

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

DATE: August 18, 2016

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Coastal Development Permit and Certificate of Compliance (Type B) to confirm the legality of an unimproved parcel, pursuant to Section 6328.4 of the County Zoning Regulations and Section 7134.2 of the County Subdivision Regulations, located on the northerly side of Cortez Avenue, approximately 800 feet easterly of Cabrillo Highway in the unincorporated Miramar area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2015-00524 (Shanahan)

PROPOSAL

The applicant has applied for a Certificate of Compliance (Type B) to confirm legality of the 4,400 sq. ft. parcel. The Type B is required because the subject lot (Lot 10, Block 10, "Shore Acres, Half Moon Bay, California," recorded December 18, 1905) was not conveyed separately from the surrounding adjacent lots until May 1991, which was after July 1945, the effective date of the County's first subdivision ordinance. The Certificate of Compliance (CoC) ensures compliance with the County Subdivision Regulations which triggers the accompanying Coastal Development Permit as required by the County's Local Coastal Program. This application acknowledges a pending violation on the parcel (VIO 2016-00005) for unpermitted development.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit and the Certificate of Compliance (County File Number PLN 2015-00524), 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: Gina Shanahan

Location: Northerly side of Cortez Avenue approximately 800 feet easterly of Cabrillo Highway in Miramar

APN: 048-025-210

Size: 4,400 sq. ft.

Existing Zoning: R-1/S-94/DR (Single-Family Residential/5,000 sq. ft. Minimum Parcel Size/Design Review)

General Plan Designation: Medium Density Residential (6.1 – 8.7 dwelling units per net acre)

Parcel Legality: Lot 10; Block 10; “Shore Acres, Half Moon Bay, California” recorded in San Mateo County Records on December 18, 1905, into Book 3 at page 95. Confirmation of the legality of this lot is the purpose of this application and discussed in Section A.3 of this report.

Existing Land Use: Developed with unpermitted structures and improvements.

Water Supply: Coastside County Water District

Sewage Disposal: Granada Community Service District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Areas of 2% Annual Chance of Flooding, Community Panel No. 06081C0255E, dated October 16, 2012.

Environmental Evaluation: Categorically exempt under provisions of Class 15, Section 15315 of the California Environmental Quality Act Guidelines.

Setting: The subject lot is located at the northerly side of Cortez Avenue, approximately 800 feet easterly of Cabrillo Highway in Miramar. Cortez Avenue, in this area, is an improved but non-County maintained roadway. The lot is adjacent to developed lots to the west, north, and east and borders the “Urban Rural Boundary” to the south. Water and sanitary sewer lines are located within the road right-of-way and fire hydrants are located nearby. The subject lot is vacant. Approval of the Certificate of compliance would allow development at a later date at which point a sanitary sewer and water connection would need to be obtained.

There is existing development on the parcel, all placed there by the previous owner without permits and resulting in a zoning violation (Case No. VIO 2016-00005). The status of and proposed resolution to that violation is discussed in Section A.1 of this report.

DISCUSSION

A. KEY ISSUES

1. Illegal Development on Parcel

The previously cited pending violation (VIO 2016-00005) is for unpermitted development consisting of: (1) front fence with electric gate, (2) solar panel facility (providing power, minimally, to the gate), (3) an out-building located in the right rear portion of parcel, (4) a retaining wall along the driveway, and (5) a driveway with trailer parked on it. Such improvements are only allowable in conjunction with a single-family residence, which is a principally permitted use in the R-1/S-94/DR District. This development had been placed onto the property when it was still owned by the adjacent neighbor to the rear (APN 048-025-360, fronting onto Coronado Avenue), which is developed with a residence.

The CoC/Coastal Development Permit (CDP) can be approved with a condition requiring that prior to recordation of the actual CoC document, the pending violation has been fully abated (e.g., all unpermitted development has been removed/demolished). If the applicant proposes to keep the retaining wall (because its removal before a new house is built may possibly destabilize the adjacent developed property), a letter from a civil or soils engineer stating such a conclusion would be required for review by the Community Development Director (with the exception to the retaining wall). However, pursuant to County Counsel's comments, it is critical to understand that all of the development on the property (outbuilding in back, solar panels, electric gate/fence, driveway with trailer parked on it) cannot be legalized alone; such development is only allowed as accessory to a principally permitted use - in this case, a single-family residence; such development cannot be allowed to remain to become a part of a future proposal to build a new residence.

