

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

DATE: February 17, 2022

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration for Certificate of Compliance (Type B) as per Section 7134 of the County Subdivision Regulations, and a Coastal Development Permit (CDP), pursuant to Section 6328.4 of the County Zoning Regulations, to legalize an 8,750 sq. ft. parcel located on Buena Vista Street in the unincorporated Moss Beach area of San Mateo County. The project is appealable to the California Coastal Commission.

County File Number: PLN2019-00435 (Cowart)

PROPOSAL

The applicant has applied for a Certificate of Compliance (CoC) Type B to legalize the subject parcel, which is required to comply with the County's Subdivision Regulations, as well as a Coastal Development Permit to comply with the County's Local Coastal Program.

RECOMMENDATION

That the Zoning Hearing Officer approve the Certificate of Compliance Type B and CDP, County File Number PLN 2019-00435, by making the required findings and adopting the conditions of approval identified in Attachment A.

BACKGROUND

Report Prepared By: Sonal Aggarwal, Project Planner, Saggarwal@smcgov.org

Applicant: Mark A. Cowart and Hilda M. Cowart

Owner: Mark A. Cowart and Hilda M. Cowart

Location: Buena Vista Street, Moss Beach

APN: 037-064-190 (Lots 18 and 19, Block 25 of Moss Beach Heights Rsm 6/8)

Size: 8,750 sq. ft.

Existing Zoning: R-1/S-17/DR/CD (Single-Family Residential/5,000 sq. ft. minimum parcel size/Design Review/Coastal Development)

General Plan Designation: Medium Density Residential (6.1 - 8.7 dwelling units/net acre)

Sphere-of-Influence: City of Half Moon Bay

Existing Land Use: Vacant

Water Supply/Sewage Disposal: Montara Water and Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Areas of 0.2 percent Annual Chance of Flood, Community Panel No. 06081C0117F, dated August 2, 2017.

Environmental Evaluation: That the proposed Certificate of Compliance (CoC) Type B is exempt from the California Environmental Quality Act (CEQA) Guidelines because it falls within the “common sense” exemption pursuant to CEQA Guidelines Section 15061(b)(3), which indicates that CEQA only applies to projects that have a “significant effect on the environment” as defined in Public Resources Code, Section 21068, and in CEQA Guidelines, Section 15382, as being a substantial, or potentially substantial, adverse change in the environment. The Guidelines state that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to California Environmental Quality Act. The Certificate of Compliance (CoC) Type B does not change the allowed use, density, or zoning of the parcels, which is medium density residential, and is consistent with County General Plan policies. Therefore, the current project will not have a significant effect on the environment and qualifies for the exemption. Subsequent development of the parcel will be subject to all zoning and building code standards and permit requirements and will be evaluated for CEQA compliance again at that time.

Setting: The undeveloped parcel is located on the easterly side of Buena Vista Street between Montana Street and Coral Street. Single-family residences are located to the east, west and south side of the property. The undeveloped 8,750 sq. ft. parcel is located on the easterly side of Buena Vista Street between Montana Street and Coral Street. The lot slopes downwards at a slope of approximately 22.8 percent from the street. It is surrounded by properties developed with single-family residences.

Chronology:

<u>Date</u>	<u>Action</u>
October 24, 2019	- Application submitted. Subsequently, changes in staffing resulted in delays to the County's processing of this application.
January 4, 2022	- Routed to Montara Water and Sanitary District (MWSD)
January 10, 2022	- Received CDP and CoC, Type B Application forms
January 24, 2022	- Received conditional approval from MWSD
January 25, 2022	- Application deemed complete
February 17, 2022	- Zoning Hearing Officer public hearing

DISCUSSION

A. **KEY ISSUES**

1. **Conformance with the General Plan**

The proposal complies with General Plan (GP) Policy 8.14 (*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 proposed project is in compliance where the resulting density of single-family residential development on the parcel would be 7.25 dwelling units/net acre. This area is correspondingly zoned "Single-Family Residential/5,000 sq. ft. Minimum Lot Size" (R-1/S-17) where the subject lot exceeds 5,000 square feet. The project also complies with Policy 8.15 (*Land Use Compatibility*), in that the parcel's future potential development with a single-family residence would be consistent and compatible with single-family uses in the neighborhood.

