

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

DATE: May 4, 2017

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 southerly side of Magellan Avenue, approximately 75 feet westerly 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 2017-00040 (Pullo, LLC)

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 15, Block 5, "Shore Acres, Half Moon Bay, California First Addition to the City of Balboa," recorded December 18, 1905) was not conveyed separately from the surrounding adjacent lots until July 2008, which was after July 20, 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.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit and the Certificate of Compliance (County File Number PLN 2017-00040), 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: Pullo, LLC/Pullo, LLC

Location: Southerly side of Magellan Avenue approximately 75 feet westerly of Cabrillo Highway in Miramar

APN: 048-031-200

Size: 4,400 sq. ft.

Existing Zoning: R-1/S-94/DR (Single-Family Residential/10,000 sq. ft. Minimum Parcel Size/Design Review)

General Plan Designation: Medium Low Density Residential (2.4-6.0 dwelling units per net acre)

Parcel Legality: Lot 15; Block 5; "Shore Acres, Half Moon Bay, California First Addition to the City of Balboa," recorded in San Mateo County Records on December 18, 1905, into Book B at page 12. 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: Vacant

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 on the southerly side of Magellan Avenue, approximately 75 feet westerly of Cabrillo Highway in El Granada. Magellan Avenue, in this area, is an improved County maintained roadway. The lot is adjacent to many undeveloped lots to the west, north, south and east. 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.

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 Miramar has a GP Land Use Designation of Medium Low Density Residential (2.4 - 6.0 dwelling units/net acre). The

Certificate of Compliance, upon recordation, will legalize Lot 15 as one single, 4,400 sq. ft. 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 10,000 sq. ft.) and lot width (40 feet) is less than the required 50-foot width. However, the project complies 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.”

2. 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.3. 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. When the mergers in the Miramar area were processed, reviewed and recorded from 1979 through to 1983, the subject parcel (Lot 15) was not under the same ownership as any adjacent parcels/lots. Thus, it was not subject to those mergers. 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 single-family residence is not expected to have an 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 10,000 sq. ft. is the minimum required size).

3. Conformance with Zoning Regulations

The subject 4,400 sq. ft. parcel is zoned R-1/S-94/DR, where the minimum parcel size is 10,000 sq. ft. While the subject parcel is less than the minimum parcel size as required by the zoning district, this does not conflict with the proposal to confirm the parcel's legal status. The purpose of the Certificate of Compliance is specifically mandated to retroactively resolve the parcel's legality, irrespective of its compliance with minimum parcel size. 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/S-94 Zoning Regulations and the Coastsides Design Review (DR) application process and standards.

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 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 is, in this case, Lot 15, Block 5 of the "Shore Acres, Half Moon Bay, California First Addition to the City of Balboa," 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 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 lot (Lot 15) 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 July 23, 2008 include the subject lot, separate from adjacent parcels. 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 (which in this case is the first recorded deed representing a separate conveyance from the property owner of this and any adjacent parcels/lots), and which had been established at the time of the Map Act or the County Subdivision Regulations.” Aside from the need to confirm the subject parcel’s legality pursuant to the previously cited court cases, 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 2008, as well as with the applicable Subdivision Regulations at that time. While in 2008, the zoning district required a minimum parcels size of 10,000 sq. ft. (as it has been since the early 1980s). This disparity does not affect the ability to approve and record a COC, as discussed in Section .3 of this report. 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 area. Given these facts, 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 "Subdivision: Shore Acres, Half Moon Bay, California First Addition to the City of Balboa"

PB:pac - PSBBB0102_WPN.DOCX

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00040

Hearing Date: May 4, 2017

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 February 3, 2017, 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 15, Block 5 of the Shore Acres Subdivision 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 048-031-200 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.

PB:pac - PSBBB0102_WPU.DOCX

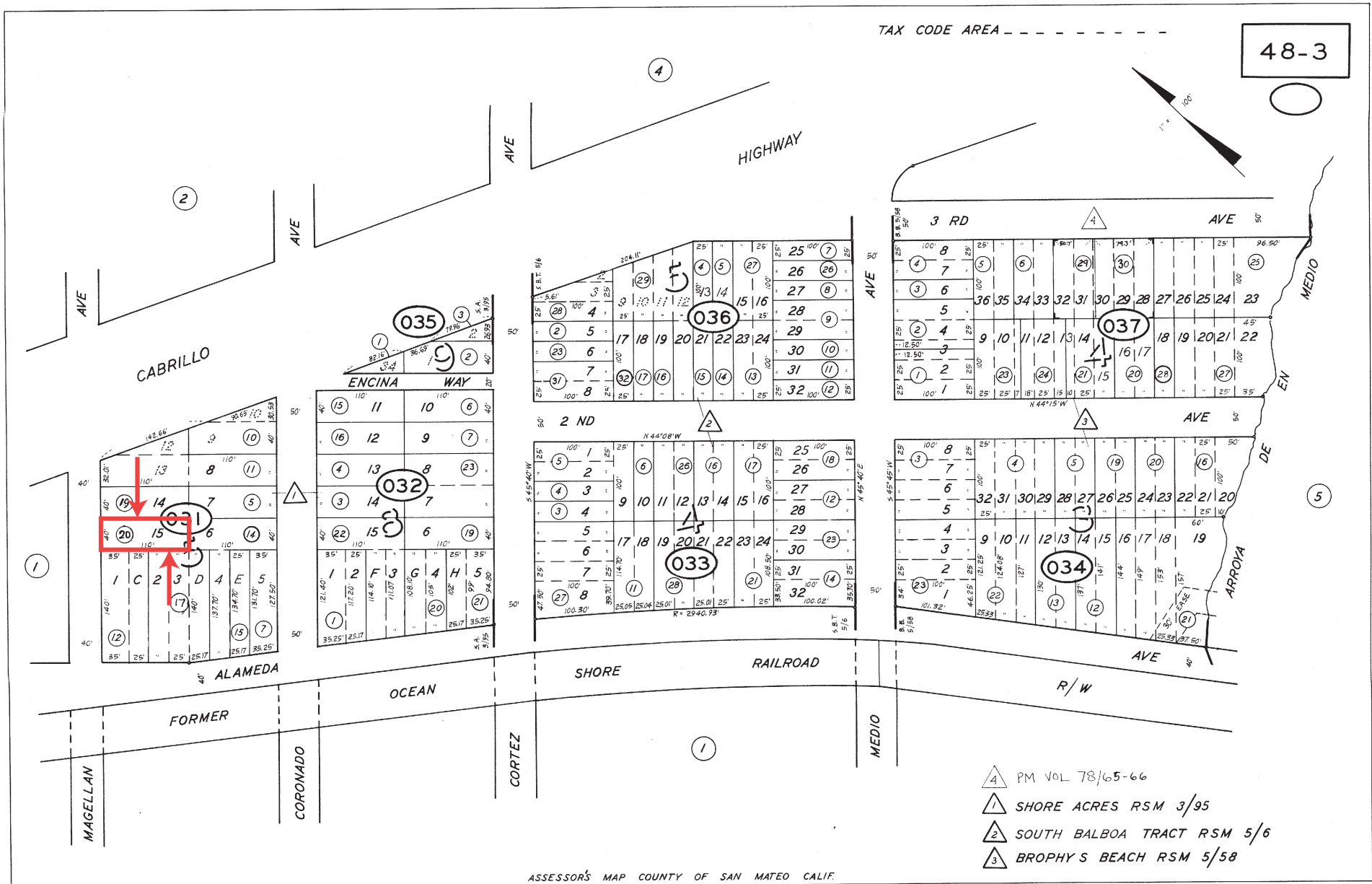


San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



ASSESSOR'S MAP COUNTY OF SAN MATEO CALIF.

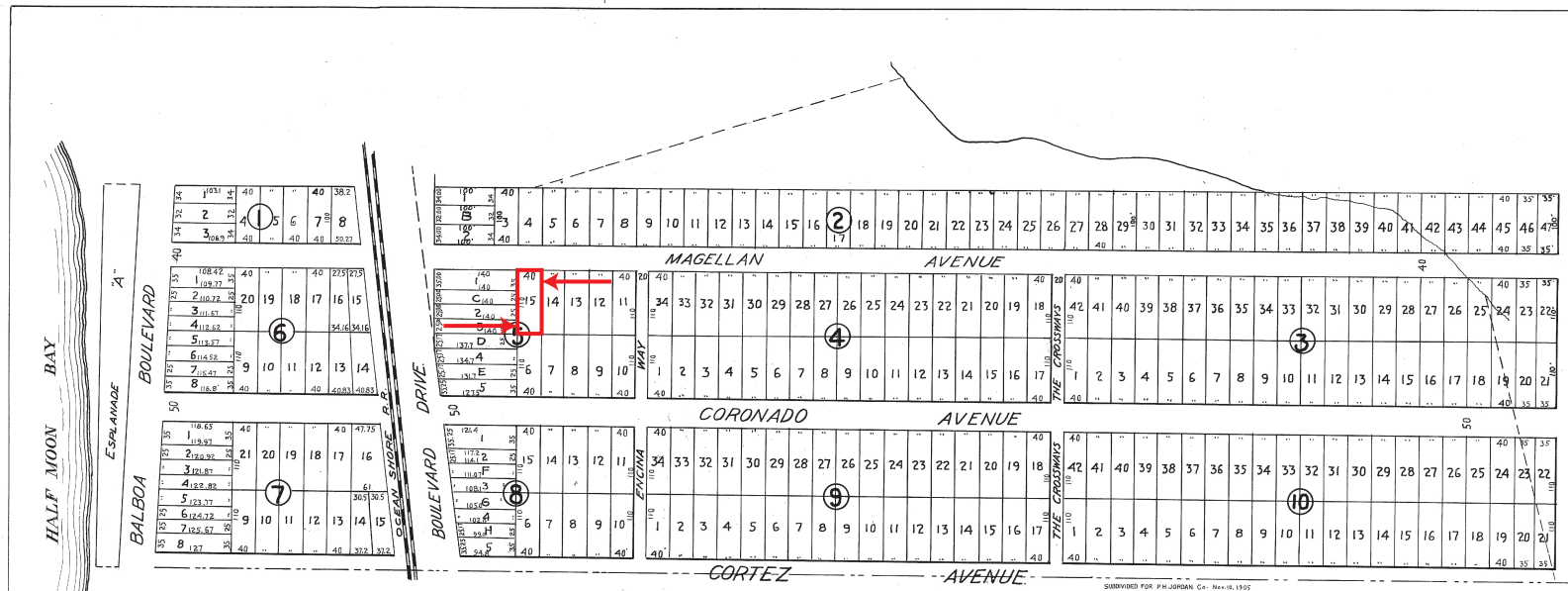
- 4 PM VOL 78/65-66
- 1 SHORE ACRES RSM 3/95
- 2 SOUTH BALBOA TRACT RSM 5/6
- 3 BROPHY'S BEACH RSM 5/58

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, MAPPED 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 NOVEMBER 1905.

James Brown

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.
ON THIS 2ND DAY OF DECEMBER IN THE YEAR OF ONE THOUSAND NINE HUNDRED AND FIVE, BEFORE ME, A. K. DAGGETT, A NOTARY PUBLIC IN 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)

[Signature]

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 18TH DAY OF DECEMBER, 1905.

(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 *MAK. RAJITHA* DECEMBER 18TH A. D. 1905 AT 3 MIN PAST 4 O'CLOCK P. M. SAN MATEO COUNTY RECORDS.
J. F. JOHNSTON, County Recorder.
By: *Pauline E. Nelson*, Deputy Recorder.

I HEREBY CERTIFY THIS TO BE A TRUE COPY OF AN ORIGINAL MAP DEPOSITED IN SAN MATEO COUNTY RECORDS, MAPS PAGE 12.
[Signature]
DEPUTY COUNTY SURVEYOR AND EX OFFICIO DEPUTY RECORDER OF MAPS.

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____