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Appeal Filed: 6/6/2017
 49th Day: Waived
 Staff: Brian O'Neill - SC
 Staff Report: 8/25/2017
 Hearing Date: 9/14/2017

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal Number: A-3-MCO-17-0031

Applicants: Johannes and Kristi Van Greunen

Appellants: Monique Fountain et al.¹

Local Government: Monterey County

Local Decision: Coastal development permit (CDP) application number PLN150489 approved by the Monterey County Board of Supervisors on May 16, 2017.

Location: 6820 Long Valley Spur Road (APNs 029-201-052-000 and 029-201-006-000) in North Monterey County.

Project Description: Lot line adjustment between three lots of 13.5, 19.1, and 7.4 acres resulting in lots of 2.9, 3.6, and 33.5 acres.

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

¹ One appeal was received, signed by 15 individuals. The Appellants are: Monique Fountain, Susan Simon, Donald Hodges, Janis Turner, Denise and Brad Barnett, Jeanne Johnson, Jennifer Hartford, Robert Staley, Kristal and Robert Gaskell, Jamie and Bret Whitford, Edgar Gonzalez, and Debra Louison Lavoy.

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

Monterey County approved a coastal development permit (CDP) for a lot line adjustment between three lots of 13.5, 19.1, and 7.4 acres resulting in lots of 2.9, 3.6, and 33.5 acres in North Monterey County. The subject parcels are located in a rural residential neighborhood approximately 4.5 miles inland of the coast and 1.5 miles east of Elkhorn Slough. The site contains areas of maritime chaparral, which the Local Coastal Program (LCP) identifies as an Environmentally Sensitive Habitat Area (ESHA). The site also contains Arnold Loamy Sand soil, which is considered a highly erodible soil type that is specifically protected under the LCP. The site is gently sloping and flattens out at the northern edge.

The County's CDP included conditions that required a "B6" zoning overlay to prevent future subdivision, an 18-foot building height limit overlay, and recordation of conservation easements that will limit development on approximately half of the site acreage to protect maritime chaparral ESHA, areas with Arnold Loamy Sand soil, and the flat northern edge of the property that the County identified as the ridgeline. The County's approval did not include the actual development of any structures.

The Appellants main contentions are that the approved project is inconsistent with applicable LCP provisions because: 1) the project does not constitute clustered development to allow for lots below the zoning district's minimum lot size; 2) the project may result in ridgeline development that will impact views from public viewing areas; and 3) the project may result in a building within an ESHA setback.

Two of the resultant lots would be below the LCP's minimum lot size, but the LCP allows the creation of such lots if they would result in "clustered residential development." The County found that placing large portions of the site into easements ensures that future homes will be clustered together and that such clustering will protect natural resources on the site.

The LCP also prohibits lot line adjustments that would create ridgeline development. The County found that the easement condition, which prohibits future development on the ridgeline of the site, and a condition limiting future residential development to 18 feet in height, would minimize visual resource impacts from public viewing areas, based upon staking and flagging that was done on the project site. Moreover, the project site is only briefly visible from two public viewpoints on Elkhorn Road, which are half a mile or more away. Further, future development of residences on the parcels will require separate CDP approvals that will need to demonstrate consistency with the LCP's visual resource protection provisions. Finally, the County found that the Applicants demonstrated that there is ample room on the lots for future residences to be

located outside of ESHA setback areas. Staff believes that the County’s findings are reasonably supported by substantial evidence and that the appeal does not raise a substantial issue with respect to the grounds on which the appeal has been filed.

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
- Exhibit 3 – County’s Final Local Action Notice
- Exhibit 4 – Approved Project Plans
- Exhibit 5 – Appeal of Monterey County’s CDP Decision
- Exhibit 6 – Conservation Easement Areas
- Exhibit 7 – Applicable LCP Policies and Standards

CORRESPONDENCE

- Applicants’ 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-MCO-17-0031 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-MCO-17-0031 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.*

II. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The three lots that are the subject of this appeal are located at 6820 Long Valley Spur Road in North Monterey County. All of the lots are currently undeveloped, with the exception of an unimproved private access road that runs along the existing property lines. The site is located approximately 4.5 miles inland of the coast and 1.5 miles east of Elkhorn Slough. The project is in a rural residential neighborhood intermixed with agricultural uses. The parcels are zoned RDR/10 (Rural Density Residential) with a minimum lot size of five acres and a maximum gross density of one unit per ten acres.