Condition No. 6 (Attachment A of this report) shall require that the illegal development has been removed/demolished on the site as discussed above, prior to recordation of the CoC.

2. Conformance with Zoning Regulations

The subject 4,400 sq. ft. parcel is zoned R-1/S-94/DR, where the minimum parcel size is 20,000 sq. ft. As such, it is understood that the parcel is non-conforming and that future development of the parcel will require a Use Permit, pursuant to the Zoning Nonconformities Chapter, Section 6133.3.b(1) and be subject to a new Coastal Development Permit (and all applicable Local Coastal Program Policies), the R-1/ Zoning Regulations and both the Coastsides Design Review (DR) application process and 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.

3. 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 Miramar has a GP Land Use Designation of Medium Density Residential (6.1 – 8.7 dwelling units/net acre). The Certificate of Compliance, upon recordation, will legalize Lot 10 as one single, 4,400 sq. ft., developable parcel. The proposal does not exceed this density. This area is correspondingly zoned R-1/S-94, 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 45 feet wide). However, the project does also comply with Policy 8.14 (*Land Use Compatibility*), in that upon resolution of the lot's legality, the property's future development with a single-family residence – in compliance with use permit conditions for a non-conforming parcel and Design Review development regulations and standards – would “protect and enhance the character of existing single-family areas.”

4. Conformance with the Local Coastal Program (LCP)

Under the LCP's “Locating and Planning New Development Component”, Policy 1.8 (*Location of New Development*) seeks to “concentrate new development in urban areas...by requiring the “infilling” of existing residential subdivisions; the Shore Acres Subdivision is an existing older subdivision in Miramar. Should this application be approved, it would allow the potential development of this parcel, in concert with this policy (pursuant to other constraints as previously discussed in Section A.1. of this report). 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 Miramar area. The LCP's Public Works Component, Policy 2.19 (*Sewer Phase 1 Capacity Allocations*) seeks to ensure that the parcel's future sewer connection does not exceed the Phase 1 capacity limitations discussed in the “Sewers” section of this Component. This parcel, while substandard in size, was considered as a qualified parcel within the Phase 1 capacity limits.

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. 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). Permits to legalize this

parcel shall be, where applicable, conditioned to maximize consistency with LCP resource protection policies. Other than the subject application to confirm the legality of the parcel, no other development is proposed at this time. Eventual development of a SF home would have no impact on coastal resources.

Future development of a new residence on the legalized parcel will require Design Review approval, and a Coastal Development Permit, and a non-conforming Use Permit due to the parcel's substandard size (4,400 sq. ft. where 5,000 sq. ft. is the minimum required size).

5. 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 recent court case decisions, the subject lot's legality must be confirmed because it is an undeveloped lot of an antiquated subdivision in this case, Lot 10 of the "Shore Acres, Half Moon Bay Map" recorded in 1905. The County Subdivision Regulations, Section 7134, allow 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), relative to the tenants of the cited court cases, it must be confirmed that the lot comprising this subject project parcel was conveyed separately from any surrounding lots (beyond the subject property whose legality is to be confirmed) 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.

The subject lot (Lot 10) was initially part of the cited 1905 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 2006 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.

Regarding conditions of approval, 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 his or her interest in the property, and which had been established at the time of the Map Act or the County

Subdivision Regulations.” At that time, minimum parcel size was 5,000 sq. ft. Parcels of a lesser size were acceptable if they were “shown on a lot on 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 “Shore Acres, Half Moon Bay” subdivision recorded in 1905.

The subject lot, totaling 4,400 sq. ft., would have been non-conforming with the zoning (minimum parcel size) in 2006, as well as with the applicable Subdivision Regulations at that time. However, County zoning regulations allow for the development of non-conforming parcels subject to a use permit. Additionally, roadway, sanitary and energy infrastructures exist within this predominantly developed and improved subdivision in Miramar. Given these facts, along with the nature and intent of the previously cited court cases mandating that these lots legality be confirmed, there are no additional improvements (typical of an urban subdivision) that must be required via conditions. The only additional improvements (i.e., sewer, water, and energy line laterals from the street to a future house) will be triggered and required at the time of the submittal and issuance of planning and building permits for a house. Thus, the Community Development Director, pursuant to Subsection (c) of the above-cited Section, 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 15315, Class 15: Minor Land Divisions, which include the division of property (which a Certificate of Compliance to confirm a parcel’s legal status can be considered) in urbanized areas zoned for residential use into four or fewer parcels, and all services and access to the parcel are available.

C. REVIEWING AGENCIES

Current Planning Section
County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map and Vicinity Map
- C. Original 1905 Shore Acres, Half Moon Bay, First Addition to the City of Balboa

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2015-00524

Hearing Date: August 18, 2016

Prepared By: Pete Bentley
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. 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 to conform a parcel's legal status can be considered) in urbanized areas zoned for residential use into four or fewer parcels, and all services and access to the parcel are available.

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:

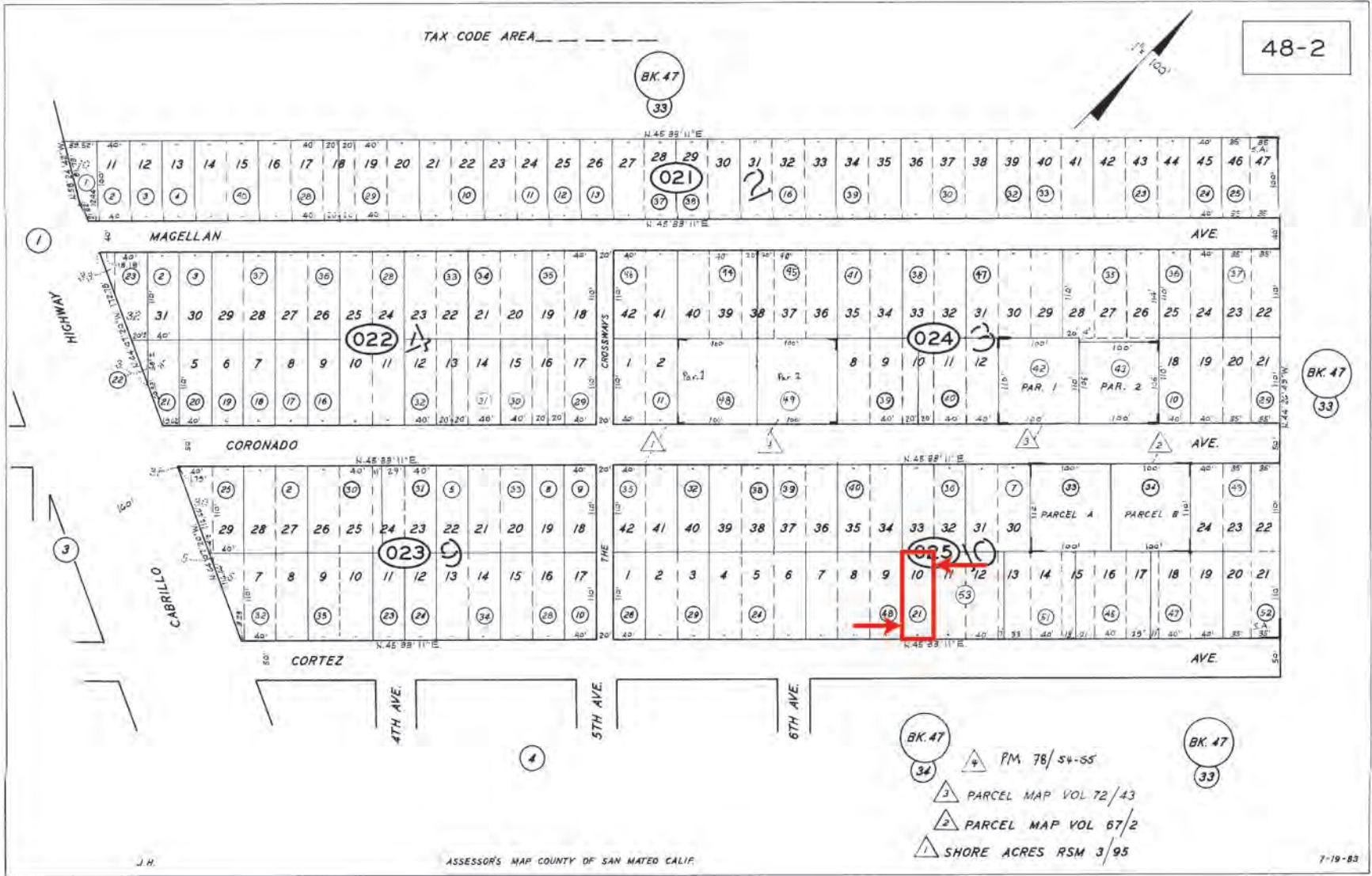
4. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms to the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
5. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program. Future development of this property represents infill within an otherwise predominantly developed residential area, where a sanitary sewer and water connection would be available. 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 those plans, supporting materials and reports submitted on November 16, 2015 and January 6, 2016, and as approved by the Zoning Hearing Officer. 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 10, Block 10 as one single, legal developable 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.
4. The Certificate of Compliance (Type B) required to establish the legality of the existing parcel, APN 048-025-210 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. The project planner will confirm the amount prior to recordation.
6. Prior to recordation of the Certificate of Compliance, all "non-permitted" structures and improvements, currently located on the parcel, shall be removed and/or demolished pursuant to a San Mateo County Building Inspection Section demolition permit. This permit shall be finalized prior to the recordation of the subject Certificate of Compliance. The building permit shall include an erosion control plan for review and approval including a Tree Protection Plan for any trees on the property, to be implemented during demolition activities. If it is proposed to keep the retaining wall on the property, the applicant must submit a geotechnical report, for review by the County Geotechnical Section and for approval by the Community Development Director, that confirms that its removal would destabilize an adjacent parcel. If such confirmation is provided and approved, the cited Building permit for the removal of all other illegal structures shall include this retaining wall to be legalized, upon being shown on plans as submitted, reviewed, issued, and inspected by the Building Inspection Section. All disturbed areas shall be mulched and stabilized to the satisfaction of the Coastal Development Permit, prior to the building permit's final inspection approval.

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San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____

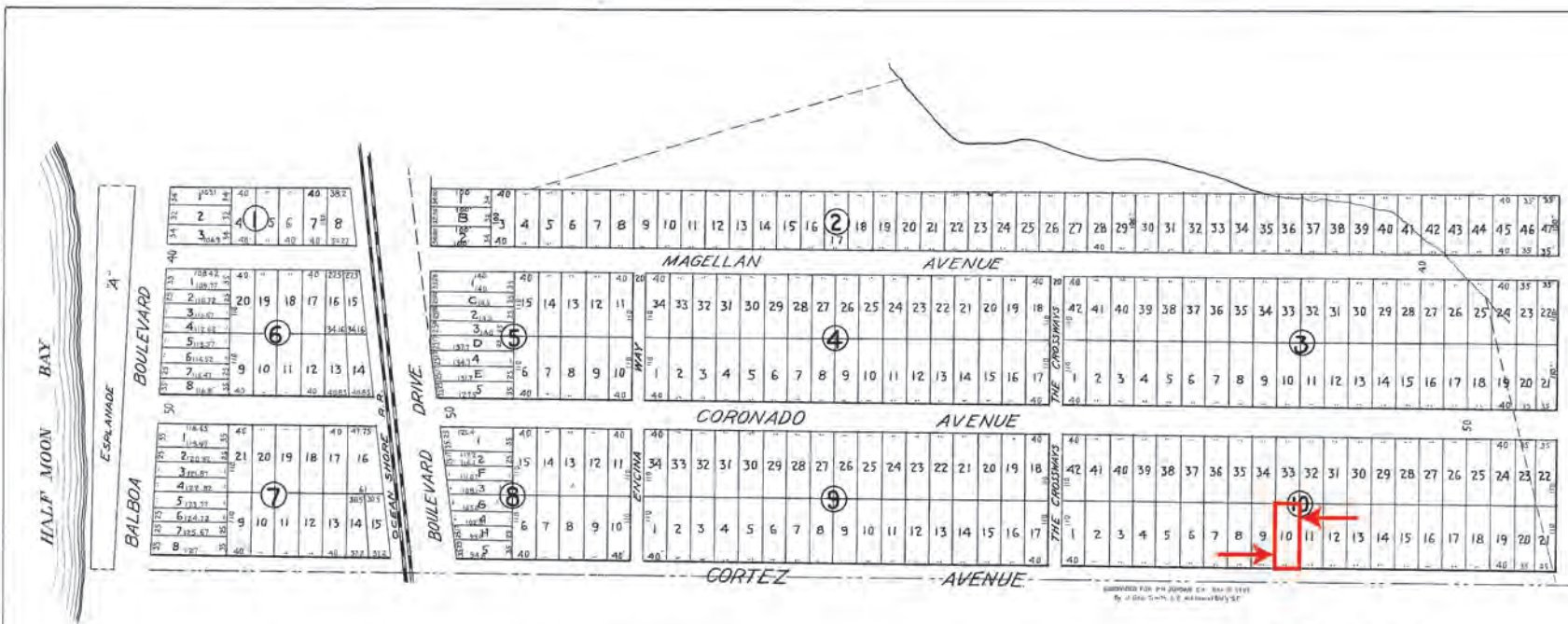


San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



I, JAMES BROWN, THE PROPRIETOR OF THE LAND AND PREMISES SHOWN ON THE WITHIN AND ACCOMPANYING MAP, HAVE CAUSED SAID ACCOMPANYING MAP OF LANDS IN SAN MATEO COUNTY, CALIFORNIA, TO BE MADE, MARKED AND PLATTED AS SHOWN HEREON, AND I DO HEREBY ACKNOWLEDGE AND CERTIFY TO THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL, THIS 2ND DAY OF DECEMBER 1932.

James Brown

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

ON THIS 2ND DAY OF DECEMBER IN THE YEAR OF ONE THOUSAND NINE HUNDRED AND FIVE, BEFORE ME, A. K. DAGGETT, A NOTARY PUBLIC AND FOR SAID CITY AND COUNTY, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED JAMES BROWN, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN DOCUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND, AND OFFICIAL SEAL, AT MY OFFICE, IN THE CITY AND COUNTY OF SAN FRANCISCO, THE DAY AND YEAR, IN THIS CERTIFICATE, FIRST ABOVE WRITTEN:

(SEAL)

A. K. Daggett
NOTARY PUBLIC IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

CORONADO AVENUE, MAGELLAN AVENUE AND BOULEVARD DRIVE, AS DELINEATED ON THIS MAP ARE HEREBY ACCEPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN MATEO ON BEHALF OF THE PUBLIC AS DEDICATED TO PUBLIC USE, IN ACCORDANCE WITH, SUBJECT TO THE TERMS OF THE RESOLUTION OF SAID BOARD ADOPTED THIS 16TH DAY OF DECEMBER, 1932.

(SEAL)

H. W. Schaberg
CLERK OF SAID BOARD OF SUPERVISORS

SHORE ACRES
HALF MOON BAY, CAL.
FIRST ADDITION TO THE CITY OF BALBOA

SCALE: 1 inch = 120 ft.
(ORIGINAL) 1 - - 60

FILED FOR RECORD AT THE REQUEST OF JAMES BROWN DECEMBER 18TH A. D. 1932 AT 1:11 PM 3:57 P. M. SAN MATEO COUNTY RECORDS
J. P. JOHNSTON, County Recorder
By: [Signature] Deputy Recorder

I HEREBY CERTIFY THIS TO BE A TRUE COPY OF AN ORIGINAL MAP RECORDED IN VOL. B MAPS PAGE 12
[Signature]
DEPUTY COUNTY SURVEYOR AND EX OFFICIO DEPUTY RECORDER OF MAPS

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:
File Numbers:

Attachment: