

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

**DATE:** December 5, 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 Sierra Street in the unincorporated Moss Beach area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN 2019-00191 (Andrew Kelly)

**PROPOSAL**

The applicant has applied for a Coastal Development Permit (CDP) and a Certificate of Compliance (Type B) (CoC/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 CDP 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 2019-00191, 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: Andrew Kelly/Robert Walter Ellingson TR

Location: Sierra Street, Moss Beach, adjacent to 515 Sierra Street

APN: 037-062-110

Size: Approximately 5,500 sq. ft.

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

General Plan Designation: Medium Density Residential (6.1-8.7 dwelling units/net acre)

Parcel Legality: Lots 31 and 32 in Block 27 as shown on that certain map entitled "Moss Beach Heights, San Mateo County, California," filed in the Office of the County Recorder of San Mateo County, State of California, on March 4, 1908, in Book 6 of Maps at Page 8.

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 nearly rectangular in shape and located at the northwest end of Sierra Street adjacent to 515 Sierra Street. The adjacent parcels to the North and East are developed with single-family residences, and existing single-family residences are located across Sierra Street to the South.

## **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 Medium Density Residential (6.1 – 8.7) dwelling units/net acre. This area is correspondingly zoned R-1/S-17 with a required minimum lot size of 5,000 square feet. The subject parcel size (at 5,500 sq. ft.) complies with the required lot size. The project also complies 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-17

regulations and the applicable Design Review Standards 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 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. The subject parcel is surrounded on 3 sides by existing single-family residential development and on the 4th side by the Lincoln Street Row (a paper street). There are no sensitive habitats on the parcel or nearby and future development on the parcel is unlikely to impact coastal resources including public views or shoreline access. Further, the property is within the Categorical Exclusion Area for single-family development.

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 with regard to allowed uses and density.

3. Conformance with the Subdivision Regulations

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 31 and 32 in Block 27 as shown on that certain map entitled “Moss Beach Heights San Mateo County, California, filed in the Office of the County Recorder of San Mateo County, State of California on May 4, 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), 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 31 and 32 were initially part of the cited "Moss Beach Heights RSM 6/8 recorded in 1908, they continued to be conveyed together with other parcels until January 1964. Only at that time where they conveyed separately from adjacent lots, thus requiring the CoC (Type B). Section 7134.4.c allows for the approval and recordation of a CoC subject to a public hearing and the imposition of conditions of approval as necessary.

Regarding conditions of approval, Section 7134.6(b) of the County Subdivision Regulations, states that the Community Development Director may impose any conditions which would have been applicable to the division of property at the time the applicant acquired his/her interest in the property. However, since road access to the subject parcel exists, and water, power, and sanitary sewer services are available, there are no improvement conditions applicable to the division of the property that have not been met.

**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 exceeds the 5,000 sq. ft. minimum), no variances are required, and all services and access to the parcel are available. As mentioned previously, Sierra Street, 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. Assessor's Parcel Map
- C. Original Map of Moss Beach Heights, San Mateo County California. Filed in the Office of the Recorder of The County of San Mateo on May 4, 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 2019-00191      Hearing Date: December 5, 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*).
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 May 22, 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 Lots 31 and 32, Block 27, 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. Prior to future permit approval and issuance verification that adequate domestic water and sanitary sewerage connections are available is required.
4. The Certificate of Compliance (Type B) required to establish the legality of the existing parcel, APN 037-062-110, 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.