The site consists of disturbed annual grasslands, oak woodland, and maritime chaparral. A biological report completed for the project site states that a sensitive plant species, the Monterey spineflower (*Chorizanthe pungens* var. *pungens*), is present on portions of the lots and other special status plant and animal species have the potential to occur throughout the site. Arnold Loamy Sand soil and Arnold Santa Ynez Complex soil, both of which are classified as highly erodible soil types, are found on the properties. The site is gently sloping and flattens out at the northern edge. The flat northern edge is visible from a small section of Elkhorn Road, which is designated as a scenic public road in the North Monterey County Local Coastal Program (LCP).

Monterey County approved a CDP for a lot line adjustment between three lots of 13.5, 19.1, and 7.4 acres, resulting in lots of 2.9, 3.6, and 33.5 acres. The approval included a “B6” zoning overlay condition to prevent future subdivision and an additional overlay to restrict future building heights to 18 feet. The County approval also included scenic and conservation easement requirements over large portions of the lots in order to protect maritime chaparral habitat areas, areas containing the highly erodible Arnold Loamy Sand soil, and the flat northern edge of the property that the County considered to be the ridgeline.

See **Exhibit 1** for a location map; **Exhibit 2** for photographs of the site and surrounding area; **Exhibit 4** for the approved project plans, and **Exhibit 6** for the approximate approved scenic and conservation easement locations.

B. MONTEREY COUNTY CDP APPROVAL

On November 9, 2016 the Monterey County Planning Commission denied a CDP for the proposed lot line adjustment, finding that the project was inconsistent with the LCP with regard to the requirements for clustered development that allow for the creation of lots below the required minimum lot size. The Planning Commission's decision was appealed by the Applicants to the County Board of Supervisors, which granted a hearing on the appeal of the Planning Commission's denial and ultimately approved a CDP for the lot line adjustment on May 16, 2017 by a vote of 3-2. 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 June 5, 2017. The Coastal Commission's ten-working-day appeal period for this action began on June 6, 2017 and concluded at 5 p.m. on June 19, 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 for development that is not designated as a principally permitted use under the County's LCP.

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.² Under Section 30604(b), if the Commission conducts the de novo portion of an

² The term "substantial issue" is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has considered 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.

appeals 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 not located between the nearest public road and the sea and thus this additional finding would not need to be made 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 Appellants contend that the County-approved project raises LCP consistency questions relating to minimum lot size, visual resources, biological resources, and development potential. Specifically, the Appellants contend that the approved project would violate applicable LCP policies because: 1) the project does not constitute clustered development to allow for lots below the minimum lot size; 2) the project may result in ridgeline development that will impact views from public viewing areas; 3) the project may result in a building located within the setback of an Environmentally Sensitive Habitat Area; and 4) the project may result in the development of an accessory dwelling unit (ADU). Please see **Exhibit 5** for the appeal contentions.

E. SUBSTANTIAL ISSUE DETERMINATION

1. Minimum Lot Size and Clustering of Development to Protect Natural Resources

North Monterey County Implementation Plan (IP) Section 20.16.060.A states that the minimum lot size within RDR zoned areas is five acres “unless otherwise approved as part of clustered residential development.” The LCP does not provide a specific definition of the term “clustered residential development,” nor does the LCP explain when clustering is appropriate as part of proposed residential development. However, other policies within the LCP provide additional context with regard to the intended purpose of the clustered development provision and how it should be interpreted and applied here. Specifically, North Monterey County Land Use Plan (LUP) Policy 2.3.2.4 states that to “protect environmentally sensitive habitats [ESHA] and the high wildlife values associated with large areas of undisturbed habitat . . . development shall be clustered to prevent habitat impacts.” LUP Policy 2.5.3.C.3.c. also states that “[c]lustering of building sites on the least erodible portions of the parcel(s) shall be required where it will result in reduced erosion.” (See **Exhibit 7** for all cited LCP provisions.) The use of the term clustering in these policies demonstrates that “clustered residential development” is encouraged when

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.

clustering would result in the protection of ESHA and/or avoid erodible soils. In the Long Valley watershed area, where the project site is located, LUP Policy 4.2.6.D.7 states that maritime chaparral habitat and the highly erodible Arnold Loamy Sand soils³ “shall be protected to the maximum extent feasible.”

The Appellants contend that the approved lot line adjustment does not constitute clustering because the lots are still large and the future homes may not be clustered together. The Appellants also state that the lot line adjustment will not result in better protection of natural resources. See **Exhibit 5** for the Appellants’ contentions.

As mentioned above, the County-approved project is for a lot line adjustment between three lots of 13.5, 19.1, and 7.4 acres resulting in lots of 2.9, 3.6, and 33.5 acres. All three of the existing lots meet the five-acre minimum lot size required by IP Section 20.16.060.A for parcels in the RDR/10 zoning district that are not approved as part of clustered residential development. The County-approved project will result in two lots that are below the LCP’s five-acre minimum lot size. As a requirement of the County’s approval, all areas on the resultant lots that contain maritime chaparral habitat and Arnold Loamy Sand soil, which constitute approximately half of the 40-acre project area, will be placed into conservation easements (see **Exhibit 6**). The County’s approval did not include development of any actual structures or identification of building envelopes on any of the three lots.

With respect to whether the lot line adjustment constitutes “clustered residential development,” which is required by the LCP to allow for lots smaller than five acres in the RDR/10 zoning district, the County explained that the term “clustered residential development” is not precisely defined in the LCP. The County found that conditioning its approval to place large portions of the lots into conservation easements (see Condition 6 on page 14 of **Exhibit 3**) results in “de facto” building envelopes that will ensure that any future homes will be grouped close together and thus constitutes clustered residential development. Given the location of the required conservation easements, in which development is not allowed, future residential development on the three lots would be generally “clustered” as shown in **Exhibit 6**. Thus, although the approved lot line adjustment *alone* would not guarantee that future homes would be clustered, the County’s determination in this case is reasonable because the lot line adjustment, along with the conservation easement requirement to protect both maritime chaparral and Arnold Loamy Sand soil placed within the proposed spatial configuration of the resultant lots, ensures future residential development will be clustered.

With respect to whether the lot line adjustment adequately protects natural resources, such as sensitive habitat and erodible soils, by clustering development (as required by LUP Policy 2.3.2.4 and LUP Policy 2.5.3.C.3.c.), the County found that the lot line adjustment would ensure protection of all maritime chaparral habitat and Arnold Loamy Sand soil on the lots because all of these areas will be included in the conservation easement that precludes future development. Although absent this lot line adjustment, future individual review of proposed development on the lots in their existing configuration would also need to avoid impacts to maritime chaparral,

³ The lots also contain Arnold Santa Ynez Complex soil, which is considered an erodible soil type by the Natural Resources Conservation Service, a federal agency within the Department of Agriculture. However, the LCP provides no specific protections for this soil type.

the lot line adjustment in combination with the conservation easement requirement ensures that all future houses will be clustered within one of the existing lots in the northwest corner of the site (see **Exhibit 6**) and provides a larger undisturbed area of habitat for plants and wildlife, as encouraged by the LUP. Further, two of the existing lots are covered *entirely* by either maritime chaparral ESHA or the LUP-protected Arnold Loamy Sand soil. The County determined that the lot line adjustment would ensure that *none* of the resultant lots consist entirely of sensitive habitat and/or Arnold Loamy Sand soil, meaning that future development on these lots can be located in areas that avoid these areas and therefore better protect natural resources than the existing lot configuration.

For all the above reasons, the County's approval for lots below the minimum lot size and the County's determination that the lot line adjustment will result in clustered development and will better protect natural resources is reasonable. Thus, the approved project does not raise a substantial issue of LCP conformance with respect to minimum parcel size and clustering of development to protect natural resources.

2. Ridgeline Development

The County's LCP includes various provisions that require the protection of visual resources from public viewing areas, including through provisions discouraging ridgeline development. IP Section 20.96.950 defines ridgelines development as "development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area." The IP further defines a substantial visual impact in Section 20.06.1275 as "the proximity and duration of view when observed with normal unaided vision, causes an existing visual experience to be materially degraded." IP Section 20.144.030.B.7 specifically discusses lot line adjustments, stating that the County "shall not configure a lot so as to create a building site that will result in ridgeline development." This section further requires an applicant to "demonstrate that there is a building site and building height(s) available which will not create ridgeline development" and that a "condition of project approval shall be the establishment of a building site and a building height envelope that provides specifications for nonridgeline development on the lot(s) in question." See **Exhibit 7** for the full text of these IP sections.

As explained above, the project is for a lot line adjustment among three lots. The closest public viewing areas from the project site are a small section of Elkhorn Road, which is over one half mile away, and the Elkhorn Slough Reserve, which is over one mile-and-one-half away. The project site slopes up to the north and flattens out along the northern edge. Due to the new lot configuration and required conservation easements, future building areas on the resultant lots are all clustered upslope on the northern half of the project area. The County required the flat northern edge of the project area to be placed into a scenic conservation easement (see **Exhibit 6**). The County also limited future building heights to 18 feet (see Condition 8 on page 14 of **Exhibit 3**).

The Appellants contend that the Applicants have not demonstrated that building sites and heights are available on the reconfigured lots that would not result in future ridgeline development. They further state that the lot line adjustment will make it difficult to develop houses that will not result in ridgeline development. The Appellants included GIS analysis to demonstrate that if

intervening vegetation were removed, 18-foot-tall structures on portions of the resultant lots would be visible from public viewing areas. See **Exhibit 5** for the Appellants' contentions.

The County determined that the flat northern edge of the property constitutes the "ridgeline" and that placing this area into a scenic conservation easement would prevent future ridgeline development (see **Exhibit 6**). The County's approval appears to conclude that only structures built upon the highest, flat portion of the lots constitute ridgeline development. This interpretation of ridgeline development would potentially allow for structures that extend above the ridge and create a silhouette, as long as the structure itself is not built upon the literal apex of the ridge. The Commission disagrees with the County's definition of ridgeline development and finds that any development built upon the upper sloped portions of the property that creates a silhouette extending above the ridgeline can constitute ridgeline development if it substantially adversely impacts public views.

However, despite this finding, the Applicants have demonstrated that there are building sites available that would not result in ridgeline development, and thus that implementation of the policy in a manner that prohibits development that silhouettes above the ridgeline can be met for specific future CDP permitting proposals for residential development on the parcels (notwithstanding the fact that the County's conservation easement requirement only ensures protection for the apex of the ridge). Specifically, the Applicants placed 18-foot-tall flags on the highest point of the developable portion of each lot, in addition to staking and netting the areas of the likely future building envelopes. The Applicants provided photographic evidence (see pages 5 and 6 of **Exhibit 2**) that the staking and netting of potential future building envelopes are not visible from public viewing areas, i.e. from Elkhorn Road and the Elkhorn Slough Reserve.⁴ Although the 18-foot-tall stakes on the highest portion of the developable area of each lot do extend slightly above the ridge, the stakes were placed on the highest portion of the developable area for reference to the most extreme development scenario and are not located in the likely future building areas and, in any event, are only visible from a very small portion of Elkhorn Road located one-half a mile away. Importantly, the County's approval of the lot line adjustment does not allow for the development of any actual structures. Even if the approval is not fully technically consistent with the LCP requirement in IP Section 20.144.030.B.7 that requires the identification of building envelopes for lot line adjustments that have the potential for ridgeline development, the applicant has shown that there are potential building envelopes within the developable area available that would not result in such development. Subsequent, site specific CDP review for specific development projects on the resultant parcels will ensure that future development is sited to prevent ridgeline development in accordance with LCP requirements.

⁴ The Appellants' GIS analysis concludes that 18-foot-tall structures would be visible from large portions of the developable areas of the resultant lots. However, the analysis utilized "Bare Earth" modeling that does not take into account existing vegetation. The Appellants' GIS analysis therefore does not reflect actual conditions on the ground, including the existing public views. IP Section 20.06.1275 (see **Exhibit 7**) states that substantial adverse visual impacts include impacts to the "existing visual experience." Furthermore, the approved CDP on appeal does not allow for removal of any existing vegetation. Finally, the prohibition on ridgeline development resulting in substantial visual impacts is to be understood relative to common public viewing areas, not necessarily from the project site itself.

IP Section 20.144.030.B.6. requires development to be located on the portion of the lot that would prevent ridgeline development and further requires structures to be “modified for height, bulk, design, size, location, and siting, and/or shall incorporate landscaping or other techniques” to minimize visual impacts. Thus, future development of any specific structures on the lots will require subsequent CDP consideration subject to full compliance with LCP requirements, in addition to more exact staking and flagging, which will help to ensure that such development does not extend above the ridgeline. Thus even if there are portions of the lots where 18-foot-tall structures are hypothetically visible, subsequent CDP consideration would require the height of the structures to be further reduced and/or relocated into areas that are not visible to the public, in accordance with LCP requirements.

For all the above reasons, the Appellants’ contention that the approved lot line adjustment may result in ridgeline development does not raise a substantial issue of conformance with the LCP.

3. Other Contentions

ESHA Setback

IP Section 20.144.040.B.2 provides for the protection of maritime chaparral and establishes a 100-foot setback from maritime chaparral ESHA (see **Exhibit 7**). The Appellants contend that the lot line adjustment will create a lot (i.e., Lot 1 as seen in **Exhibit 6**) in which the development area is so limited that it will force development to extend within the required setback area. However, the Applicants have provided analysis to demonstrate that there is approximately 13,000 square feet of developable area outside of the ESHA setback that provides ample space for a future building site (see **Correspondence**). Further, as explained above, future development of any specific structures would require subsequent CDP consideration. To be consistent with IP Section 20.144.040.B.2, such future development will need to be located outside of the ESHA setback, which can be assured at the time of a site-specific project proposal. Thus this contention does not raise a substantial issue of LCP conformance because the approved lot line adjustment includes an adequate future development area located outside of the maritime chaparral setback.

Accessory Dwelling Units (ADUs)

A recent amendment to the County’s LCP prohibits ADUs within the North County area (IP Section 20.64.30.D – see **Exhibit 7**). Condition 9 (see page 15 of **Exhibit 3**) of the County’s approval limits construction on the largest resultant lot to “one single family dwelling (SFD) and one potential Accessory Dwelling Unit (ADU).” The Appellants contend that this approval is contrary to the LCP’s prohibition on ADUs in North County. However, the County’s approval merely limits potential future development and does not include approval of any actual development, including any ADU. Any hypothetical future development of an ADU on this lot would require subsequent CDP review and would appear to be not approvable under current LCP provisions. However, this scenario is not triggered by the County’s approval here. Thus this contention does not raise a substantial issue of LCP conformance because it does not actually approve an ADU on any of the resultant lots.

Community Benefit

The Appellants also contend that the lot line adjustment does not provide any benefit to the community and will increase traffic on their private road. The LCP does not require lot line adjustments to provide a benefit to the neighboring community and does not address traffic on private roads, and the Appellants do not cite any LCP provisions in support of these contentions. Thus these contentions do not raise an issue of LCP conformance.

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 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 has in the past considered the following five factors in its decision of whether the issues raised in a given case are “substantial”: 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. First, the County’s approval included scenic and conservation easements over approximately half the site in a spatial configuration such that future development on the reconfigured lots will protect ESHA, avoid LCP-protected erodible soil types, and adequately protect public views, substantively consistent with LCP requirements regarding clustered development (including with respect to the substandard status of two resultant lots) and ridgeline protection. The County found that the easements result in “de facto” building envelopes that will ensure future houses are clustered in order to protect natural resources, as required by the LCP. With respect to visual resources, the developable portions of the lots are only minimally visible under the most extreme development scenario from two public viewpoints that are one-half a mile or more away, which though perhaps not fully technically consistent with all LCP requirements does satisfy the requirements in substance and does not raise a substantial issue in this regard. The County further determined, based upon the staking and flagging of potential future building envelopes, that the project will not lead to significant future visual impacts, as required by the LCP. Lastly, and relevant the ESHA setback and ADU issues as well, the County explained that its approval is limited to the lot line adjustment only and that any subsequent future applications for site-specific residential development on the resultant lots will need a separate CDP, for which approval will require demonstrated consistency with the LCP. Thus, the County has provided adequate factual and legal support for its decision that the approved development would be consistent with the certified LCP.

Regarding the extent and scope of development approved by the County, the County merely approved a lot line adjustment, which will not result in any actual development buildout; any proposed site-specific development will require separate CDP review subject to LCP consistency. Furthermore, as explained in this staff report, the extent and scope of *potential* development allowed by the County’s approval has been “clustered” and reduced by protection

of large areas of land through conservation easements. Thus, this factor supports a finding of no substantial issue with respect to the grounds of the appeal.

Regarding the significance of coastal resources affected by the decision, coastal resources at issue with respect to the County's approval include maritime chaparral habitat and Arnold Loamy Sand soil (both of which are specifically protected in the LCP), as well as ridgeline views. However, the significance of these coastal resources does not raise a substantial issue with respect to the grounds of the appeal because, as previously explained, these resources are adequately protected by conservation easements required by the County's approval and the proposed project is only for the lot line adjustment, and any site-specific development proposal will require additional CDP review when actual physical development of the site is proposed.

Regarding the precedential value of the County's decision for future interpretations of its LCP, the only potential ramification of LCP interpretation resulting from the County's decision relates to determination of what constitutes "clustered development" and "ridgeline development." However, this factor is tempered by the dual facts that the County's interpretation of "clustered development" is reasonably supported by substantial evidence, and also in this staff report the Commission has explained for future County consideration its interpretation of what constitutes "ridgeline development" and the rationale for the Commission's position. Thus, this factor supports a finding of no substantial issue with respect to the grounds of the appeal.

Finally, regarding whether this appeal raises only local issues as opposed to those of regional or statewide significance, this factor supports the conclusion that the appeal raises only local issues, more specifically proper application and interpretation of Northern Monterey County LCP policies relating to "clustered development" and "ridgeline development" as those concepts and policies are specifically provided for within the LCP. Thus, this factor supports a finding of no substantial issue with respect to the grounds of the appeal. For the reasons stated above, the Commission finds that Appeal Number A-3-MCO-17-0031 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 and is consistent with the certified LCP.