2. **Conformance with the Local Coastal Program (LCP)**

LCP Policy 1.29 (*Legalizing Parcels*) requires a Coastal Development Permit (CDP) when issuing a Certificate of Compliance (CoC) Type B to legalize parcels. If granted, the CoC Type B is appealable to the California Coastal Commission. Policy 1.30 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, as the parcel is of conforming size and is located in an area developed with single-family residential uses. There are no sensitive habitats or visual resources in the vicinity that could potentially be adversely impacted by the project, and no conditions required to protect coastal resources.

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. As mentioned in Section A1, future development of the parcel with a single-family home will comply with General Plan, LCP, and Zoning allowed uses and density.

Urban Land Use Policy 8.30 (*Infilling*) encourages the infilling of urban areas where infrastructure and services are available. The project complies with this policy, as the subject site is adjacent to a developed residential area and within an approved residential subdivision.

Water Supply Policy 10.10 (*Water Suppliers in Urban Areas*) and Wastewater Policy 11.5 (*Wastewater Management in Urban Areas*) require consideration of water systems as the preferred method of water supply and sewerage systems as the appropriate method of wastewater management in urban areas. Montara Water and Sanitary District (MWSD) is the respective water and sewer service provider for this urban area. Montara Water and Sanitary District reviewed the project and noted that the respective water and sewer service connections will be reviewed at the time of site development. The project was conditionally approved without any specific conditions from Montara Water and Sanitary District.

3. Conformance with the Subdivision Regulations

The subject parcel is comprised of two undeveloped lots of an antiquated subdivision; in this case, Lots 18 and 19 in Block 25 as designated on the Map entitled, "Map of Moss Beach Heights, San Mateo County, California", filed for record in the Office of the Recorder of the County of San Mateo, State of California on May 4, 1908 in Book 6 of Maps, at page 8.

The County Subdivision Regulations Section 7134 allows for either a CoC Type A to confirm a parcel's legality or a CoC Type B to legalize a parcel.

To qualify for a CoC Type A, it must be confirmed that the lot(s) comprising the subject project parcel were conveyed as a separate entity 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 shall be required, as is the case with this application.

After the subject lots, Lots 18 and 19, were created by "Plat Map of Moss Beach Heights," on May 4, 1908, the lots continued to be conveyed together with other parcels until August 3, 1964, when Lots 18 and 19 were conveyed separately. Section 7134.4c allows for the approval and recordation of a CoC subject to a Coastal Development Permit, a public hearing, and the imposition of conditions of legalization, if necessary.

Regarding conditions of approval, since road access to the parcel exists via Buena Vista Street, and water, electricity, and sanitary sewer services are available, there are no improvement conditions applicable to the division of property that have not been met.

B. ENVIRONMENTAL REVIEW

That the proposed Certificate of Compliance (CoC) Type B is exempt from the California Environmental Quality Act (CEQA) Guidelines because it falls within the "common sense" exemption pursuant to CEQA Guidelines Section 15061(b)(3), which indicates that CEQA only applies to projects that have a "significant effect on the environment" as defined in Public Resources Code, Section 21068, and in CEQA Guidelines, Section 15382, as being a substantial, or potentially substantial, adverse change in the environment. The Guidelines state that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to California Environmental Quality Act. The Certificate of Compliance (CoC) Type B does not change the allowed use, density, or zoning of the parcels, which is medium density residential, and is consistent with County General Plan policies. Therefore, the current project will not have a significant effect on the environment and qualifies for the exemption. Subsequent development of the parcel will be subject to all zoning and building code standards and permit requirements and will be evaluated for CEQA compliance again at that time.

