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STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal No.: A-5-LOB-20-0012

Applicant: Marina Pacific Homeowners Association
(Attn: Roger Porter)

Local Government: City of Long Beach

Local Decision: Approval with Conditions

Appellants: Charles Richey

Project Location: 6201 East 2nd Street, Long Beach, Los Angeles County

Project Description: Appeal of City of Long Beach Local Coastal Development Permit 19-004 for the replacement of approximately 2,500 linear feet of security wall on the north, south, and west property lines of Marina Pacifica Condominium Development; tree removal and replacement on private property may be required as part of the fence replacement projects.

Staff Recommendation: Determine that no substantial issue exists

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 3 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 it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

On January 13, 2020, the City of Long Beach approved Local Coastal Development Permit (LCDP) 19-004 with conditions for the replacement of approximately 2,500 linear feet of security wall and the replacement and removal, if necessary, of trees on private property. There are existing pine trees in the vicinity of the proposed wall which may be removed during construction. Any trees impacted by the proposed security wall replacement project would be replaced one-to-one with a species selected from a list of trees that supports nesting coastal birds.

The approval for the proposed tree work also included a condition stating that “all special conditions of Coastal Permit No. 5-08-187 (Tree Trimming and Removal Policy) that can feasibly be applied to the project that is the subject of this permit shall be adhered to.” The Tree Trimming and Tree Removal Policy approved by the Coastal Commission includes requirements for tree trimming and removal in the State Tidelands and State Permit Jurisdiction area of the Long Beach Coastal Zone. The subject site is not located in that area, however, the City has selected to require that the proposed project be in compliance with the conditions of the Tree Trimming and Removal Policy that can be feasibly applied here.

The appellant contends that there were disclosure issues with the Marina Pacific Homeowners Association (HOA), as the HOA failed to communicate to homeowners the adverse impacts that the proposed security wall project would have on their trees. The appellant further contends that the City-approved project’s conditions for tree replacement require an inadequate five-year tree monitoring plan that does not guarantee protection of the trees and would result in a very tight corridor of space that would inhibit the trees from growing properly.

The subject site is located in the Southeast Area Development and Improvement Plan (SEADIP) Planning District 1 and within the Coastal Zone, in the City’s certified Local Coastal Program (LCP) jurisdiction. Coastal resources that exist within 1,000 feet of the proposed project site include the Alamitos Bay Marina, the Los Cerritos Channel, Mother’s Beach and visitor-serving commercial developments. The proposed security wall and all of the proposed tree work is on private property.

The City approved the tree removal and replacement with conditions to ensure that vegetation modifications comply with the Migratory Bird Treaty Act including the completion of nesting bird surveys prior to any tree or vegetation removal, the Commission-approved Tree Trimming and Tree Removal Policy that applies elsewhere in the City, in accordance with a qualified biologist's tree list that contains tree species suitable for nesting coastal birds, and one-to-one replacement with 48-inch diameter tree boxes. In addition, the City's conditions included a requirement that the applicant submit a monitoring program to the Department of Development Services prior to the commencement of any tree modifications. The program shall be in place for a minimum of a 5-year period to ensure the health of the relocated and replaced trees and, if any tree replacement is required throughout the duration of the program, the applicant shall observe all special conditions that can be feasibly applied of the Tree Trimming and Tree Removal Policy.

Pursuant to Section 30603(b)(1), the standard of review for this appeal is the City's certified LCP and incorporated SEADIP policies. The proposed replacement of the security wall and the tree removal and relocation, if necessary, are consistent with these policies and will not adversely affect biological productivity. Commission staff therefore recommend that the Commission find that the City's action to approve the CDP does not raise a substantial issue as to its conformity with the certified LCP.

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APPENDIX

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Site Plans

Exhibit 3 – Local CDP No. 19-004

Exhibit 4 – Appeal

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-LGB-20-0015 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

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: The Commission finds that Appeal No. **A-5-LOB-20-0012** 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 with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

On February 14, 2020, Charles Richey filed an appeal of Local CDP No. 19-004 (**Exhibit 4**). The appellant contends that the Marina Pacifica Homeowners Association (HOA) failed to disclose to member homeowners the harmful and, potentially life-threatening, impacts to pine trees on their property that would be caused by the proposed security wall replacement project. Further, the appellant asserts that the City-approved project does not properly protect the trees, pursuant to the City's condition of a 5-year monitoring plan and one-to-one tree replacements with 48-inch diameter tree boxes. While the appellant does not explicitly cite the precise conflicts between the City's action and the policies of the certified LCP, their concern regarding the protection of natural resources is related to the general goals of the City of Long Beach's certified LCP.

