

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

DATE: April 20, 2017

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Coastal Development Permit and a Resource Management-Coastal Zone Development Permit, pursuant to Sections 6328.4, 6903, and 6458, respectively, of the County Zoning Regulations; and a Certificate of Compliance (Type B) to confirm the legality of an 0.55-acre parcel, pursuant to Section 7134 of the County Subdivision Regulations; in the unincorporated Pescadero area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN 2016-00435 (Mosby/McCellon)

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. A Certificate of Compliance (Type B) is required as part of this application to comply with the County Subdivision Regulations, a Coastal Development Permit to comply with the County's Local Coastal Program, and a Resource Management-Coastal Zone (RM-CZ) Development Permit to comply with the RM-CZ Development Review criteria.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit, RM-CZ Development Review Permit and Certificate of Compliance (CoC) (County File Number PLN 2016-00435), 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: Heather Ann Mosby

Owner: Wendell E. McCellon

Location: Native Sons Road, Pescadero, California

APN: 087-010-100

Size: Approximately 0.55 acres

Existing Zoning: RM-CZ/CD (Resource Management-Coastal Zone/Coastal Development District)

General Plan Designation: Open Space

Parcel Legality: 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: Undeveloped

Water Supply: Not yet established; would be via an on-site well, prior to or at time of future development.

Sewage Disposal: Not yet established; would be via an on-site septic drainfield system at time of 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: Not subject to CEQA, pursuant to CEQA Section 15002 and California Public Resources Code Section 21065. See Section B for further discussion.

Setting: The subject undeveloped parcel is rectangular in shape and located adjacent to and directly accessible from Native Sons Road (a graveled roadway), about $\frac{3}{4}$ mile from Pescadero Creek Road. The parcel is bordered by undeveloped parcels on three sides, with a single-family residence existing to the east. There has been some limited agricultural activity on the parcel (fruit trees, garden), with water provided by both on-site springs (with state adjudicated water rights) as well as an on-site well (whose legality cannot be confirmed). Otherwise, there is no development or structures on the parcel. The parcel's average slope is about 31%, sloping in a diagonal direction from southeast to northwest. While much of the parcel is densely covered with Douglas firs and other tree canopy, the area near its entrance (where the current agricultural activity occurs) off Native Sons Road is gently sloped and light on tree cover, making it a likely site for future development.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

This parcel and surrounding area has a General Plan (GP) Land Use Designation of “Open Space.”

Policy 9.4 (*Land Use Objectives for the Rural Lands*) seeks to protect and enhance the Rural Lands resources, in order (amongst other goals, but most applicably) to: (1) protect and conserve vegetation, water, fish and wildlife, resources, productive soils resources for agriculture and forestry, (2) manage and enhance the use, production, and conservation of soils, timber, minerals, and other natural resources, (3) manage and enhance the unique scenic quality and pastoral character of the rural lands, and (4) protect the public health and safety by minimizing the location of new development in potentially hazardous areas.

County maps do not indicate the presence of any special vegetation, water, fish or wildlife resources on the property. While the parcel is densely covered with Douglas firs, there is a relatively open and accessible area near the parcel’s entrance that would be suitable for future development. Development of this area would not result in a significant removal of vegetative or timber resources. The parcel is not located within a County or State Scenic Corridor, nor is it very visible from Native Sons Road, its closest main road, due to the area’s dense tree cover and vegetation.

County Landslide Susceptibility maps indicate that the approximate western third of the parcel is in an area identified as high risk for landslide susceptibility, with the approximate eastern two-thirds of the parcel being in the category of least risk for landslide susceptibility. Given that access to the parcel occurs from Native Sons Road as it crosses the northeast corner of the parcel, it is reasonable to assume that both access and a potential development site would occur within the area of lessor landslide risk. The County’s Alquist-Priolo Special Studies Zone map (Franklin Point Quad) shows that the closest fault, the San Andreas, is located approximately 1.5 miles west of the parcel.

There is no evidence that the parcel’s likely future development of a single-family residence and accessory structures and uses would be located in such a manner or of an intensity that would adversely affect any of these cited resources.

While these and many other Rural Lands policies will be applicable to future development on this parcel, this application to confirm the parcel's legal status includes no development.

2. Conformance with the Local Coastal Program (LCP)

LCP Policy 1.28 (*Legalizing Parcels*) requires a Coastal Development Permit (CDP) when issuing CoC/Type B's to legalize parcels. The applicant has submitted an application 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 LCP Maps show no sensitive habitat (Policy 7.2) or prime agricultural soils (Policy 5.2) on the parcel. Relative to the LCP's Hazards Component (specifically Policy 9.3), other than the slope instability/landslide issues previously cited, the parcel is not located in a flood zone or located near a mapped seismic fault. Relative to Policy 8.5 (*Visual Resources, Location of Development*), the parcel is not located within any scenic corridor and is not visible from the closest roadway. Thus, it is expected that future development could be located to comply with this and other applicable policies of this component. There is no reason to believe that the current parcel legalization would result in future development impacting any such coastal resources.

