

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

**DATE:** November 17, 2016

**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 and Section 7123, respectively, of the County Subdivision Regulations, located on Virginia Avenue in the unincorporated Moss Beach area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN 2016-00329 (TMJJ, LLC/Serdy)

**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 any development is required. 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 2016-00329), 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: Nate Serdy

Owner: TMJJ, LLC

Location: Virginia Avenue, between Beach Street and Ellendale Street, Moss Beach

APN: 037-118-100

Size: Approximately 5,200 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 8 and 9, Block 63, "Map of Moss Beach, Addition No. 1," recorded in San Mateo County Records on May 4, 1908, in Book 6 at Page 10. 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: Coastside County Water District (For Future Development)

Sewage Disposal: Granada Sanitary District (For Future Development)

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, related to minor subdivisions.

Setting: The current vacant parcel is rectangular in shape and located on the westerly side of Virginia Avenue between Beach Street and Ellendale Street, Moss Beach. The parcel is bordered by single-family residences to the north, south and west, built during the 1960s. The surrounding areas of California Avenue, Beach Street and Virginia Avenue have also been developed with single-family residences with sanitary sewer and water lines located within the Virginia Avenue road right-of-way. Gas lines, telephone facilities, along with cable facilities all exist within the existing road right-of-way.

## **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 Moss Beach has a GP Land

Use Designation of Medium Density Residential (6.1 - 8.7 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.

3. 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; in this case, Lots 8 and 9 of the "Map of Moss Beach, Addition No. 1" recorded in 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 (8 and 9) were initially part of the cited "Map of Moss Beach, Addition No. 1" recorded in 1908, they continued to be conveyed together with other parcels until September 10, 1946. 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 includes 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 well exceeds the 5,000 sq. ft. minimum), no variances are required, and all services and access to the parcel are available. As mentioned previously, Virginia Avenue, a publically maintained road, 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 and Vicinity Map
- C. Original Map of Moss Beach, Addition No. 1

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2016-00091      Hearing Date: November 17, 2016

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 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 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 August 5, 2016 and as approved by the Zoning Hearing Officer on November 17, 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), which shall represent Lots 8 and 9, Block 63, 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 an 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 037-118-100, 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 \$30.00 and \$40.00. The project planner will confirm the amount prior to recordation.

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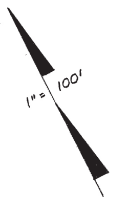


**San Mateo County Zoning Hearing Officer Meeting**

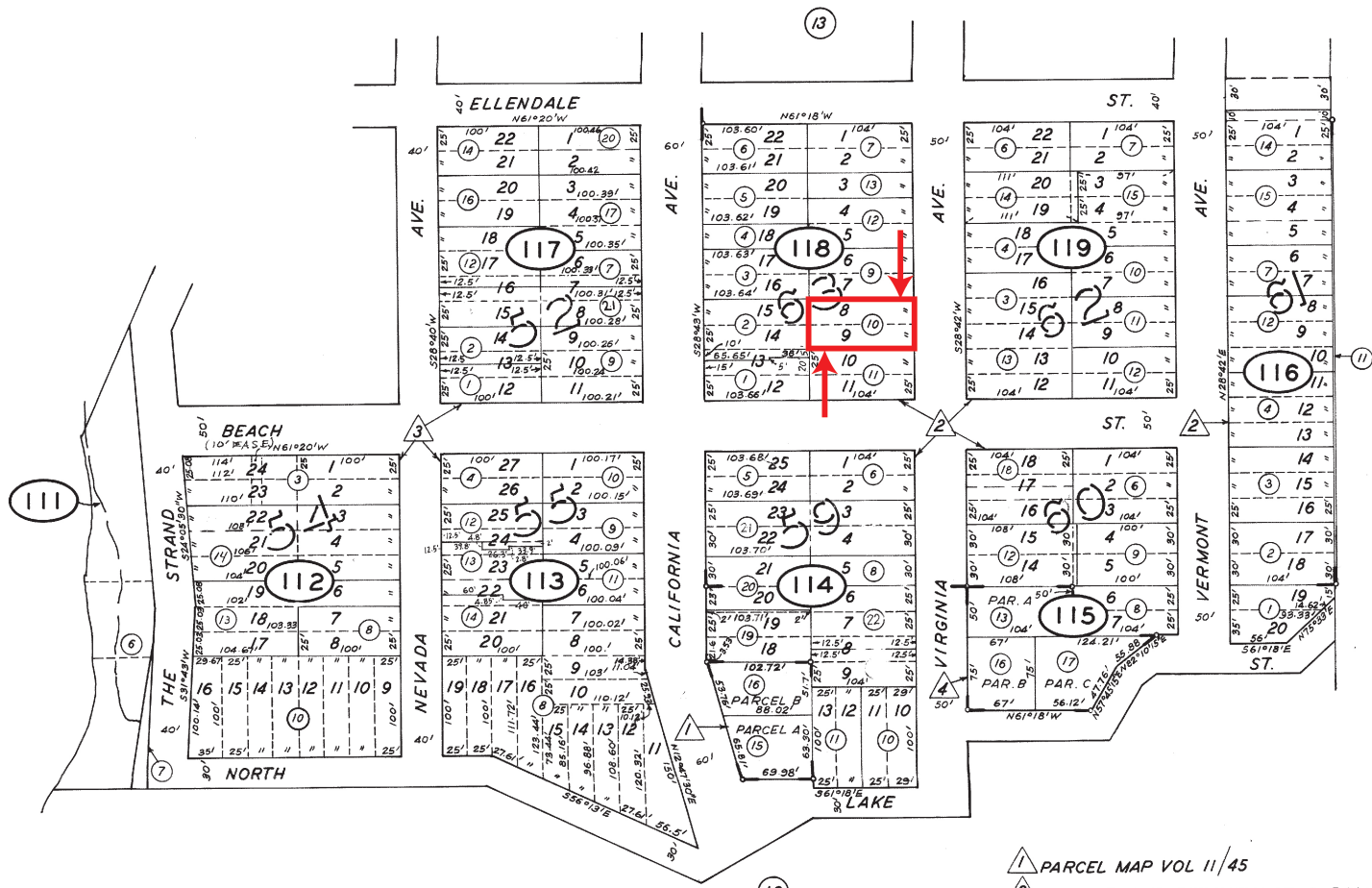
Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_