The appellant alleges a lack of transparency in the HOA process, which failed to disclose that significant excavation would take place for the proposed security wall which might severely impact or kill their trees. The appellant further contends that there was no HOA proposal for an alternative security project that would avoid removal of the trees, which would be feasible using existing infrastructure. The appellant proposes an alternative project with the existing, wood wall that would provide zero impact to their trees as a substitute to the City-approved project.

The appellant contends that the project, as approved by the City, does not guarantee the protection of the existing pine trees, if they are to be replaced. Further, the appellant asserts that the 5-year monitoring project is inadequate as it requires removed trees to be replaced within 5 years of the wall construction and replacement trees to have a minimum 48-inch wide tree box which would result in a tight corridor space that would not allow sufficient space for the trees.

III. LOCAL GOVERNMENT ACTION

On January 13, 2020, the City of Long Beach Zoning Administrator held a public hearing on Application No. 1903-21 and approved Local Coastal Development Permit (LCDP) 19-004 with special conditions to replace the security wall along the north, south and west property lines of Marina Pacifica Condominium Development and tree removal and replacement that may be required as part of the fence replacement project (**Exhibit 3**). No appeals were received during the City's local 10-day appeal period.

The City's Notice of Final Local Action for Local CDP No. 19-004 was received in the Coastal Commission's Long Beach Office on January 31, 2020, and the Coastal Commission's required 10 working-day appeal period was established. On February 14, 2020, Charles Richey filed a timely appeal of the City-approved project. No other appeals were received during the appeal period.

IV. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development projects approved by cities or counties may be appealed if they are located within certain geographic appealable areas, such as those located between the sea and

the first public road paralleling the sea, or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government 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) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea, and is 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.

Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1):

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

Section 30625(b)(2) of the Coastal Act requires the Commission to conduct a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a). If Commission staff recommends a finding that a substantial issue does exist, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the Commission will conduct the de novo portion of the public hearing on the merits of the project at a later time. A de novo review of the application on the merits uses the certified LCP as the standard of review. (Section 30604(b).) In addition, for projects located between the first

public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act. (Section 30604(c).) Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission, by a vote of three or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue question. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow at a later date during which the Commission will take public testimony.

V. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The subject site is located along the first public road from the sea (Alamitos Bay) in the Southeast Area Development and Improvement Plan (SEADIP) Planning District 1 (**Exhibit 1**) of the Long Beach Coastal Zone. A variety of coastal resources exist within 1,000 feet of the proposed project site, including, but not limited to, the Alamitos Bay Marina, Los Cerritos Channel, Mother's Beach and visitor-serving commercial developments. The subject development is located along the west, north and south property lines of the Marina Pacifica Condominiums along East Marina Drive.

The City-approved project includes removal of 2,000 linear feet of wood fence, and replacement with 2,500 linear feet of concrete security wall along the north, south and west property lines of the Marina Pacifica Condominiums. The proposed wall is 8 feet high. The top 3-5 feet of the proposed wall will be visibly open and will feature wrought iron fence extensions (**Exhibit 2**). The concrete to wrought iron ratios will vary along the segments of the wall. For example, segments of the wall near the pool will feature 3 feet of concrete and 5 feet of wrought iron to enhance views of the surrounding Marine Stadium/Alamitos Bay. The City's record includes a document from BrightView Tree Care Services, dated October 25, 2019, which states that 20 pine trees are intended to be removed and one tree will have a large branch removed. The replacement trees will have a 48-inch wide and approximately 36-inch high tree box. The trees themselves are 3-6 inches in diameter and approximately 8-12 feet in height. While the City's conditions include a one-to-one replacement for all

trees removed for the security wall project, replacement trees will not be planted in the same spots due to overplanting that may cause additional stress to the new trees.