3. Conformance with Zoning Regulations

The subject parcel is located in the Resource Management-Coastal Zone (RM-CZ) District. RM-CZ Section 6901 (*Applicability of RM-CZ District*) does not mandate a minimum parcel size. However, at approximately 0.55 acres, the parcel – while relatively small – could accommodate future development. Section 6903 (*Development Review Permit Requirement*) requires that all development located in the RM-CZ District comply with the Development Review Procedures cited in Chapter 23 of the Zoning Regulations, of which Section 6458 provides the criteria for requiring a Minor Development review, e.g., an RM Development Review Permit. This CoC application qualifies for that permit (minor division – which a CoC constitutes - of lands into four or fewer parcels if outside the Skyline area).

RM-CZ Section 6903 (*Development Review Permit Requirement*) defines “development” to include “the division of land into two or more parcels” whereas the CoC seeks to conform the legal division of only one parcel. That said, it is important to assess the parcel's future potential development

against some applicable Development Review Criteria mandated in Chapter 20A.2. Given the parcel's size, relatively gentle slope of a more open area near its entrance off Native Sons Road, it is expected that such development (i.e., a single-family residence and accessory structures) would comply with the Environmental Quality, Site Design, Utilities, Water Resources, Cultural Resources, Hazards and Primary Scenic Resources Areas, and Primary Natural Vegetative Areas criteria.

4. 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.

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 lot comprising the subject parcel was 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.

The subject parcel continued to be conveyed together with other adjacent parcels until 1960, at that time it was conveyed separately from adjacent parcels around it, thus requiring the CoC (Type B). The zoning at that time (predating creation of the Coastal Zone (CZ) and the 1980 certification of the County's LCP and subsequent adoption of the RM-CZ District Regulations), was Resource Management (RM). While the RM Regulations at that time were different than the current RM Regulations, the section citing minimum parcel size was no different than that cited earlier. 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. Road access to the subject parcel is provided directly from Native Sons Road, which (while a graveled roadway) meets the County Fire Authority's minimum road standards. Power/energy utilities (via PG&E) exist on Native Sons Road. While an on-site well exists (although there are no records that it was drilled pursuant to a County-issued well-drilling permit), future development permits would require its conversion to a domestic well; the on-site springs would not be an approvable potable water source. Future wastewater treatment will be provided by an on-site septic

system concurrent with the parcel's future development. With the understanding that these services can reasonably be met at the time of future development, there are no improvement conditions necessary to require prior to recording the CoC document.

Future development would be allowed provided it conforms to the applicable sections of the County General Plan, the Local Coastal Program, and the RM-CZ Zoning Regulations. Upon review of such future development against all these requirements, compliance with all regulations and conditions related to driveway access, and all utility installation (including on-site domestic water well and septic system) for the parcel will be required.

B. ENVIRONMENTAL REVIEW

This project is exempt from California Environmental Quality Act (CEQA) requirements. Pursuant to CEQA Section 15002(d) (Article 1), only a "project" is subject to CEQA. That said, Section 21065 of the California Public Resources Code's defines what constitutes a "Project", which is:

An activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by any public agency.*
- (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.*
- (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.*

This application proposes no activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The applicant has no present plans for development on the property. While it is a 'project' for purposes of the County's local zoning processes, it is not a project for purposes of CEQA. CEQA review will be necessary when a project involving or in anticipation of physical change to the environment is proposed.

REVIEWING AGENCIES

County Counsel
County Fire Authority

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Vicinity Map Showing Parcel and Zoning
- C. 1960 Deed Describing Parcel
- D. Photos of Area at Parcel's Entry

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2016-00435

Hearing Date: April 20, 2017

Prepared By: Pete Bentley
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

Regarding the Environmental Review, Find:

1. That the project is not subject to the California Environmental Quality Act (CEQA), since, pursuant to CEQA Section 15002 and California Public Resources Code Section 21065, it does not qualify as a “Project”, since no development which may cause a direct or indirect physical change in the environment is proposed at this time.

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 habitat, visual resources, or public access to and along the coast.

For the Resource Management Permit, Find:

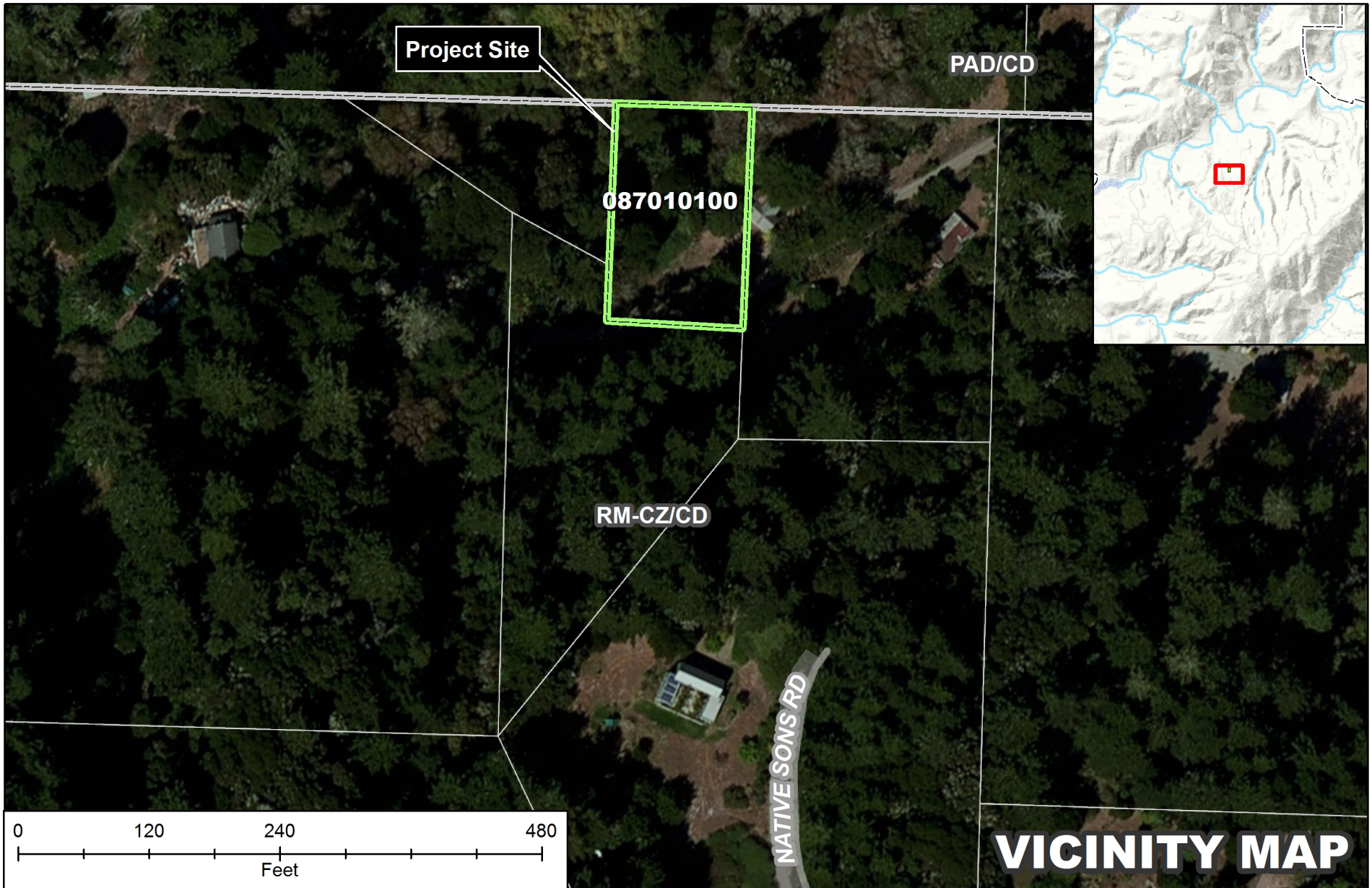
6. That the project conforms with all applicable criteria and standards of the Development Review Permit requirement and with the applicable Development Review criteria and standards, pursuant to and as required by Sections 6903 and 6324, respectively, of the County Zoning Regulations.

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 and as approved by the Zoning Hearing Officer on April 20, 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), shall describe the parcel as shown in Attachment C of this report, representing it as one single legal parcel, and shall be recorded prior to the issuance of any other permits related to any development or disturbance 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, applicable policies and standards of the Resource Management-Coastal Zone (RM-CZ) District requirements, Grading Ordinance requirements and any regulations mandated by the County Departments of Building, Environmental Health, Public Works and the County Fire Authority (Cal-Fire). That permit application shall include any and all necessary provisions for an adequate on-site domestic water well and septic system, as well as compliant access road requirements and any required improvements to Native Sons Road.
4. The Certificate of Compliance (Type B) required to establish the legality of the existing parcel, APN 087-090-120, shall be recorded by the project planner. The applicant shall provide the required recording fee of \$34 to the project planner prior to the Certificate of Compliance being recorded.

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San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____

EXHIBIT "A"
Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF SAN MATEO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL TWO:

PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 8 SOUTH, RANGE 5 WEST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE SOUTHEAST 1/4 OF SECTION 12, A DISTANT THEREON WESTERLY 250.00 FEET FROM THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4; THENCE WESTERLY ALONG SAID NORTHERLY LINE 120.00 FEET; THENCE AT RIGHT ANGLES SOUTHERLY 200 FEET; THENCE AT RIGHT ANGLES EASTERLY 120 FEET TO THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND CONVEYED BY DEED FROM EMMY P. KUNZ TO ARTHUR ANTONSON AND RUTH L. ANTONSON, HIS WIFE, IN JOINT TENANCY, DATED JUNE 13, 1946 AND RECORDED JUNE 24, 1946 IN BOOK 1276, PAGE 332 OF OFFICIAL RECORDS OF SAN MATEO COUNTY (11255-G); THENCE NORTHERLY ALONG SAID WESTERLY LINE 200.00 FEET TO THE POINT OF BEGINNING.

APN: 087-010-100
JPN: 087-001-010-10



San Mateo County Zoning Hearing Officer Meeting

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Attachment:

File Numbers:



San Mateo County Zoning Hearing Officer Meeting

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