PACIFIC OCEAN



- △ PARCEL MAP VOL 11/45
- △ MOSS BEACH ADDITION NO. 1 RSM 6/10
- △ MOSS BEACH RSM 6/9
- △ PARCEL MAP VOL 16/2

ASSESSOR'S MAP COUNTY OF SAN MATEO, CALIF.

D.M.

6-13-80

# 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; Carlos Street, Vallemar Street, Ceres Street, Etheldore 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 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, and 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 Etheldore 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

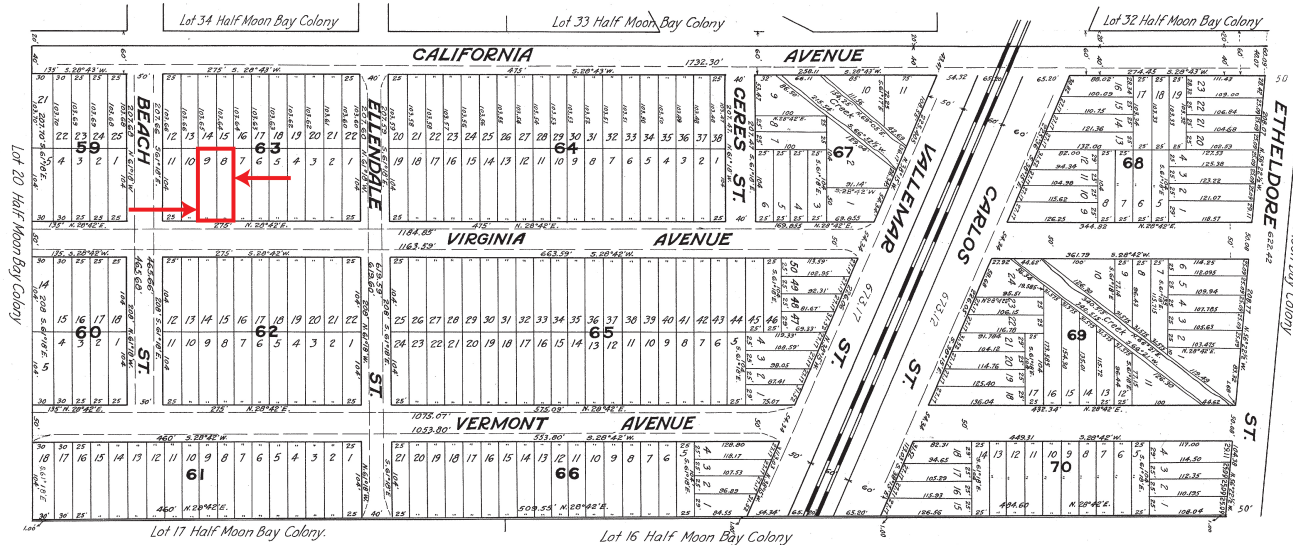
I do hereby certify that there are no liens for unpaid State County or other taxes, against the lands, or any part of the lands shown on the within and accompanying map or plat.  
This 1st day of May A.D. 1908.  
(SEAL)  
W. H. Underhill County Auditor.

California Avenue from the Southwesterly line of Vallemar Street produced northwesterly to the southwesterly line of Etheldore Street, and Etheldore 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 Carlos Street, Vallemar Street, Ceres Street, Etheldore 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 feet 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 4 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  
County of San Mateo } 5.  
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 therein 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. Kneass  
County Surveyor and Ex-officio  
County Clerk Recorder of San Mateo

## San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:

Attachment:

File Numbers: