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Appeal Filed: 7/17/2017
49th Day: 9/25/2017
Staff: Rainey Graeven - SC
Staff Report: 7/27/2017
Hearing Date: 8/10/2017

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal Number: A-3-SCO-17-0037

Applicants: Kelly and Doug Britt

Appellant: Seacliff Ocean Bluffs Association

Local Government: Santa Cruz County

Local Decision: Coastal development permit (CDP) application number 161245 approved by the Santa Cruz County Planning Commission on June 14, 2017.

Location: 355 Coates Drive (APN 028-216-28) in the Seacliff area of Santa Cruz County.

Project Description: Construct a 169-square-foot entryway addition within the interior courtyard of the existing residence; modify the existing flat roof to incorporate a new pitched roof design; demolish an existing 170-square-foot detached carport; replace windows and doors; install drainage improvements including roof spouts and percolation pits; adjust lot lines to transfer approximately 643 square feet of land from an adjacent property (APN 038-216-31) to the subject property (APN 038-216-28).

Staff Recommendation: No Substantial Issue

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which the Commission will take public testimony. (California Code of Regulations, Title 14, Sections 13115 and 13117.)

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County approved a coastal development permit (CDP) to perform minor remodeling to an existing single-family residence (i.e., replace windows and doors, demolish an existing 170-square-foot carport; construct an approximately 169-square-foot entryway addition within the interior courtyard; change the roof from the existing flat roof design to a pitched roof design; install drainage improvements; and transfer approximately 643 square feet of land from an adjacent neighbor's property to the subject property at a site located in the Seacliff area of Santa Cruz County). The project site is located on the blufftop above Seacliff State Beach and adjacent to the Beachgate pathway, which provides pedestrian access from Coates Drive on top of the bluff down to the beach below.

The Appellant contends that the approved project is inconsistent with Santa Cruz County Local Coastal Program (LCP) policies related to public views, geologic hazards, and public access, and that the County's notice of CDP action was incomplete. After reviewing the local record, Commission staff has concluded that the County-approved project does not raise a substantial issue with respect to the project's conformance with the Santa Cruz County LCP.

Specifically, the project is minor in scope, largely consisting of aesthetic improvements, as well as drainage improvements conditionally required by the County. In terms of public views, the approved project is consistent with the LCP because it will not block or significantly impact public views, including public views from the Beachgate pathway and Seacliff State Beach. The approved project is also generally consistent with the character of other residential development in the neighborhood.

With respect to hazards, while the County's review and processing process did not entirely meet geologic reporting requirements, ultimately the project is adequately set back to meet the LCP's 100-year stability requirements, and the project also includes significant drainage improvements, which taken together appropriately ensures that potential geologic hazards at the site have been adequately addressed.

With respect to contentions related to public access, the LCP sections related to public access are not implicated by the County-approved development, and the project will not have an effect on public recreational access in this case. Finally, while the County CDP notice does not entirely conform to standards set forth in the LCP, the notice adequately conveyed all of the necessary and pertinent information including, but not limited to, project plans, Zoning Administrator and Planning Commission staff reports, revised conditions of approval, correspondence, and site

photos. Further, the notice process worked in a way that allowed the Appellant to appeal, which is arguably one of its primary functions.

As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 4 below.

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EXHIBITS

- Exhibit 1 – Project Site Map
- Exhibit 2 – Project Site Images and Photographic Simulations
- Exhibit 3 – County’s Final Local Action Notice
- Exhibit 4 – County Approved Project Plans
- Exhibit 5 – Appeal of Santa Cruz County’s CDP Decision
- Exhibit 6 – Aerial View (Lot Line Adjustment)
- Exhibit 7 – Applicable LCP Policies and Standards

CORRESPONDENCE

(Appellant Correspondence)

I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the Commission will not hear the application de novo and that the local action will become final and effective. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-SCO-17-0037 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

***Resolution to Find No Substantial Issue.** The Commission finds that Appeal Number A-3-SCO-17-0037 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The County-approved project is located at 355 Coates Drive in the Seacliff area of Aptos in unincorporated south Santa Cruz County. The project site is on the seaward side of Coates Drive on the blufftop above Seacliff State Beach, and within an LCP mapped scenic resources area. The State Beach below includes a wide beach with an array of public access and recreational opportunities, an RV campground, an interpretive center, and the renowned Cement Ship¹. The property is also located adjacent to the Beachgate pathway that begins at the intersection of Beachgate Way and Coates Drive and provides access (primarily to residents, although not exclusively) down the bluff to Seacliff State Beach. The coastal bluff is between 100 to 120 feet high in the Seacliff area.² The bluff below Coates Drive is generally unarmored and contains a fair amount of vegetation largely consisting of various trees and brush.

