

CALIFORNIA COASTAL COMMISSION

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**Th 22a, 22b,
22c, and 22d**

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(Waived)
Staff: YinLan Zhang – SF
Staff Report: August 23, 2007
Hearing Date: September 6, 2007

**STAFF REPORT – APPEAL
SUBSTANTIAL ISSUE**

APPEAL NO.: A-2-SON-07-009
A-2-SON-07-010
A-2-SON-07-011
A-2-SON-07-012

APPLICANT: RJB-GP, LLC

LOCAL GOVERNMENT: SONOMA COUNTY

ACTION: Approval with Conditions.

PROJECT LOCATION: 132 Pacific Vista Court, Bodega Bay, Sonoma County, APN 10-560-12 (A-2-SON-07-009)
955 Harbor Haven Drive, Bodega Bay, Sonoma County, APN 100-560-16 (A-2-SON-07-010)
949 Harbor Haven Drive, Bodega Bay, Sonoma County, APN 100-560-15 (A-2-SON-07-011)
124 Pacific Vista Court, Bodega Bay, Sonoma County, APN 100-560-13 (A-2-SON-07-012)

PROJECT DESCRIPTION: Single family residences within the Harbor View Subdivision in Bodega Bay, Sonoma County

APPELLANT: Bodega Bay Concerned Citizens

Executive Summary

Commission staff recommends that the Commission find that the appeal raises no substantial issue with regard to conformance of the approved developments with the wetland, ESHA, and geologic hazards policies of Sonoma County's certified LCP.

Sonoma County approved with conditions four coastal development permits for the construction of four single-family residences within the Harbor View subdivision in Bodega Bay.

The appellant contends that the County inappropriately excluded development within the Harbor View subdivision from coastal development permit requirements, that all development within the subdivision is appealable to the Coastal Commission, and that the County has not enforced the conditions contained in the coastal development permit that authorized the original subdivision. The appellant also contends that the approved developments are inconsistent with the wetland and environmentally sensitive habitat protection (ESHA) policies of the LCP because the approved developments are located in ESHA and in close proximity to other coastal resource areas and that adequate protective measures have not been required. The appellant further contends that the approved developments are inconsistent with the geologic hazard policies of the LCP because they are located in a highly hazardous Alquist-Priolo Earthquake Fault Zone and adequate geologic studies have not been performed.

The approved coastal development permits on appeal to the Commission are for the development of four single-family residences only. The appellant's contentions regarding the 60 houses that were categorically excluded from coastal development permit requirements and the 66 houses that the appellants claim are located within Sensitive Coastal Resource Areas are not valid grounds for appeal because they are not allegations regarding appealable developments' consistency with the LCP, but rather concern developments not subject to the Commission's appeal jurisdiction pursuant to Section 30603 of the Coastal Act. The contention regarding compliance with conditions of approval in a previously issued permit by the County is also not valid grounds for appeal, but rather an allegation of a violation that is a separate enforcement matter, handled independently of the appeal process.

Commission staff recommends that the Commission determine that the appeal raises no substantial issue regarding whether the four single-family residences within the Harbor View subdivision approved by the County are consistent with the LCP. The sites of the four approved single-family residences are not located in ESHA but rather within an approved subdivision that has been graded and developed with roads and other improvements. The approved developments are located a sufficient distance away from an existing wetland, with the closest residence approximately 150 feet away from the wetland. Due to the distance of the approved residences from the wetland and the mitigation measures required by the County in its conditions of approval to address potential impacts to the recharge of the wetland and adverse impacts to the wetland from polluted runoff and sedimentation, the approved developments will not result in significant adverse impacts that will disrupt the wetland. The approved developments

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will also not result in significant adverse impacts to environmentally sensitive habitat areas for the California red-legged frogs because it is unclear whether the frog found in a creek approximately 1,000 feet from the sites of the four single-family residence is indeed a California red-legged frog or a northern red-legged frog, and because the ESHA for the red-legged frog is located far enough away that the approved developments will not result in adverse impacts that would disrupt or be incompatible with the biologic maintenance of the ESHA. Therefore, staff recommends that the Commission find that the appeal of the approved developments that are appealable to the Commission does not raise a substantial issue of conformance with the wetland and ESHA protection policies of the LCP.

With respect to the appellant's contentions concerning geologic hazards on site, Commission Staff Geologist has reviewed the numerous geotechnical reports in the County's records that address among other geologic issues, active earthquake faults, liquefaction, and slope stability and has determined that there are no active earthquake faults on site, that the foundation design criteria required by the County adequately mitigates potential liquefaction hazards, and that slope stability within the entire subdivision has been adequately demonstrated. The approved developments will therefore minimize risks to life and property in an area of high geologic hazard. As such, staff recommends that the Commission find that the appeal does not raise a substantial issue of conformity with the geologic hazards policies of the certified LCP.

Staff Note:

1. Recommendations of no substantial issue for four different coastal development permits are contained within this staff report. The Commission will need to make four motions to adopt all necessary No Substantial Issue recommendations. The motions begin on page 5.

2. The appellant argues that there are five coastal development permits on appeal instead of four. The coastal development permit (local CDP No. CPH06-0022) in question authorizes the development of entry signs to the subdivision and creation of a mitigation wetland. The permit originally approved by the County was within the Commission's appeal jurisdiction and was appealed to the Commission by the appellant along with the other four coastal development permits. After the appeal and before this substantial issue determination, the County, on July 17, 2007 rescinded their approval of the portion of the coastal development permit in the Commission's appeal jurisdiction consisting of the northern entry sign, and approved a permit in which no development is occurring within the Commission's appeal jurisdiction. The County subsequently provided the Commission with a revised Notice of Final Local Action for the coastal development permit, which is no longer appealable. Because the County rescinded its approval of appealable development before the Commission asserted jurisdiction over the appeal by making its Substantial Issue

Determination, coastal development permit CPH06-0022 is no longer appealable to the Commission and the appeal filed for the permit is no longer valid. Consequently, there is currently only four coastal development permits on appeal to the Commission.

Staff also would like to note that coastal development permit CPH06-0022, which is no longer appealable to the Commission references the creation of a mitigation wetland required as a condition of the underlying subdivision approval. There is no existing wetland in the location where the mitigation wetland creation will take place, and as such, development within 100 feet of the area where the wetland will be created is not appealable under Coastal Act 30603. Moreover, while the County has required a coastal development permit for the wetland creation, the wetland creation is intended to mitigate for wetland impacts occurring from the subdivision, and is actually pre-authorized by the County's coastal development permit for the subdivision, which requires that any wetland impacts be mitigated on site at a 1:1 ratio.

3. Staff notes that the appellant contends that the County's action on 66 of the houses is appealable to the Commission because they are located in a "sensitive coastal resources area." Contrary to the appellant's assertions, the 66 homes do not constitute appealable development pursuant to Section 30603 of the Coastal Act because the County did not designate sensitive coastal resource areas in its certified LCP.

4. The appellant contends that the County improperly applied its categorical exclusion order in excluding 60 of the 70 homes within the Harbor View subdivision from coastal development permit requirements. The appellant further argues that the 66 single-family homes deemed not appealable to the Commission should be appealable because the entire subdivision site is a "sensitive coastal resource area." While these are not valid grounds for appeal as discussed further in the findings on appealability, the County's determination regarding the County's application of its categorical exclusion order and the County's determination regarding the appealability of development within the Harbor View subdivision are not subject to the dispute resolution provisions of the Commission's Regulations. Pursuant to Section 13569 of the Commission's Regulations, a dispute resolution hearing regarding the determination of whether development is categorically excluded or appealable would only be held if the Executive Director of the Commission does not agree with the local government's determination of whether development is categorically excluded or appealable to the Commission. In this instance, the dispute resolution process is not triggered because the Executive Director and the County agree that the 60 houses in the Harbor View subdivision could be covered by the County's categorical exclusion order and because the 66 houses approved by the County do not constitute

appealable development as the LCP does not specifically designate any “sensitive coastal resource areas.”

5. The appellant contends that the development of the subdivision which includes the construction of roads, mass grading, and installation of utilities have resulted in damage to the wetlands on Parcel A, in violation of the applicant’s coastal development permit for the subdivision. While this is not a valid grounds for appeal but rather a separate enforcement allegation, staff would like to note that this issue has been examined by a Staff Ecologist who visited the site in 2003 and determined that the Parcel A wetland appears to have been impacted by the installation of the stormdrain system for the subdivision. This issue is also being investigated by the Commission’s enforcement staff independent of this appeal process.

Exhibits

Use the link at left to go to the exhibits.

1. Notices of Final Local Action
2. Revised Final Local Action for Local CDP No. CHP 06-0022
3. Appeal by Kimberly Burr, Concerned Citizens of Bodega Bay.
4. Subdivision Site Plan.
5. Location of Four Approved Residences in Relation to Wetlands
6. Site Photos
7. May 22, 2007 Letter from Bill Cox of CDFG
8. July 6, 2007 Letter from Kimberly Burr
9. July 24, 2007 Email from Bill Cox of CDFG
10. August 21, 2007 Memo from Mark Johnsson, Commission Staff Geologist to YinLan Zhang
11. August 21, 2007 Letter from Jerry Bernhaut
12. August 21, 2007 Letter from Kimberly Burr Re: Statewide Interpretive Guidelines
13. August 21, 2007 Letter from Kimberly Burr Re: Geologic Background
14. January 29, 1999 Letter from James Davies, State Geologist

1.0 STAFF RECOMMENDATION FOR A-2-SON-07-009

No Substantial Issue

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

Motion

I move that the Commission determine that Appeal No. A-2-SON-07-009 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue

The Commission finds that Appeal No. A-2-SON-07-009 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the approved project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

2.0 STAFF RECOMMENDATION FOR A-2-SON-07-010

No Substantial Issue

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

Motion

I move that the Commission determine that Appeal No. A-2-SON-07-010 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue

The Commission finds that Appeal No. A-2-SON-07-010 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the approved project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

3.0 STAFF RECOMMENDATION FOR A-2-SON-09-011

No Substantial Issue

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

Motion

I move that the Commission determine that Appeal No. A-2-SON-07-011 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue

The Commission finds that Appeal No. A-2-SON-07-011 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the approved project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

4.0 STAFF RECOMMENDATION FOR A-2-SON-07-012

No Substantial Issue

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

Motion

I move that the Commission determine that Appeal No. A-2-SON-07-012 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue

The Commission finds that Appeal No. A-2-SON-07-012 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the approved project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

5.0 PROJECT LOCATION AND DESCRIPTION

5.1 Location and Site Description

The four approved residential developments are located within the Harbor View subdivision in central Bodega Bay, Sonoma County, California. The subdivision is located east of Highway 1, north of the Inn at the Tides and South of the Taylor Tract subdivision. Lands to the west are privately held and undeveloped and are currently used for grazing.

The 27-acre subdivision site is an irregularly shaped parcel that slopes up from the east side of Highway 1 (Exhibit 4). A 2.8-acre wetland is located adjacent to Highway 1 at

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the western portion of the site, which is commonly referred to as the Parcel A wetland. As a condition of approval for the subdivision, an open space easement over the wetland has been recorded and accepted by the County's Agricultural and Open Space District.

The County approved the coastal development permit for the subdivision in 1994 which subdivided the approximately 27 acres of land into 70 lots for single-family homes and a one-acre parcel for 14 units of affordable housing. The County's approval of the subdivision was appealed to the Commission in 1995 by Bodega Bay Concerned Citizens. The Commission found that the County's approval raised no substantial issue. The 1994 coastal development permit authorized the subdivision and associated improvements including mass grading, roads, and utilities, but did not include approvals for the development of the single-family homes or the affordable housing units.

Roads and other improvements such as stormdrains for the subdivision have already been constructed. Pads for the homes have also been roughly graded. The construction for the affordable housing units, approved by the County under a separate coastal development permit in 1998, is already underway.

5.2 Project Description

The approved coastal development permits authorize the construction of four residences in the southwestern corner of the Harbor View subdivision (Exhibit 5). All four houses are 2,200 square feet, located on lots that range from 9,000 to 11,000 square feet. Conditions of approval include compliance with a submitted landscaping plan, installation of two dry wells per lot to infiltrate run off from the roofs, implementation of measures to prevent adverse impacts to water quality during construction, and fencing around the nearby wetland to ensure that equipment do not encroach into the wetland buffer zone during construction.

6.0 APPEAL PROCESS

6.1 Filing of the Appeal

The Sonoma County Board of Supervisors approved five coastal development permits on March 20, 2007 that were appealable to the Commission (local CDP Nos. CHP 06-0017, CHP06-018, CHP06-020, CHP06-020, and CHP06-022). The five permits included four for the development of residences (CHP 06-0017, CHP06-018, CHP06-020, and CHP06-020) and a permit for entry signs and wetland creation (CHP06-022).

On March 26, 2007, the Commission received the County's Notices of Final Local Action (Exhibit 1). The ten working-day Commission appeal period ran from the next business day, March 27, 2007, to April 9, 2007. On April 4, 2007, the Commission received an appeal of the City's actions on the approved CDPs from Kimberly Burr representing Bodega Bay Concerned Citizens (Exhibit 3).

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date that an appeal of a locally issued CDP is filed. The appeal on the above-described decision was filed on April 4, 2007 and the 49th day was on May 23, 2007. On April 11, 2007 the applicant waived its right to a hearing within 49 days of the date the appeal was filed.

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On July 16, 2007, at the applicant's request, the County revised its approval of local CDP No. CPH06-0022 and rescinded its approval of the northern entry sign (Exhibit 2). The original scope of development authorized by CPH06-0022 included two entry signs on both sides of Harbor View Way, the access road to the subdivision off of Highway 1, and the creation of a wetland on Parcel B, located within the center of the subdivision, as mitigation for wetland impacts that resulted from road widening and other construction activities previously authorized by the coastal development permit for the subdivision. The subject CDP No. CPH06-0022 was appealed to the Commission by Concerned Citizens of Bodega Bay (Commission assigned CDP No. A-2-SON-07-013) along with the other four coastal development permits for the houses. The northern entry sign was the only portion of development authorized by coastal development permit (local CDP No. CPH06-0022) that was appealable to the Commission because it was located within 100 feet of a wetland located on Parcel A. (The northern entry sign is designed as a retaining wall with lights, and because it has been removed from the coastal development permit, there will not be any retaining wall, lights, signs or other development within 100 feet of the wetland.) The County, by eliminating the northern entry sign in its revised approval of the permit, has eliminated the basis for the Commission's appeal jurisdiction. Because the County rescinded its approval of appealable development before the Commission asserted jurisdiction over the appeal by making its Substantial Issue Determination, coastal development permit CPH06-0022 is no longer appealable to the Commission and the appeal filed for the permit is no longer valid. Currently, there are only four remaining coastal development permits, which involve development of single-family residences, approved by Sonoma County, on appeal to the Commission because they are located within 300 feet of the mean high tide line.

6.2 Appeals under the Coastal Act

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff; or in a sensitive coastal resource area or located within 100 feet of any wetland, estuary, or stream. Developments approved by counties may be appealed if they are not designated as the "principal permitted use" under the certified LCP. Developments that constitute a major public works or a major energy facility may be appealed, whether they are approved or denied by the local government.

The approved residential developments are east of Highway 1, the nearest public road, but are located within 300 feet of the mean high tide line and thus meet the Commission's appeal criteria set forth in Section 30603 of the Coastal Act. Pursuant to Section 30603 of the Coastal Act, an appeal for this type of development is limited to the allegation that the portion of the development that is located in the Commission appeal jurisdiction does not conform to the standards set forth in the certified LCP.

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Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed. In this case, because the staff is recommending no substantial issue, the Commission will hear arguments and vote on the substantial issue question. It takes a majority of the Commissioners present to find that no substantial issue is raised. Proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons eligible to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted to the Commission or the Executive Director in writing.

6.3 Standard of Review

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term *substantial issue* is not defined in the Coastal Act or its implementing regulations. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Commission Regulations, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

If the Commission chooses not to hear an appeal, the appellant nevertheless may obtain judicial review of the local government's action on the coastal development permit by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

7.0 SUBSTANTIAL ISSUE ANALYSIS

Appellants' Contentions

The appeal includes the following contentions (see Exhibit xx):

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- The County improperly applied its approved categorical exclusion order and excluded 60 of the 70 houses at Harbor View from coastal development permits.
- The County incorrectly determined the appeals jurisdiction of residential developments within the Harbor View subdivision and that in addition to the coastal development permits for the four homes that the County determined was appealable, the remaining 66 residential development should also be appealable because the entire site is Sensitive Coastal Resource Area.
- The County failed to enforce conditions of approval to protect wetlands in the coastal development permit for the subdivision.
- The approved residential developments are inconsistent with the ESHA and wetland protection policies of the LCP due to the location of the development in ESHA and in close proximity to coastal resource area for which inadequate protective measures have been required.
- The approved developments are inconsistent with the geologic hazard policies of the LCP because they are located in a highly hazardous Alquist-priolo Earthquake Fault Zone and adequate geologic studies have not been performed.

The appeal also includes additional contentions concerning the sign previously authorized by CDP No. CHP 06-0022 and the prospective wetland creation referenced in the sign permit and required by the original 1994 subdivision approval. However, as discussed above, since the County has revised its approval of CDP No. A-2-SON-09-013 (Local CDP No. CHP 06-0022) and removed the northern entry sign that was originally approved to be within 100-feet of the wetland existing on Parcel A, development authorized by local CDP No. CHP 06-0022 is no longer appealable to the Commission. As such, the appellants contentions concerning development specifically authorized in that coastal development permit are no longer valid as the permit does not include any development that would be appealable to the Commission under Section 30603 of the Coastal Act. Therefore the Commission will not evaluate any appellant contentions regarding CDP No. CHP 06-0022.

Regarding the wetland creation referenced in the local sign permit that is no longer appealable to the Commission, the Commission notes that the wetland creation was authorized and required by the original subdivision 1994 permit. Moreover, the wetlands that are required to be created by the underlying subdivision approval do not yet exist and cannot thus serve as a basis for appeal jurisdiction under Section 30603(a) as there is no development occurring within 100 feet of an existing wetland. Therefore, the Commission has no appellate jurisdiction over the previously authorized wetland creation.

7.1 Appellant's Contentions that are not Valid Grounds for Appeal

Pursuant to Coastal Act Section 30603(b)(1) the grounds for an appeal of a local government approval of a coastal development permit shall be limited to an allegation

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that the approved developments do not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act.

The appellant contends that development authorized by the coastal development permit issued in 1994 for the subdivision have been violated and as a result adverse impacts to the wetland existing on Parcel A have occurred. The contention regarding enforcement of conditions of approval of the coastal development permit for the subdivision is not valid grounds for appeal because the allegations do not involve conformance of the approved four single-family residences with the policies of the LCP, but rather compliance of the subdivision development with the conditions of approval contained in the previously approved coastal development permit. Any potential violation of the Coastal Act or non-compliance with the conditions of a coastal development permit approval is a separate enforcement matter handled independent of the appeal process.

The appellant's contentions regarding coastal development permitting requirements for the other 60 houses that the County authorized within the subdivision by categorical exclusion is also not a valid grounds for appeal because the contentions do not raise an issue about an appealable development's conformity with the County's LCP or about development for which the local government granted a coastal development permit. The Commission also notes that the dispute resolution provisions of Section 13569 of the regulations are not triggered by the appellant's assertions regarding the County's decision not to require a coastal development for the 60 houses it categorically excluded because the Section 13569 dispute resolution provisions of the Commission's regulations are only triggered if the Executive Director and local government disagree on whether the development is categorically excluded. In this case, both the Executive Director and the local government agree that the 60 houses qualified for categorical exclusion from coastal development permit requirements.

The contention regarding the appealability of 66 non-appealable homes the County approved within the subdivision is also not valid grounds for appeal because it does not raise a contention about approved development that is appealable to the Commission pursuant to Section 30603 of the Coastal Act. Contrary to the appellants' assertions, the 66 homes do not constitute appealable development pursuant to Section 30603 of the Coastal Act. The Commission specifically notes that the 66 homes are not appealable development located in sensitive coastal resource areas pursuant to Section 30603(a)(3) of the Coastal Act because the County did not designate sensitive coastal resource areas in its certified LCP.¹

¹ Section 30116 of the Coastal Act defines Sensitive Coastal Resource Areas as follows:

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity.

Section 30502 of the Coastal Act indicates that sensitive coastal resource areas are areas within the coastal zone where the protection of coastal resources and public access requires, in addition to the review and approval of zoning ordinances, the review and

7.2 Appellants Contentions that Raise No Substantial Issue

7.2.1 Wetland and ESHA Protection Policies

The appellant contends that the approved single-family residences are inconsistent with the wetland and ESHA protection policies of the LCP “due to location of these structures in ESHA, and in close proximity to sensitive coastal resource area for which inadequate protective measures have been required.” Specifically, the appellant contends that developments have been permitted within 300 feet of a wetland without the proper studies to ensure that the wetlands would not be adversely affected by the development. Furthermore, the appellant contends that because a California red-legged frog was found in Johnston’s Gulch, east of the subdivision, that the approved developments are sited entirely within ESHA and as such, inconsistent with the ESHA protection policies of the LCP.

Wetland Issues

The closest of the four approved homes is located approximately 150 feet from the wetland, in an area upslope of the wetland (Exhibit 5).

Applicable LCP Policies include:

LUP Chapter III Policy 20:

Prohibit discharge of wastewater into any wetland unless such discharge maintains or enhances the functional capacity of the wetland and maintains the quality of the receiving water.

LUP Chapter III Policy 26:

Between 100 and 300 feet of wetlands, prohibit construction of agricultural, commercial, industrial and residential structures unless an environment assessment finds the wetland would not be affected by such construction.

approval by the Commission of other implementing actions to protect coastal resources. Sensitive coastal resource areas (SCRAs) can be designated either by the Commission pursuant to Section 30502 of the Coastal Act, or by a local government by expressly mapping and identifying such a designation in its Local Coastal Program (LCP).

The Commission did not ultimately designate SCRAs or make recommendations to the Legislature, as contemplated by Section 30502 and 30502.5.

Although a city or county is not required to designate SCRAs in their LCP, at least four local governments have chosen to do so. The Commission has certified LCP’s that contain SCRA designations from the City of Grover Beach (1982), San Luis Obispo County (1987), the City of Dana Point (1989) and the segment of Mendocino County’s LCP that covers areas outside of the Town of Mendocino (1992). Sonoma County did not designate SCRAs in its LCP consistent with the provisions of Sections 30116 and 30502 of the Coastal Act.

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Since the LCP designates wetlands as an environmentally sensitive habitat, Section 30240 of the Coastal Act incorporated into the LCP states:

- a. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- b. Development in areas adjacent to environmentally sensitive habitat areas and parks and creation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such areas.

Three of the four approved single-family residences are between 100 to 300 feet from the Parcel A wetland, with the closest being approximately 150 feet away and the farthest residence located approximately 270 feet away. The other residence is approximately 200 feet away. The fourth residence is approximately 340 feet away from the wetland. Because three of the four approved single-family residences are located between 150 to 300 feet from the wetland, the appellant contends that the County approved the residences without performing the adequate assessments to find that the development will not adversely affect the wetland as required by LUP Chapter III Policy 26. The appellant also contends that the County did not properly apply its “Administrative Waiver of Wetland Setback Requirements” as specified in Attachment J of the Administrative Manual portion of the LCP.

While the County did not perform a specific environmental assessment of the four residences’ impacts on the wetlands as required for development between 100 and 300 feet of wetlands pursuant to LUP Chapter III Policy 26, potential impacts of the approved developments were analyzed at the subdivision approval stage in 1994 when the approved subdivision included locating 16 residential lots and the access road, Harbor View Way, between 150 and 300 feet of the wetland. Because the extent and distribution of the Parcel A wetland has not experienced any significant changes based on wetland delineations performed in 1990 and 2003 (Exhibit 5), the wetland assessment conducted for the subdivision remains valid. At the time the County authorized the subdivision, the County found that potential impacts to the wetland from the entire subdivision could result from decreased recharge of the wetland and widening of Highway One. The County thus required the applicant to provide for recharge of the wetland through the installation of two dry wells on each lot, construction of infiltration trenches throughout the site, and the use of Parcel B as an additional recharge area. An extensive mitigation and monitoring program was also required to ensure the protection of the wetland. The County also required any loss of the wetland to be replaced on site at a 1:1 ratio. Moreover, the County required various erosion control measures to prevent construction phase impacts to the wetland. The County found that with the mitigation measures, potential impacts to the wetland were reduced to less than significant levels. As discussed above, the subdivision was appealed to the Commission, and one of the issues raised by the appellant (Bodega Bay Concerned Citizens) was inconsistency with the wetland protection policies of the LCP. The Commission found that the appeal of the County’s approval of the subdivision did not raise substantial issue.

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With respect to the specific potential wetland impacts of the four approved single-family residences, potential impacts to wetland recharge as well as increased pollution and sedimentation of the wetland could result from the approved developments. However, as discussed below, due to the County's conditions of approval and the distance of the approved single family residences, these potential impacts have been adequately addressed to ensure the protection of the wetland.

The approved single-family residences can potentially interfere with infiltration of stormwater by replacing pervious, natural groundcover with impervious surfaces such as the residential structure and associated improvements including driveways and patios, thereby reducing the amount of available water for the wetland. The County's conditions of approval for the four single family homes require installation of two dry wells per lot, which will collect the runoff from the roof to provide subsurface recharge for the wetland. The two dry wells per lot, conditions of approval for the four single-family residences, are also conditions of approval for the subdivision and authorizing each of the 70 lots. The dry wells are a part of the overall hydrologic mitigation program for the approved subdivision designed to provide for stormwater infiltration and recharge of the wetland so that recharge to the wetland would remain the same as pre-development levels. Hydrologists have determined that two-dry wells per lot, along with designating Parcel B as a recharge area and installing additional infiltration trenches, will allow the entire development of the Harbor View subdivision, including the residential homes, to provide for the adequate recharge of the wetland on Parcel A. Therefore, the approved developments will not interfere with the recharge of the wetland in a manner resulting in significant adverse impacts to the wetland.

With respect to potential impacts to the water quality and function of the wetland through increased pollution and sedimentation, the County's LCP specifically prohibits the discharge of any wastewater into wetlands. As demonstrated in the County approved plans, post-construction stormwater runoff from the four single family residences will not be discharged into the wetland, but rather into the existing stormdrain system, and the County has required the applicant to implement various construction phase best management practices (BMPs) including installation of silt fencing and sediment rolls along the rear lot lines, minimizing dust generation by moistening the site, and limiting construction activities that would increase erosion to the dry season. Moreover, since the nearest of the four approved residences to the wetland is approximately 150 feet away from the wetland, the buffer area between the residential development and the wetland will be able to filter any polluted runoff from the approved residential development not captured by the dry wells, stormdrain system or the construction phase BMPs. Therefore, the approved developments will not result in any discharge of wastewater into the wetland.

Regarding the contention that the County did not properly apply the "Administrative Waiver of Wetland (100 foot Setback) Requirements" in Attachment J of the Administrative Manual portion of the certified LCP, because the County did not administratively waive the wetland setback requirements through the process enumerated in Attachment J of the Administrative Manual of the LCP, the requirements specified in Attachment J is not applicable to the approved developments. Specifically, Attachment J states:

Administrative Waiver of Wetland (100 Foot Setbacks) Requirements in the Local Coastal Plan in “Rural Communities” and “Urban Service Areas” Only, Where Roads, Topography, Other Development Exists between Property Development Area and Wetlands.

In enforcing the 100-foot setbacks from wetlands and 300 foot environmental requirement near wetlands in urban areas, the Director of the Permit and Resource Management Department may, through aerial photos, topographical maps, or other means make a determination, subject to review and approval by the Executive Director of the Coastal Commission, that development will not affect the riparian area or wetland because:

- a. Other developed lots or roads exist between the proposed development and the wetland. This standard shall be used cautiously—at the other edge of the 300 foot limit. If there is any reasonable doubt the proposal would affect the wetlands or riparian area, an environmental assessment shall be undertaken and include appropriate mitigation measures.
- b. Topography is such that it is highly unlikely that development could affect the wetland.

The policies shall not be waived outside designated “rural community” and “urban service areas” on the Coastal Plan Land Use Map. [Emphasis added.]

The appellant claims that the County approved developments between 100 to 300 feet of wetlands using the administrative waiver described above, and because the Executive Director of the Coastal Commission never approved the waiver, the County did not meet the requirement to waive the 300-foot wetland setbacks.

LUP Chapter III Policy 26 allows development between 100 and 300 feet of a wetland provided an environmental assessment shows that the development would not affect the wetland. The administrative waiver provides another way for the County to approve development within a required wetland setback area, if the County finds that the development would not result in adverse impacts to wetlands and as such would not require an environmental assessment because other developed lots or roads exist between the proposed development and the wetland or because the topography is such that it is highly unlikely that development could affect the wetland. Neither of these two specified circumstances exists with respect to the approved developments, and as such, the administrative waiver was not applicable in the County’s approval of the four single-family homes.

In addition, as discussed above, the County completed a wetland assessment, as a part of the coastal development permit for the entire subdivision that analyzed the potential impacts of the subdivision, portions of which are located within the wetland setback area, to the wetland, and required numerous mitigation measures to address those impacts. Through the coastal development permit for the subdivision, the County found that the approved developments are consistent with Chapter III LUP Policy 26 to approve

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development between 100 and 300 feet of the wetland, and as such, the administrative waiver of wetland setback in Attachment J was not applicable. Therefore, the contention regarding inconsistency with the Administrative Waiver for Wetland Setback requirements does not raise a substantial issue because the waiver process was not utilized for the County's approval of the residential development. In addition, as discussed, the approved developments will not result in significant impacts that will degrade the wetland.

Because the approved developments, as conditioned by the County, will not interfere with the recharge of the wetland, and will not increase pollution or sedimentation of the wetland or discharge any wastewater into the wetland, the Commission finds that the appeal raises no substantial issue concerning the conformity of the four approved single-family residences with the wetland protection policies of Sonoma County's certified LCP.

Other ESHA Issues

On March 10, 2007, a resident in the neighboring Taylor Tract found a frog in Johnson Gulch, a stream located 150 feet away from the eastern most boundaries of the Harbor View subdivision. The appellant asserts that the frog is a California red-legged frog, however, the taxonomy of the species is presently unclear. Based on the finding of the frog, the appellant contends that the approved developments are within ESHA and that the development has not incorporated adequate measures to protect the ESHA for the frog.

Johnson's Gulch is mapped as an intermittent stream on a USGS topographic map and is located approximately 150 feet away from the northwestern boundary of the Harbor View Subdivision and approximately 1,000 feet from the site of the approved single-family residences. After the discovery of the frog, the County consulted with California Department of Fish and Game (CDFG) biologists who visited the Harbor View site on May 10, 2007 and determined that the red-legged frog found on March 10, 2007 could be either a northern red-legged frog, a California red-legged frog, or a hybrid of the two species. Both the northern red-legged frog and the California red-legged frog are California Species of Special Concern. The California red-legged frog is also a federally threatened species, however only the California red-legged frogs south of Walker Creek in Marin County are deemed federally threatened and protected by the federal Endangered Species Act. CDFG biologists state in that:

If there are red-legged frogs in the Harbor View development area, they would likely be found along the small water course that flows in Johnson Gulch along the east or northeast side of the property, well removed from the developed site. If red-legged frogs are using Johnson Gulch, they would likely remain close to the channel where there is a higher moisture level and where riparian vegetation would provide more shade and cover than what currently exists where the development is located. We also find it unlikely that the red-legged frog would use the historic wetland adjacent to Highway 1 for breeding due to the expected lack of adequate water and/or water quality (Exhibit 7).

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The approved single family residences are approximately 1,000 feet from Johnson's Gulch. As noted in the Site Description section, the entire 27-acre subdivision site has been graded and construction has commenced on the affordable housing units in the southern portion of the 27-acre site. While Johnson's Gulch meets the definition of an environmentally sensitive habitat area because the LCP designates riparian corridors as sensitive habitats, and CDFG has found that red-legged frogs are likely to use the stream and riparian area, the sites of the four approved single-family residences do not meet the definition of environmentally sensitive habitat area because they have been graded and developed and are located approximately 1,000 feet from Johnson's Gulch with intervening development, which drastically reduce the likelihood of red-legged frogs dispersing onto the sites.

The appellant contends that the finding by CDFG is not adequate as red-legged frogs are known to use small mammal burrows during dry period (Exhibit 8). CDFG biologist states that if any red-legged frogs would aestivate in any mammal burrows, they would be limited to the areas within 200 feet of Johnson's Gulch, but not on the site of the approved four residential development. CDFG biologist states the following:

Within the Harbor View area red-legged frogs might use Johnson's Gulch as a distribution corridor, but for much of the year Johnson's Gulch is going to be too dry for the frogs. They might find potential breeding habitat in the wetland area where the gulch discharges into Bodega Bay. There could also be potential breeding habitat further inland if the landscape is conducive to the formation of ponds or large pools. For Johnson Gulch to serve as migration corridor it must have a lush riparian corridor to keep the frogs cool and moist. In the Harbor View area Johnson Gulch might, marginally, provide this habitat in the winter or early spring, but in late spring, summer, and fall it appears to be much too dry to support the red-legged frogs.

In the dry season the red-legged frogs may aestivate underground in mammal burrows, or other openings. These aestivation sites are generally going to be close to streams or ponds, or within lush woodland habitats close to streams, where the ground will stay moist. In establishing Critical Habitat for the [California] red-legged frog, the Fish and Wildlife Service defined the likely maximum extent of dispersal away from the stream, or its associated riparian vegetation, as 200 feet. Thus, the chance of even the widest ranging of red-legged frogs entering the Harbor View area is very small.

It remains my opinion that potential for red-legged frog habitat on the Harbor View site is very low, and that the highest potential habitat in the area is along Johnson Gulch. The top-of-hill area at Harbor View where development is proposed has no potential for red-legged frog breeding, and extremely low habitat potential for red-legged frog distribution, or summer aestivation. The upland portions of Harbor View, including the area in the northwest corner [where the approved developments are located], is simply too dry to support red-legged frogs and too far removed from any potential habitats. The nearest potential distribution or summer aestivation habitats are about 800 to 1000 feet away along Johnson Gulch, and that area is marginal, at best (Exhibit 9).

Because the sites of the approved four residential development do not provide habitat for the California or northern red-legged frog, they are not environmentally sensitive habitat areas. Moreover, because the red-legged frog has an extremely low potential to occur on the sites of the approved developments, the approved developments will not result in significant adverse impacts that will harm red-legged frogs, disrupt the environmentally sensitive habitat areas, or be incompatible with the maintenance of the biological productivity of the habitat. Therefore, the appeal does not raise a substantial issue of conformance of the approved four single-family residences with the environmentally sensitive habitat area protection policies of the LCP.

7.2.2 Geology

The appellant contends that the approved developments lie in a highly hazardous Alquist-Priolo fault zone and that adequate geologic studies have not been performed to show that the approved developments meet the geologic hazard policies of the LCP.

Applicable LCP Policies include:

Coastal Act Section 30253 incorporated into the LCP states in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

LUP Chapter III Geologic Hazards

2. Prohibit development within 100 feet of a bluff edge or within any area designated unstable to marginally stable on Hazards map unless a registered engineering geologist reviews and approves all grading, site preparation, drainage, leachfield and foundation plans of any proposed building and determines there will be no significant impacts. The engineering geologist report shall contain, at a minimum, the information specified in the Coastal Administrative Manual.
3. Enforce the requirements of the Alquist-Priolo Special Studies Zone Act for protection from fault rupture hazard.
4. Design and construct all structures for human occupancy, including mobile homes, in accordance with Zone 4 standards of the Uniform Building Code.
5. Enforce the geologic provisions of Chapter 70 of the Uniform Building Code.

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6. Require engineering geologic reports in accordance with the Permit and Resource Management geologic review procedure.

The LCP requires that new development minimize risks to life and property in areas of high geologic hazard and requires applicants to prepare geotechnical reports to ensure that proposed developments will meet such goal.

The four approved single-family residences are not located in areas designated unstable or marginally stable on the Hazards Map in the County's LCP. The entire Harbor View subdivision site is approximately 1,000 feet east of the San Andreas fault, and as a result, falls under the provisions of the Alquist-Priolo Earthquake Fault Zoning Act. The Alquist-Priolo Earthquake Fault Zoning Act requires a geologic investigation prepared by a licensed geologist to demonstrate that proposed buildings would not be constructed across any active faults.

Numerous geologic reports were prepared for the review of the Harbor View subdivision in 1994 including an active fault study and a liquefaction study. Several geotechnical reports were prepared subsequent to the approval of the subdivision which have more detailed recommendations for grading and setbacks of individual lots as well as foundation designs for specific residences.

The appellant's geologist raises various questions regarding the adequacy of the geologic studies in the County's record in addressing the issues of active earthquake faults, liquefaction, and slope stability.

Commission Staff Geologist has reviewed all of the geotechnical reports for the Harbor View Subdivision and the approved single-family residences in the County's records and has provided a memo (Exhibit 10) that states in part:

There is a long history attached to these projects, and many geologic issues have been raised over the past 20 years. These include the possibility of fault rupture, severe ground shaking, liquefaction, lateral spread, slope stability. In addition, concerns about the continued viability of a wetland have been raised, requiring hydrogeologic monitoring and mitigation. All of these issues have been dealt with extensively by consultants for the developer, staff of the California Department of Mines and Geology, and staff at the County level during review and certification of the EIR, and during Coastal Development Permit application, and subsequent appeal of the subdivision...

[*Active Faulting*]

...

Reference (1) reports on a study that consisted of limited trenching across the site undertaken to support a previous project. Reference (10) reports on more extensive trenching undertaken for the EIR of the Harbor View subdivision. No faults were observed in the trench reported on in reference (1), but four

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faults with limited offset were observed in one of the trenches reported on in reference (10). Detailed soil studies (reference 8) demonstrate that these are confined to the marine terrace deposits that are approximately 120,000 years old, and do not offset the soil horizons in the overlying soils. Because these soils require many thousands of years to form, it is concluded that these faults are older than 11,000 years old, and so are defined as “potentially active” rather than “active” by the California Geological Survey. I concur with this assessment. Accordingly, no setback is necessary from these fault traces under the Alquist-Priolo Act.

...

[Liquefaction]

...

When the Harbor View subdivision was proposed, extensive attention was directed at the liquefaction hazard during preparation of the EIR.... when the Department of Conservation (of which the California Division of Mines and Geology is a part) commented on the final EIR (reference 14) they stated:

“The FEIR raises issues of computer modeling and historical evidence of liquefaction, attempts to balance those apparently conflicting results, and concludes that liquefaction hazards are low for the site. The Department’s analysis, based upon the data provided in the FEIR and associated documents, does not concur with that conclusion for the site. However, the Department believes that liquefaction hazards within the overall boundaries of the project can be specifically identified and mitigated. Again, we expect that the site-specific investigations prior to subdivision will accomplish that goal”

Reference (18) was prepared to evaluate design-level geotechnical conditions, and to provide recommendations for foundation design to accommodate liquefaction settlement. After slope setback issues were addressed (reference 21) and recommendations for ground water recharge were made (reference 17), the County of Sonoma determined that the mitigation measures outlined in the EIR and conditions of the subdivision approval had been met (reference 22). I concur, and feel that the liquefaction hazard has been adequately mitigated by foundation design criteria.

...

[Slope Stability]

...

There has been continued concern over slope stability at the site. Quantitative slope stability analyses have demonstrated the overall global stability of the site (reference 29). However, a swale, variously described as a “sinkhole” or a closed depression has been the subject of much debate. Local residents indicated that this swale had deepened through time (reference 1, 7), and the

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California Division of Mines and Geology had early concerns that this feature might represent a sagpond, a feature associated with active faulting (reference 3). These issues were addressed in reference (7) and (8) as well as in the final EIR. I believe that these references demonstrate that the swale is not, in fact, a closed depression, but an indistinct drainage swale. Some settlement of artificial fill in the swale may have occurred, but the swale does not present future stability concerns following mass grading at the site.

...

In a letter dated August 21, 2007 (Exhibit 12), the appellant states that pursuant to the *Statewide Interpretive Guidelines Concerning Geologic Stability of Bluff-top Development*, incorporated into the Administrative Manual portion of the County's LCP, that where there is a dispute over the adequacy of a geologic report, the Commission may request that the report be reviewed by a state geologist from the Division of Mines and Geology (now called the California Geologic Survey). The appellant requests that the Commission consult with the California Geologic Survey on the approved developments. However, consultation with the California Geologic Survey is unnecessary because Commission Staff Geologist has independently reviewed the geologic studies prepared for the approved developments and determined that they are adequate to demonstrate that the developments have minimized risks to life and property, and as such, there is no dispute over the adequacy of any geologic reports contained in the County records whereby consulting with the California Geologic Survey may be needed.

In a separate letter dated August 21, 2007 (Exhibit 13), the appellant provides eight letters from Department of Mines and Geology and one letter from the California Geologic Survey (Department of Mines and Geology is now called the California Geologic Survey. The letters are therefore from the same agency). Seven of the letters address the adequacy of the geotechnical reports in an EIR prepared for a development proposal previous to the Harbor View subdivision named Bodega Bay Village. While the letters serve as good background material, as noted above, various geologic reports have been prepared specifically for the Harbor View subdivision and the approved single-family residences. These reports and recommendations have been reviewed by Commission Staff Geologist who has determined that the approved developments do not raise any significant geologic hazard issues. An April 12, 2007 letter from State Geologist John Parrish states that "CGS is not aware of the development activities of the Harbor View subdivision." However in a separate letter dated January 29, 1999 from James Davis (Exhibit 14), then State Geologist, he states, "as reviewers of environmental documents that are sent to the State Clearinghouse, we reviewed EIRs for development at this site several times during the past eight years and, after several meetings with opponents and the project's consultants, we concluded that the EIR sufficiently addressed geologic problems at the site."

In summary, based on the results of available geotechnical studies in the County's record, it is Commission Staff Geologist's position that there are no active faults within the entire Harbor View Subdivision, or the sites of the four approved single family residences, that the liquefaction hazards have been adequately mitigated by foundation design criteria

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required by the County, and that slope stability within the entire site of the subdivision has been adequately demonstrated. Therefore, the approved developments will minimize risk to life and property in an area of high geologic hazard, and the Commission finds that the approved developments do not raise a substantial issue of conformity with the geologic hazards policies of Sonoma County's certified LCP.

7.3 Conclusion—No Substantial Issue

Applying the relevant factors listed in the prior section further clarifies that the appeal raises no substantial issue with respect to the conformity of the approved developments with the policies of the Sonoma LCP.

Regarding the degree of factual and legal support for the local government's decision that the development is consistent with the LCP, the County's findings for approvals of the local CDPs state that the four single-family residences conform to the policies of the LCP. The appellant contends that the County's approvals are inconsistent with the LCP policies on wetlands, environmentally sensitive habitats areas, and geologic hazards. As discussed above, with the County's required mitigation measures and due to the distance of the approved developments from the Parcel A wetland, the approved developments will not result in significant adverse impacts to the wetland adjacent to the approved developments. In addition, due to the developed conditions on site and the significant distance (approximately 1,000 feet) of the approved developments from Johnson's Gulch, habitat for the red-legged frog, there is an extremely low likelihood that any red-legged frogs will occur on the sites of the approved developments and as such, the approved developments will not result in significant adverse impacts to any environmentally sensitive species or their habitats. Moreover, geotechnical studies show that the approved developments are not located on any active faults or in an area of geologic hazards. Thus, substantial factual and legal support exists for the County's action on the approved developments.

Regarding the scope of the development approved by the local government, the scope of the approved developments is limited to four single-family residences in an approved subdivision that will be constructed with 70 total single-family homes along with 14 units of affordable housing. The approved developments are not sited in sensitive habitats or wetlands and will not result in significant coastal resource impacts. Thus, the approved developments are minor in scope.

Regarding the precedential value of the local government's decision for future interpretations of its LCP, as discussed above, the County has performed numerous biological and geotechnical assessments in reviewing the approved developments and incorporated measures to avoid significant adverse impacts to coastal resources. Because the approved developments are consistent with the policies of the LCP, the County's actions on the approved developments do not establish any negative precedent concerning the interpretation or implementation of the LCP.

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Therefore, in conclusion, the Commission finds that the appeal does not raise a substantial issue concerning the consistency of the approved developments with the policies of the Pacifica LCP.