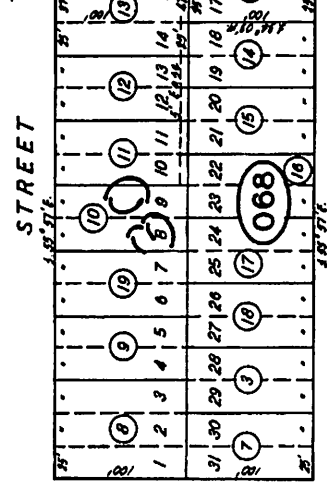
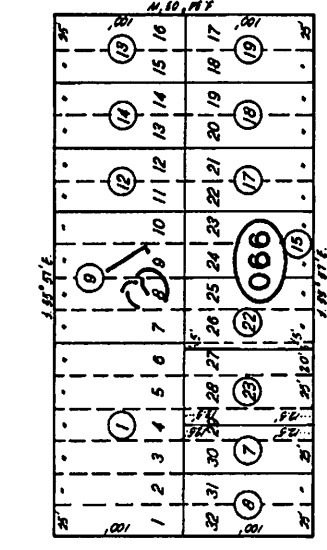
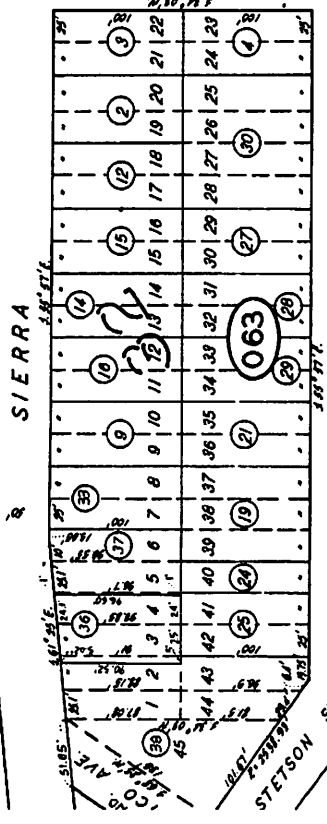
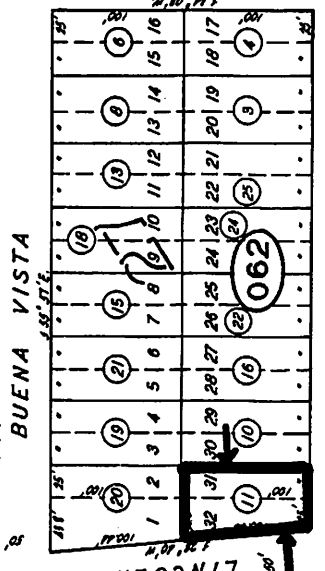
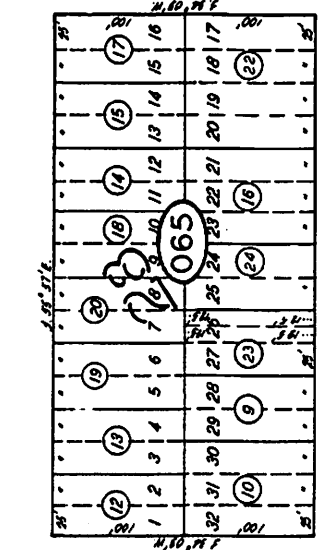
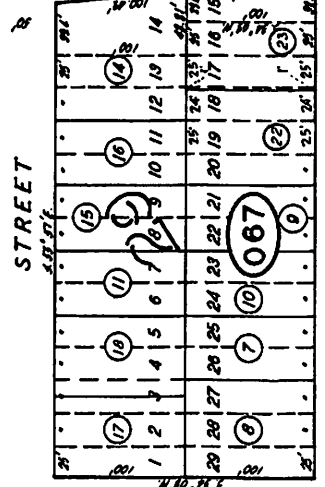
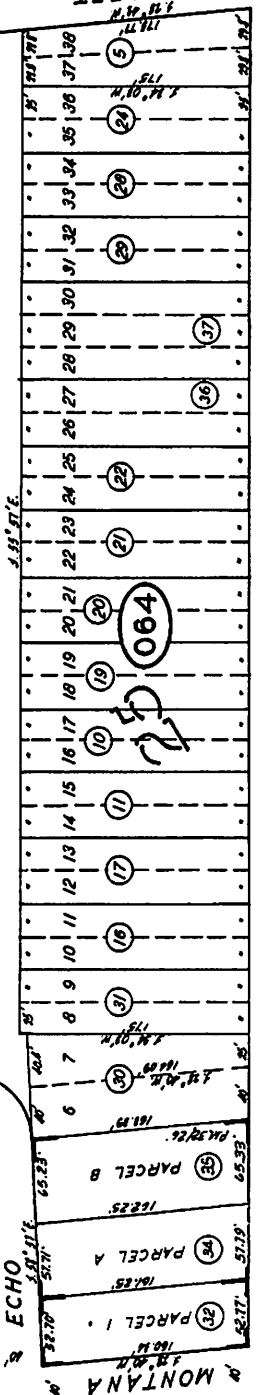
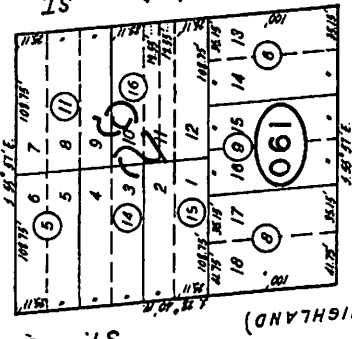
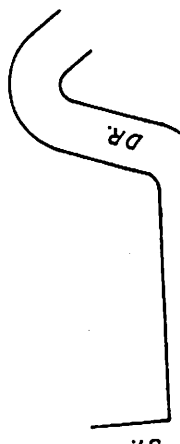
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37-6