¹ According to the Department of Parks and Recreation's webpage for Seacliff State Beach, three cement ships were built in the early 1900's for military uses following steel shortages. Ultimately, these ships were not completed until after WWI had ended, so they sat in various shipyards in the Bay Area. In 1929, Cal-Nevada bought one of the ships, the Palo Alto, with the idea that they would use it as an amusement ship. The Palo Alto's maiden voyage was to Seacliff State Beach. Upon opening the sea cocks, the Palo Alto settled to the ocean floor where it has resided ever since. By the summer of 1930 a pier to the ship had been built, and a deck, swimming pool, and dance floor were constructed. After two seasons Cal-Nevada went bankrupt, and the boat was stripped. It was then used for recreational fishing until it became unsafe. Although it has deteriorated over time and completely broke in half in winter of this year, it has remained a renowned local attraction.

² Griggs, G.B. & Fulton-Bennett, K.W. "Failure of Coastal Protection at Seacliff State Beach, Santa Cruz County, California, USA." Environmental Management Volume 11, No. 2, pp. 175 – 182. (1987).

The property is zoned R-1-4 (Single-Family Residential, 4,000-square-foot minimum parcel size). Existing development on the project site consists of a single-family residence, a carport, and a detached non-habitable accessory structure. The County-approved project provides for: 1) the replacement of windows and doors; 2) the demolition of an existing 170-square-foot carport; 3) the construction of an approximately 169-square-foot entryway addition within the existing interior courtyard; 4) the alteration of the roof from the existing flat roof design to a pitched roof design.

The immediate downcoast property is located at 353 Coates Drive (APN 038-216-31). The parcel boundary for APN 038-216-31 is shaped like a backwards capital “L” with the base of the backwards “L” extending seaward of the project site. The County-approved project also includes a lot line adjustment to transfer approximately 634 square feet of property (i.e., the base of the backwards “L”) from APN 038-216-31 (353 Coates Drive) to APN 038-216-28 (355 Coates Drive).

See **Exhibit 1** for a location map; see **Exhibit 2** for photographs of the site and surrounding area, as well as photo-simulations of the approved project; and see **Exhibit 4** for the approved project plans.

B. SANTA CRUZ COUNTY CDP APPROVAL

On April 21, 2017, the Santa Cruz County Zoning Administrator (ZA) approved a CDP for the project (County application 161245). The ZA’s decision was appealed by the current Appellant to the County’s Planning Commission on May 5, 2017. The Planning Commission approved the project with revised conditions of approval on June 14, 2017. See **Exhibit 3** for the County’s Final Local Action Notice.

The County’s Final Local Action Notice was received in the Coastal Commission’s Central Coast District Office on Friday, June 30, 2017. The Coastal Commission’s ten-working-day appeal period for this action began on Monday, July 3, 2017 and concluded at 5 p.m. on Monday, July 17, 2017. One valid appeal (see below) was received during the appeal period.

C. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP (Coastal Act Sections 30603(a)(1)-(4)). In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. (Coastal Act Section 30603(a)(5).) This project is appealable because it is located between the first public road and the sea, and because it is located within 300 feet of the beach and the coastal bluff.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b)(2) of the Coastal Act requires the Commission to consider a CDP for an appealed project de novo unless a majority of the Commission finds that “no substantial issue” is raised by such allegations.³ Under Section 30604(b), if the Commission conducts the de novo portion of an appeal hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea and thus this additional finding would need to be made (in addition to a finding that the proposed development is in conformity with the Santa Cruz County LCP) if the Commission were to approve the project following the de novo portion of the hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons opposed to the project 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 in writing (California Code of Regulations, Title 14, Section 13117). Any person may testify during the de novo CDP determination stage of an appeal (if applicable).

D. SUMMARY OF APPEAL CONTENTIONS

The Appellant contends that the County-approved project raises LCP consistency questions relating to visual resources, coastal bluff hazards, and public access/recreation, as well as procedural inconsistencies. Specifically, the Appellant contends that the approved project is inconsistent with the LCP because: 1) the approved roof modification would result in a significant increase in height and thus would be visually incompatible with the adjacent properties; 2) the required geology reports were not obtained, and the project does not meet the required blufftop setback or mitigate for geologic hazards at the site; 3) development at the project site could lead to erosion of the coastal bluff, which in turn could adversely affect the Beachgate pathway; and 4) the FLAN is incomplete. Please see **Exhibit 5** for the full text of the appeal contentions.

³ The term “substantial issue” is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal (by finding no substantial issue), appellants nevertheless may obtain judicial review of a local government’s CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5.

E. SUBSTANTIAL ISSUE DETERMINATION

1. Visual Resources

The Appellant contends that the County-approved project raises LCP consistency questions relating to protection of visual resources. Specifically, the Appellant contends that the approved modifications to the roof (which entail modifying the existing flat roof design by raising the plate height by one foot and reframing the roof with a pitched roof design) would: 1) adversely impact views from the adjacent Beachgate pathway and from Seacliff State Beach; 2) result in a significant height increase that would be incompatible with the surrounding neighborhood and would set a negative precedent for future development in the area.

The Santa Cruz County LCP is very protective of coastal zone visual resources, particularly in regards to views from public roads and from the beach. LCP Objective 5.10a seeks to identify, protect and restore the aesthetic values of visual resources and Policies 5.10.3 and 5.10.6 require protection and preservation of public and ocean vistas, respectively. See **Exhibit 7** for the LCP's applicable visual protection policies. In addition, the Implementation Plan sets forth standards for residential development including for maximum height (See **Exhibit 7**: IP Section 13.10.323).

The LCP's maximum height for this zoning district is 28 feet. The existing residence is 13 feet and 4 inches in maximum height. The County-approved roof modifications will result in a maximum height that is two-and-a-half feet taller than the existing residence (i.e., a maximum height of 15 feet 10 inches). In total, the County-approved roof modifications result in a relatively modest increase in height that is well below the LCP's maximum height limitation of 28 feet for this zoning district, and these changes will not have significant impacts on public views.

With respect to neighborhood compatibility, although the Appellant contends that the project site is located "in the middle of a continuous row of 21 single story houses that are sitting directly on top of the ocean bluffs," the development along both the seaward and inland side of Coates Drive consists of a combination of single-story and two-story residences, including two two-story residences located directly upcoast from the project site (see **Exhibit 2**). Furthermore, the County-approved development does not entail a second story addition; rather the project entails aesthetic roof improvements to an existing single-story house, consistent with other peaked roof designs that exist along Coates Drive. In this light, converting the flat roof to a pitched roof design arguably facilitates conformance of the property to the community character.

The property is located within an LCP-mapped scenic area. A mapped scenic resource designation recognizes that the area contains significant visual resources worthy of protection. Currently, existing residential development is only minimally visible from both Seacliff State Beach and the Beachgate pathway due to both the topography and the height of the bluff, and existing trees and shrubs that help block views of residential development from the beach (see **Exhibit 3**). In terms of views from the beach, the only portion of the existing house currently visible from the beach is the roof line, which is barely visible from select angles and locations along Seacliff State Beach. While the County-approved roof modifications do increase the maximum roof height from grade by a maximum of two-and-a-half feet, this increase in height will not have a significant impact on views from the beach given that there is other existing

development along Coates Drive that is more visible from the beach, including two-story development. Thus, even though the approved project will incrementally add to the amount of development within the beach viewshed, in this case, such increment is minor in relation to the nature of the existing built environment in this urban location, and the effect that it will have on the public view from the beach. Therefore, because the County-approved development entails a relatively small increase in total height (i.e., two-and-a-half feet) and development along the blufftop is already visible from the beach, the project does not raise substantial issue with respect to its location within a designated visual resource area.

Regarding the contention that the approved project will have a negative impact on views from the Beachgate pathway, the existing residence is visible from the public path because the path passes alongside as well as seaward of the house. However, in terms of views towards the ocean from the path, the approved project will not have any impact on public views of the ocean from the path because the slightly taller roof will not impede any sight lines along the path (i.e., the sight lines when walking down the path are out toward the ocean, not toward the residence).

With respect to the contention that the roof modifications would set a precedent for larger development in this area, because the roof modification would result in a total height increase of only two-and-a-half feet and the residence will remain single-story and is well below the LCP's maximum height limitation for this zoning district, the County-approved development will not create a precedent for taller development in the area.

In sum, the approved project does not result in significant adverse impacts to the public viewshed, and are compatible with surrounding development. For all of the above reasons, the approved project does not raise a substantial issue of LCP conformance with respect to visual resources.

2. Coastal Blufftop Development/Hazards

The Appellant contends that the approved residence is inconsistent with the County's Geologic Hazards Ordinance including with respect to adequately mitigating geologic hazards, required setbacks, and required geologic reports. The Appellant also raises issues with the fact that the Applicant elected to submit a separate application to the County for a retaining wall and additional drainage improvements.⁴ Lastly, the Appellant broadly contends that existing landslide conditions are not being properly addressed.

The County LCP seeks to reduce hazards and property damage caused by landslides and other ground movements in areas of unstable geologic formations, potentially unstable slopes and where there is coastal bluff retreat, including by requiring appropriate setbacks from coastal blufftop edges. Further, the LCP generally requires the preparation of a geologic hazards assessment (GHA) and/or a geologic report for new development located on the blufftop, and also requires that any such development be sited a minimum of 25 feet from the blufftop or be adequately set back for 100 years, whichever is greater. See **Exhibit 7** for the LCP's applicable geologic hazard policies and standards.

⁴ The Applicants have submitted a CDP application to the County (Application No. 161083) that remains incomplete. Application No. 161083 is a separate application from the project that is the subject of this appeal.

With respect to the contentions that the County-approved project does not meet the required setbacks and did not include required geologic reporting, it appears that the County's process did not perfectly conform to the LCP's geologic assessment requirements, but ultimately LCP objectives are met because the project meets all required setback and other relevant hazard requirements. Specifically, the project required a GHA, including because it includes a lot line adjustment and constitutes an addition, but an assessment was not completed for this project. It is possible a full geologic report may have been required as well (e.g., if either a significant potential hazard is identified by a hazard assessment or for a land division located within an earthquake faultzone on the State Alquist-Priolo Earthquake Fault Zoning Act maps).

In any event, in this case a GHA was completed for the site (related to the aforementioned separate CDP application for a retaining wall and certain drainage improvements), and it was reviewed by the County geologist who determined that the information included in the assessment was "sufficient to demonstrate that the project is both 25 feet from the coastal bluff and set back from the 100 year erosion/ stability setback" (see page 10 of **Exhibit 3**). Therefore, although the processing of the geologic assessment was atypical and did not perfectly conform to the LCP's requirements, the development nevertheless meets both the 100-year setback and the minimum 25-foot setback, which translates to the same project outcome. In other words, regardless of whether the GHA was formally reviewed as a part of this project or for the associated project at the project site, the County-approved project that is the subject of this appeal still conforms to the necessary setbacks, and the project site (including the development of the subject appeal) meets the 100-year stability requirements. In sum, while there are some processing questions, the County-approved development meets the LCP's setback requirements (i.e., minimum of 25 feet and 100 years of stability), and these appeal contentions do not raise a substantial issue with respect to the project's conformance with the certified LCP.

The Appellant also broadly contends that "existing slide conditions are not being properly addressed." Specifically, the Appellant states that the adjacent Beachgate pathway experienced erosion during the winter the months, and alleges a connection between the erosion of the path and the approved project (see **Exhibit 5**). First, there is no evidence in the administrative record that the subject site, including any existing development at the site, contributed to the erosion of the Beachgate pathway this past winter. Moreover, the County-approved project is conditioned to include significant drainage improvements that will redirect runoff away from the bluff (where it was historically directed) through the construction of roof spouts, deep percolation pits, and increased permeable surfaces on the inland street-facing area of the development site (see **Exhibit 4**). The County-approved project is thus consistent with the LCP's requirements for mitigating "existing or potential erosion problems" stemming from drainage conditions at the project site (see LUP Policy 6.3.3 of **Exhibit 7**). Therefore, the Appellant's contention that slide conditions are not being properly addressed does not raise a substantial issue with respect to conformance to the certified LCP.

In sum, while there are some processing questions related to assessment and report requirements, because the County-approved project adequately addresses geologic hazards at the site, including because the development effectively meets the required minimum 25-foot and 100-year setback and includes significant drainage and erosion control improvements, the appeal contentions

related to geologic hazards do not raise a substantial issue with respect to the project's conformance with the certified LCP.

3. Public Access

The Appellant contends that the approved project raises LCP consistency questions relating to public access. Specifically, the Appellant contends that: 1) additional development of the project site could undermine the adjacent Beachgate pathway which, as described above, suffered erosion during the past winter; 2) the lot line adjustment could interfere with a "State Parks easement;" and 3) State Parks "should be a part of the process since Seacliff State Beach General Plan highlights concern with the development adversely affecting the State Park resources" (see **Exhibit 5** for the Appellant's contentions).

Both the LCP and the Coastal Act are highly protective of public access and recreational opportunities and seek to protect and improve public access through maximizing public access opportunities (see **Exhibit 7** for the applicable LCP and Coastal Act public access policies). However, these policies are not implicated by this minor residential project. With respect to the lot line adjustment, the adjacent downcoast property is unusually configured and actually extends seaward of the subject site (see **Exhibit 6**). Because an existing developed deck on the project site extends over the existing property line onto the neighboring downcoast property, the primary purpose of the lot line adjustment is to reconfigure the parcel boundaries such that they reflect the current development pattern and to ensure that the deck is located within the Applicants' property line and meets the necessary setback requirements from the property's boundaries. Further, it should be noted that the approved lot line adjustment is a transfer between two neighboring property owners (353 Coates Drive and 355 Coates Drive), and that the State Parks easement is located on a separate property (APN 038-175-21) and is thus not affected by the County-approved lot line adjustment.

Therefore, because the public access and recreation policies of the Coastal Act and LCP are not relevant to this particular development project, and the project raises no public access and recreation issues, the appeal contention does not raise a substantial issue in terms of the project's conformance with the certified LCP or the Coastal Act.

4. Incomplete Final Local Action Notice (FLAN)

Lastly, the Appellant contends that the County's final local action notice (or FLAN) on its CDP decision is "disorganized and incomplete." Specifically, the Appellant contends that: 1) the FLAN does not include a list of supporting documents; 2) the FLAN does not list the recipients of the notice; 3) correspondence is missing from the FLAN, and; 4) the FLAN failed to include project plans and/or that these plans will be finalized at the Planning Commission's July 26, 2017 hearing.

The County LCP (see **Exhibit 7**; IP Section 13.20.111) requires that FLANs contain: 1) a cover sheet or memo summarizing the relevant action information and 2) materials that further explain and define the action taken. The cover sheet is required to contain: a) the project applicants, their representatives, and their addresses/ contact information; b) project description and location; c) the County decision-making body, the County decision, and the date of the decision; d) all local appeal periods and disposition of any local appeals filed; e) whether the County decision is

appealable to the Coastal Commission, the reason why it is appealable, and the procedures for appeal to the Coastal Commission; f) a list of all supporting materials provided to the Coastal Commission as part of the final local action notice; and g) all recipients of the notice. In this case, the cover sheet/memo did not include all of the above-required information; however, all relevant information was provided within the FLAN itself. Specifically, in terms of missing items, the memo/cover sheet did not include: all local appeal periods and disposition of any local appeals filed; nor a list of the supporting documents included in the FLAN. However, Commission staff and the Appellant were aware of the dates of the local appeal periods⁵ due to communication between Commission staff and Santa Cruz County planning staff and the Appellant and Santa Cruz County planning staff, and the staff reports for both the Zoning Administrator and Planning Commission hearings were included in the FLAN. In addition, the FLAN contained all of the required supported materials (i.e., final adopted findings and final adopted conditions, final staff report, approved project plans, and correspondence), including correspondence that adequately characterizes the Seacliff Ocean Bluffs Associations' (i.e. the Appellant's) opposition to the project.

Finally, the FLAN did include a copy of the project plans and one of the two pages of the architectural drawings that specify heights from various points of the property. While a complete FLAN would have included both pages of the architectural drawings that specify the project heights throughout the property, the single page was sufficient to gauge the total development height at various grades throughout the property. With respect to the Appellant's contention that the plans have yet to be finalized, the Planning Commission added Condition II.A.2.a (see page 4 of **Exhibit 3**) to the CDP in an effort to address the Appellant's concerns related to the project heights. This condition requires the Applicant to submit revised plans that clearly depict the project height approved by the Planning Commission. In other words, this condition requires that the revised architectural drawings (which include the project's height) be incorporated into the final plans for Planning Commission review in order to ensure that the condition is met. Therefore, the condition requiring revised plans' compliance with the Planning Commission-approved project height was finalized at the time of project approval, even though actual performance in compliance with the condition would occur at a later time, as is a typical way of conditioning projects.

In sum, while the FLAN was not organized precisely as required by the LCP as a technical matter, it did include sufficient information to allow for adequate review of the project for substantive LCP consistency. Finally, the notice process worked in such a way that allowed the Appellant to appeal, which is arguably one of its primary functions. Thus, this contention does not raise a substantial issue of LCP conformance with regard to the adequacy of the FLAN.

F. CONCLUSION

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission

⁵ The Appellants appealed the project from the Zoning Administrator to the Planning Commission, and indicated to Commission staff that they would have appealed the project to the Board of Supervisors had they "not run out of time" in preparing their appeal documents.

should assert jurisdiction over a de novo CDP for such development. At this stage, the Commission has the discretion to find that the project does not raise a substantial issue of LCP conformance. As explained above, the Commission in its past decisions has considered whether the issues raised in a given case are “substantial” by the following five factors: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

In this case, these five factors, considered together, support a conclusion that this project does not raise a substantial issue of LCP conformance. With respect to the first factor (i.e., degree of factual and legal support for the government’s decision), it was reasonable for the County to conclude that the project conforms to the LCP’s requirements with respect to the protection of public viewsheds, public access, and geologic hazards, and the County notified the Commission of its action via the County’s procedures for the FLAN. Specifically, among other things, the project entails a minor height increase of two-and-a-half feet to provide for a pitched roof design, and it is not anticipated that the additional two-and-a-half feet in roof height will impact views given that the existing residence is barely visible from the beach due to the bluff topography, the presence of trees of trees and shrubs on the bluff, and the relatively insignificant height increase.

With respect to the public access contentions, while the approved project is located adjacent to the Beachgate pathway, the County-approved project does not entail any development that will adversely impact the pathway. Rather, the County-approved project actually redirects drainage away from the bluff, which may positively benefit the pathway through decreased runoff down the bluff and onto the path (thereby facilitating public access). With respect to the geologic hazard contentions, because the development is adequately set back and includes significant drainage improvements, the County reasonably concluded that potential hazards at the site have been adequately mitigated. Therefore, the project, as approved by the County, can be found to be in accordance with the LCP policies related to public access and the protection of public views, and achieves the LCP’s objective of mitigating geologic hazards. Thus, the County had adequate factual and legal support for its decision.

With respect to the second and third factors (i.e., extent/scope of development as approved or denied and significance of coastal resources affected by the decision, respectively), the approved project is relatively minor; it entails the demolition of a carport, a 169-square-foot interior addition, and the replacement of doors, windows, slight elevation of the roof, and drainage improvements. Thus, the approved project is relatively limited in scope, qualifies as a minor remodel, and does not adversely affect significant coastal resources. With respect to the fourth factor (i.e., precedential value of the County’s decision for future interpretations of its LCP), the County-approved development is compatible with adjacent development, including development located along the seaward side of Coates Drive. In fact, given that the project was designed without a second story addition, the project actually helps to perpetuate single-story development in this area. To the extent that the County misinterpreted the LCP with respect to hazards policies (i.e., with respect to the need for a hazard assessment) and/or technical FLAN requirements, the Commission finds that any resultant error is non-prejudicial given that the project as approved by the County is consistent with the LCP. Finally, with respect to the fifth factor (i.e., whether the

appeal raises only local issues as opposed to those of regional or statewide significance), the appeal does not raise any issues of statewide significance because any potential issue of consistency with respect to hazards or FLAN policies is solely in relation to the specific requirements of the County's LCP.

In short, the Appellant's contentions do not raise a substantial issue with respect to consistency with applicable LCP policies and standards and are further adequately addressed by the County's conditions of approval. Based on the foregoing, including when all five substantial issue factors are weighed together, the appeal contentions do not raise a substantial LCP conformance issue and thus the Commission declines to take jurisdiction over the CDP application for this project.

For the reasons stated above, the Commission finds that Appeal Number A-3-SCO-17-0037 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.