C. REVIEWING AGENCY

Montara Water and Sanitary District

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Location Map
- C. Original Map of Plat of Moss Beach Heights, Volume 6, page 8

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COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT A

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2019-00435 Hearing Date: February 17, 2022

Prepared By: Sonal Aggarwal,
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the proposed Certificate of Compliance (CoC) Type B is exempt from the California Environmental Quality Act (CEQA) Guidelines because it falls within the “common sense” exemption pursuant to CEQA Guidelines Section 15061(b)(3), which indicates that CEQA only applies to projects that have a “significant effect on the environment” as defined in Public Resources Code, Section 21068, and in CEQA Guidelines, Section 15382, as being a substantial, or potentially substantial, adverse change in the environment. The Guidelines state that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to California Environmental Quality Act. The Certificate of Compliance (CoC) Type B does not change the allowed use, density, or zoning of the parcels, which is medium density residential, and is consistent with County General Plan policies. Therefore, the current project will not have a significant effect on the environment and qualifies for the exemption. Subsequent development of the parcel will be subject to all zoning and building code standards and permit requirements and will be evaluated for CEQA compliance again at that time.

For the 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*).
3. That the processing of the 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. The project is not located between the nearest public road and the sea, or the shoreline of Pescadero Marsh; as such, the project is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code).
6. 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.
7. The project does not involve the construction of a residence and will not exceed the number of building permits for construction of single-family residences other than for affordable housing issued in the calendar year, and therefore, does not exceed the limitations of Policies 1.22 and 1.23 as stated in Section 6328.19 of San Mateo County 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 approved by the Zoning Hearing Officer on February 17, 2022.
2. The subject Certificate of Compliance Type B, which shall represent Lots 18 and 19, Block 25, 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 of permits for future development shall require that adequate domestic water source and sanitary sewerage connections are available to serve the development.

4. The Certificate of Compliance (Type B), required to establish the legality of the existing parcel shall be recorded prior to the County's approval of any development on the parcel. 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 \$50.00 and \$100.00. The project planner will confirm the amount prior to recordation.

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COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT B



WGS_1984_Web_Mercator_Auxiliary_Sphere
 © Latitude Geographics Group Ltd.

1:2,257 

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT C

MAP OF MOSS BEACH HEIGHTS SAN MATEO CO., CAL. SCALE: 1"=100'

The owner and prospective of the party interested in the land shown and delineated on the within and accompanying map or plat filed by the filing and recording of said map or plat...

Moss Beach Realty Co. (a corporation) as a party interested therein, said Corporation being the owner and prospective of the party interested in the land shown and delineated on the within and accompanying map or plat...

On this 1st day of May, 1908, we, the undersigned, being of legal age and sound mind, do hereby certify that the within and accompanying map or plat...

Filed of record at C.A. 5 with May 4th A.D. 1908 at 30 min. and I declare P.M. San Mateo County Records J.F. Johnston County Recorder by Pauline E. Hanson, Deputy Recorder.

I do hereby certify that there are no lines for unpaid State County or other taxes against the lands or any part of the lands shown on the within and accompanying map. Dated this 18th day of May A.D. 1908. W.K. Underhill County Auditor.

Elizabeth, Sheldon and California Avenue from William Street to Ellendale Street are of the County of San Mateo, State of California on behalf of the public as dedicated to public use and enjoyment...

