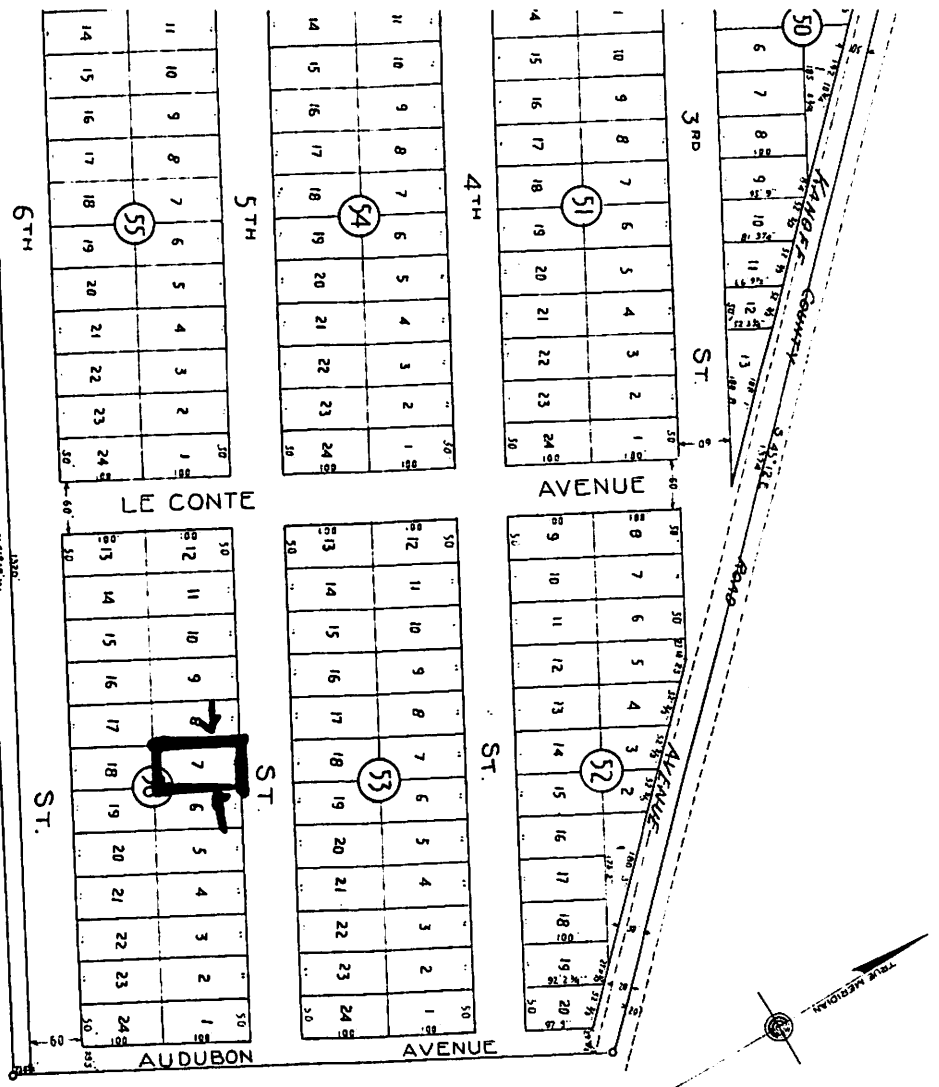
AUDUBON

EAST

**MAP OF
FIRST ADDITION TO
FERRALLONE CITY**

Being lots Forty and Forty-one
of Half Moon Bay Colony Tract
San Mateo County California.
SURVEYED BY H. TUOHY FEBRUARY 13/14, 1906.

SCALE: 100 FEET TO ONE INCH



NOTE:
SHEETS 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

THIS IS TO CERTIFY THAT THIS IS A CORRECT MAP OF A SURVEY MADE BY ME OF LOTS FORTY AND FORTY-ONE OF HALF MOON BAY COLONY TRACT APRIL 12 1906
Henry Tuohy

STATE OF CALIFORNIA
COUNTY OF SAN MATEO
I, J. B. CLAYTON, the Registrar of the Land and Registrar of the County of San Mateo, do hereby certify that the above described map of land in San Mateo County, State of California, is a correct map of the same as shown to me by the surveyor thereon and I do hereby acknowledge the same for the purpose of recording the same in the public records of this county.
WITNESS MY HAND AND SEAL THIS 4TH DAY OF AUGUST A. D. 1906.
J. B. Clayton
Registrar

STATE OF CALIFORNIA
COUNTY OF SAN MATEO
ON this 4th day of August A. D. one thousand and nineteen hundred and six I, J. B. CLAYTON, the Registrar of the Land and Registrar of the County of San Mateo, do hereby certify that the above described map of land in San Mateo County, State of California, is a correct map of the same as shown to me by the surveyor thereon and I do hereby acknowledge the same for the purpose of recording the same in the public records of this county.
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RECORDED IN MAP BOOK NO. 4 AT PAGE 28
COUNTY SURVEYOR AND EX. OFFICE
COUNTY CLERK
COUNTY RECORDER
COUNTY CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN MATEO

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