TAX CODE AREA

BK.36  
31

FARALLON HEIGHTS



9

8

PARCEL MAP VOL 32/26  
PARCEL MAP VOL 30/32  
MOSS BEACH HEIGHTS RSM 6/8

ASSESSOR'S MAP COUNTY OF SAN MATEO, CALIF.

# MAP OF MOSS BEACH SAN MATEO CO., CAL.

SCALE: 1"=100'

The owner and proprietor of said party interested in the lands shown and delineated on the within and accompanying map or plat does not by this filing and recording of said map or plat, in any manner designate to the public the parcels of land delineated on said map or plat as Myrtle, Loma Vista, Sierra and Vermont Streets, California Ave. from Ebbetts Pass to Sierra Vista, Vermont, Loma Vista, Conroy, Pearl, Phoenix, Lincoln, Lincoln, Carver, The Strand, Terrace and Echo Streets, Ebbetts Pass, California Ave. from Ebbetts Pass to Sierra Vista Street, and the following streets, Ebbetts Pass, Sierra and California Avenue from Ebbetts Pass to the Strand Street. The owner and proprietor of said party hereby designates to the public the parcels of land shown on this map or plat, and consents to the recording of this map or plat, and does hereby acknowledge the making mapping and platting of said lands and consents to said dedication, in witness whereof, the within and accompanying map or plat, together with a copy thereof, has been duly filed and recorded in the office of the County Clerk, San Mateo County, California, this 15th day of May, 1908.

*This is the first day of May, in year one thousand nine hundred and eighth, before me, J. J. Dolittle, a Notary Public, in and for said County of San Mateo, California, State of California, in and for the County of San Mateo, California, County of San Mateo, State of California.*

By Charles B. Smith, President  
By Geo. O. Risk, Secretary  
The Moss Beach Realty Co. (S.M.V.)

*I do hereby certify that there are no lands 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 15th day of May A.D. 1908.*

W.R. Lindholm, County Auditor.

*I do hereby certify that there are no lands 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 15th day of May A.D. 1908.*

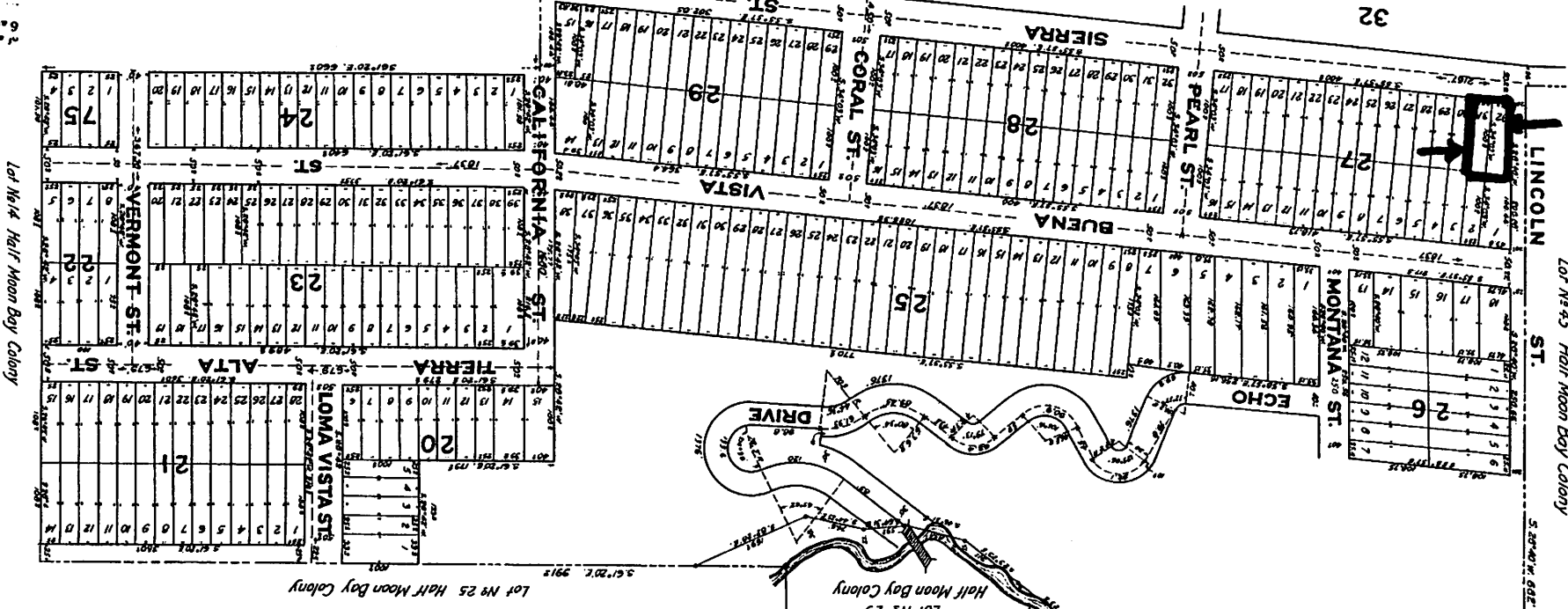
W.R. Lindholm, County Auditor.

*Filed at request of C.B. Smith, May 4<sup>th</sup> A.D. 1908 at 30 min. past 1 o'clock P.M. San Mateo County Records*

J. R. Johnson, Deputy Recorder  
by Ruylme E. Hanson, Deputy Recorder

*On this, the first day of May, in year one thousand nine hundred and eighth, before me, J. J. Dolittle, a Notary Public, in and for said County of San Mateo, California, State of California, in and for the County of San Mateo, California, County of San Mateo, State of California.*

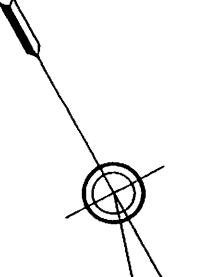
Joseph J. Dolittle  
Notary Public in and for the County of San Mateo, State of California.



I hereby certify this to be a true copy of an original map recorded in Map Book 6 at page 5.

Geo. A. Loomis  
Depy. County Recorder and Engineer  
Dep. by County Recorder of M.S.

Map of Moss Beach Heights. Sheet 1 of 2 sheets. Root 6 page 6





Property Owner Notification at 300 feet from parcel 037-062-110