Chert of said Board

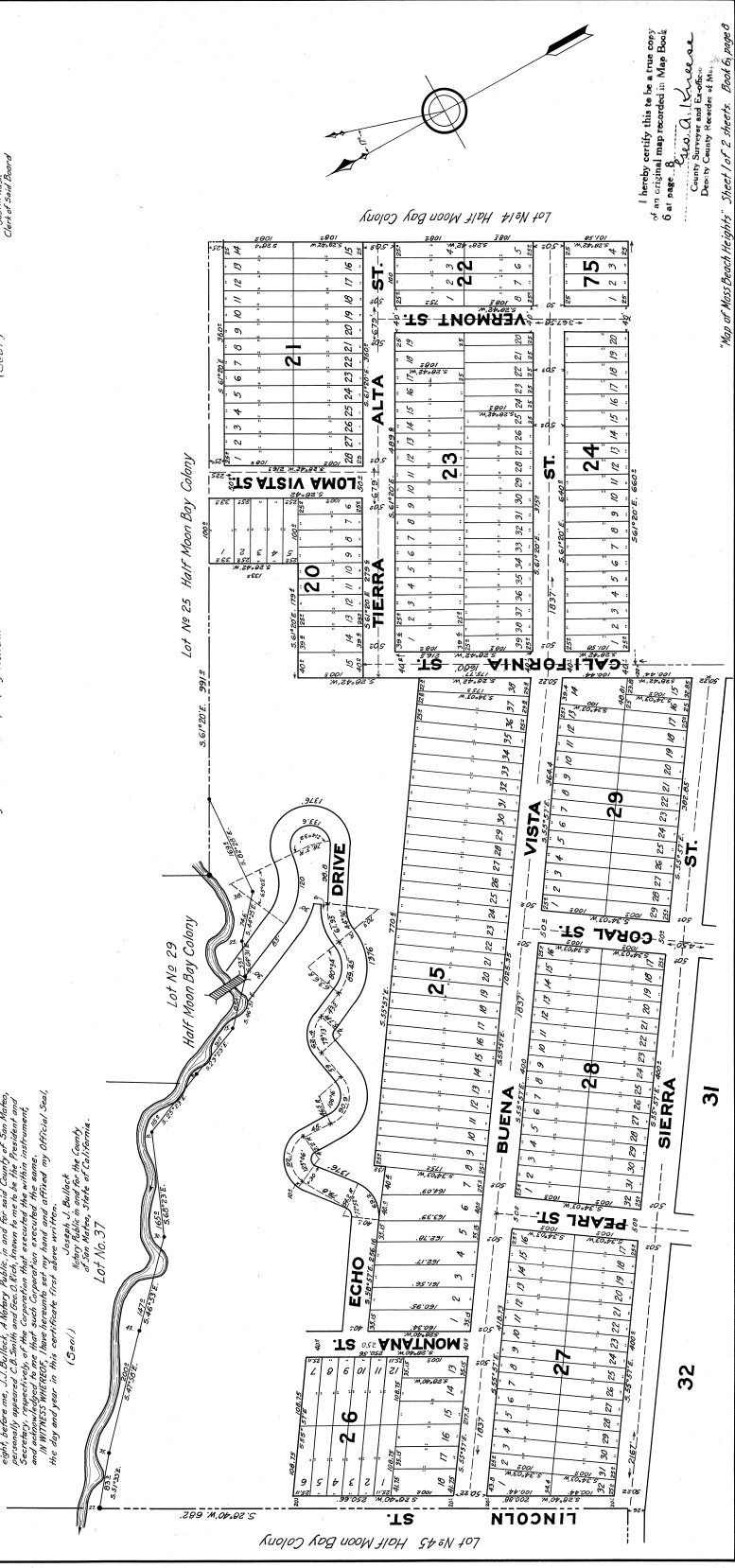
(Scale)

By Charles B. Smith Secretary By Don O. Rob

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On this 1st day of May, 1908, we, the undersigned, being of legal age and sound mind, do hereby certify that the within and accompanying map or plat...

(Scale)



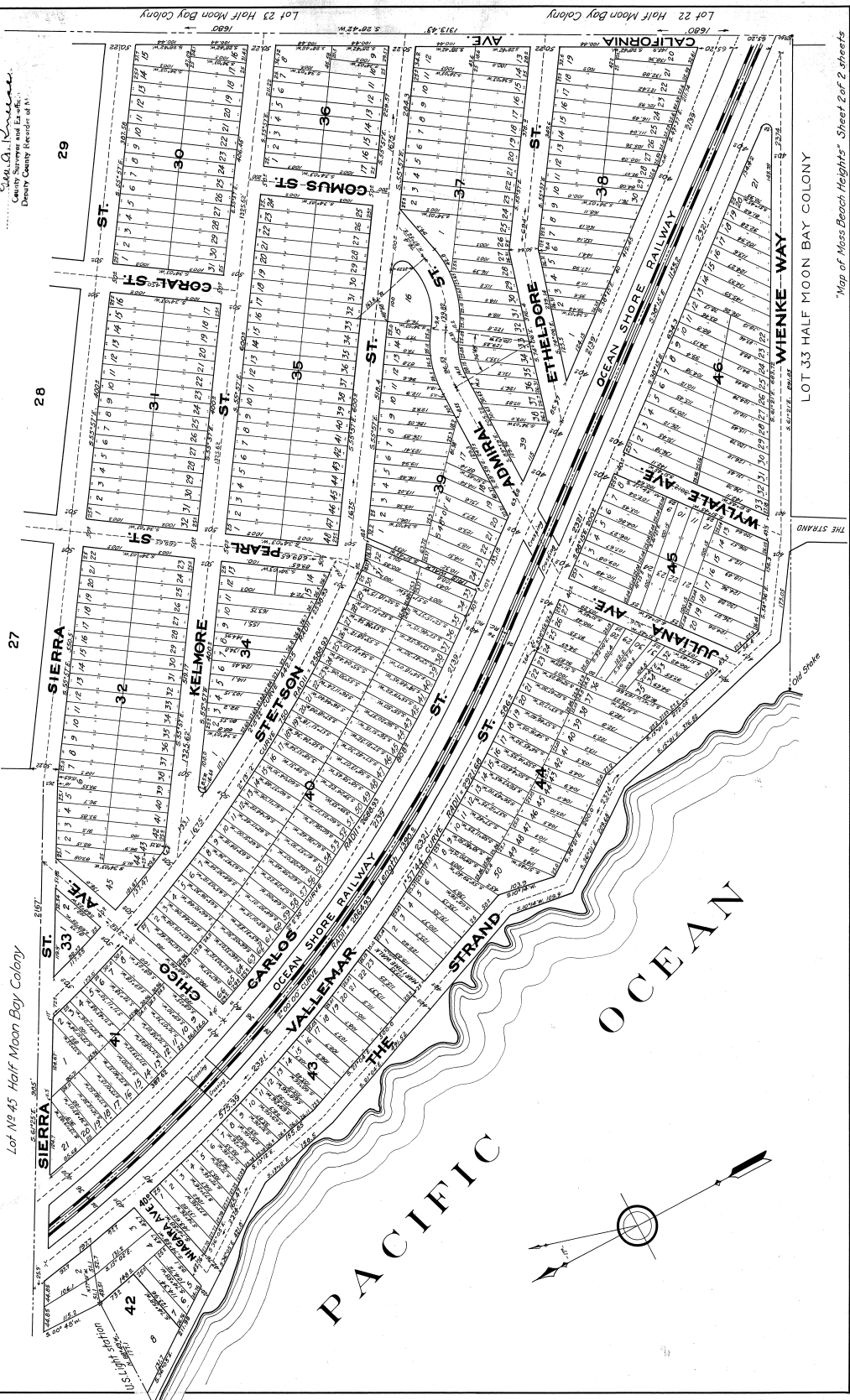
I hereby certify this to be a true copy of an original map recorded in Map Book 6 at page 3. Geo. A. Kneale County Surveyor

Map of Moss Beach Heights, Sheet of 2 sheets Book 6 pages 8

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, locations of easements, acreage or other matters shown thereon.

I hereby certify this to be a true copy of an original map recorded in Map Book 6 at page 8.

Geo. C. N. ...
 Deputy Surveyor and Es. Off.
 DeSoto County Recorder of N.



Lot 12 45 Half Moon Bay Colony

Lot 22 Half Moon Bay Colony

Lot 33 HALF MOON BAY COLONY

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