



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

PLANNING AND BUILDING DEPARTMENT

DATE: August 10, 2009
BOARD MEETING DATE: August 25, 2009
SPECIAL NOTICE/HEARING: 300 feet
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Lisa Grote, Director of Community Development *LG*

SUBJECT: EXECUTIVE SUMMARY: Consideration of (1) a Coastal Development Permit and Certificate of Compliance, Type B, to legalize a 17,900 sq. ft. parcel, (2) a Use Permit, Coastal Development Permit, and Design Review Permit to construct a new single-family residence and septic system, (3) a Variance to allow a 20-foot front yard setback and 35-foot rear yard setback where 50 feet is required for each, (4) a Grading Permit to perform approximately 175 cubic yards of fill and approximately 13 cubic yards of excavation, and (5) certification of a Mitigated Negative Declaration, on a parcel located within the Community Open Space Conservation (COSC) Zoning District in the unincorporated El Granada area of San Mateo County. This project is appealable to the California Coastal Commission. This is an appeal by the applicant of the Planning Commission's decision to deny requested permits for parcel legalization and construction of a single-family residence.

RECOMMENDATION

1. Approve the certification of the revised Mitigated Negative Declaration.
2. Grant the applicant's appeal and approve the Coastal Development Permit and Certificate of Compliance, Type B, legalizing the parcel, by making the required findings and adopting the conditions of approval listed in Attachment J of the staff report.
3. Uphold the Planning Commission's decision to deny the Coastal Development Permit, Variance, and Use Permit for a new single-family residence, by making the findings for denial included in Attachment J of the staff report.

BACKGROUND

On July 14, 2009, the San Mateo County Board of Supervisors considered the appeal of the applicant, Jim Irizarry, of the San Mateo County Planning Commission's denial of

various applications for permits for parcel legalization and construction of a single-family residence at the subject property and continued the item to August 25, 2009. The approval of the Coastal Development Permit to legalize the parcel contributes to the Livable Communities 2025 Shared Vision because it is consistent with the County's land use regulations and because the subject property is located within the urban Midcoast, near existing commercial and residential uses.

DISCUSSION

The Board of Supervisors continued the consideration of this project so that staff could: (1) research the application of Section 6227.b.6 of the Community Open Space Conservation District (COSC) Zoning Regulations and the position of the Coastal Commission; (2) research the history of the subject parcel; and (3) research the Certificate of Compliance (CoC), Type B, on the property formerly owned by Antoinette Licata.

1. Based on a review of historical County and Coastal Commission documents, Planning staff and County Counsel have determined that Section 6227.b.6 of the COSC Zoning Regulations was intended to limit the residential development potential of the Burnham Strip by restricting such development to parcels that existed, of record, as of December 1, 1981 and that the subject parcel did, in fact, exist prior to that date. The Coastal Commission staff states that the issuance of a CoC, Type B, *creates*, for the first time, a *legal* lot division, whereby a parcel would not be considered to have come into legal existence until the CoC, Type B, is issued.

However, the Subdivision Map Act, the County's Local Coastal Program, and relevant sections of Government Code indicate that the issuance of a CoC, Type B, is intended to legalize *a division of land that has already occurred*.

2. In 1947, when Louise Souza acquired the parent parcel from the previous owners, the parcel was 2.085-acres in size and extended from Avenue Alhambra to the Pacific Ocean. In 1949, the State of California acquired a portion of the parent parcel to construct Highway 1, effectively subdividing the parent parcel. Louise Souza's estate maintained ownership of the subject parcel until August 16, 1996, when the property was granted to Ms. Souza's heirs. On the same day, the property was granted to Craig and Deborah Caron, who are the current property owners.
3. In 1993, Planning staff determined that the Licata properties to the east and west of the Cabrillo Highway were considered to be one parcel. Therefore, the Zoning Hearing Officer approved the Certificate of Compliance for the property subject to a condition limiting development to the property conforming to the required minimum building site (the western parcel) and restricting the non-conforming property to accessory uses only. The Caron parcel is under different ownership than parcels to the west and is therefore separate from the western parcels. The circumstances are significantly different than those in the Licata application and the Licata decision is not precedent on the issue of whether a single-family residence should be allowed in the subject case.

FISCAL IMPACT

Nominal cost to Planning and Building Department to monitor compliance with conditions of approval for the Certificate of Compliance, Type B.