Although the subject site is not in a Tidelands area, the CDP provides a condition to adhere to the California Coastal Commission's policy objectives for tree work which applies in other areas of the City. The Tree Trimming and Tree Removal Policy is to ensure the long-term protection of breeding and nesting habitat of birds, protected by the Fish and Game Code, the Migratory Bird Treaty Act, and all bird species of special concern.

B. LOCAL COASTAL PROGRAM CERTIFICATION

Long Beach is a coastal city in southern Los Angeles County. In 1980, the Coastal Commission certified the City's LCP. The City's LCP is comprised of a Land Use Plan (LUP) and Implementation Plan (IP) and is the standard of review for the subject appeal. The Southeast Area Development and Improvement Plan (SEADIP) is a component of the LCP.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(2) of the Coastal Act requires the Commission to conduct a de novo review 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 pursuant to Section 30603(a). Section 13115(c) of the Commission's regulations lists the following 5 factors as appropriate considerations in determining whether an appeal raises a substantial issue:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions 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 interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Staff is recommending that the Commission find that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the

local government are the project's conformity with the policies of the certified LCP. The appellant raises the following contentions.

Contention: The HOA did not disclose the proposed project's impact on trees or provide alternative project proposals to the homeowners

The appellant asserts that the Marina Pacifica HOA did not disclose that the proposed project would require significant excavation and would result in adverse impacts to their trees. The appellant further contends that the HOA did not provide any alternative project proposals to homeowners to show alternative project proposals that would avoid impacting or killing trees.

With regard to the lack of disclosure, the appellant states that the HOA held a ballot vote for the proposed project, which passed, but the HOA failed to mention how the project would require excavation and the removal of pine trees located on the property. Additionally, the appellant asserts that the HOA used the ballot vote to suggest to the homeowners that the proposed project was the only way to secure the property and did not provide any alternate project proposals with existing infrastructure. The appellant provided an alternate proposal to secure the property by replacing the existing 3-foot high handrail with a 6-foot new aluminum rail with an integrated handrail that would completely avoid adverse impacts to the trees.

Grounds the Coastal Commission may consider in its substantial issue analysis are limited to inconsistency with the City of Long Beach's LCP and the public access policies of the Coastal Act. There are natural resource protection policies of the LCP for coastal resources, environmentally sensitive habitat areas, and minimizing energy consumption. As detailed in the City record and analyzed further in the findings below, the City-approved project, as conditioned, is not inconsistent with these policies of the certified LCP. While it is unfortunate that affected homeowners were not made aware of the all of the components of the project or alternatives, the LCP does not contain policies that address an HOA's responsibilities with respect to its members. The contentions in the appeal related to the HOA disclosure issues and lack of alternate project proposals do not raise a substantial issue.

Contention: The City did not properly condition the protection of the trees

The appellant asserts that the City's condition of approval for tree replacement requirements would be costly, logistically difficult, and would not provide enough space for healthy tree growth. More specifically, the appellant contends that the City's condition requiring the 48-inch diameter tree box replacement trees equates to a replacement pine tree that is approximately 20 feet high and a total weight that is well over 1,000 pounds. The appellant states that this is a significant problem because the security wall is proposed between the existing, elevated sidewalk and the replacement trees. The appellant asserts that the proposed project design severely limits the amount of space available to transport, maneuver and plant the replacement trees, as the trees will have a very tight corridor of space. The appellant contends that this is logistically difficult and expensive, as it will require a crane and will further endanger and choke the newly

planted trees.

Regarding the appellant's concern related to the adequacy of the required 5-year monitoring program, the appellant states the City's condition requires that any pine trees killed will be replaced within 5 years of wall construction. The City's condition states that a tree monitoring program will be in place for a minimum of 5 years. Further, the condition states that any trees that require replacement during the 5-year period will adhere to the special conditions of the Commission-approved Tree Trimming and Tree Removal Policy, which includes tree trimming and removal best management practices to ensure the long-term protection of breeding and nesting habitat of birds.

The appellant does not directly cite inconsistencies with the City's action and the certified LCP; however, tree removal and replacement may adversely impact individual trees and any birds or nesting sites, therein, if appropriate precautions are not taken. It is a priority of the Commission and the certified LCP to protect any birds that may be potentially threatened by the proposed project. SEADIP, an incorporated document of Long Beach's certified LCP, identifies policies to protect environmentally sensitive habitat area (ESHA):

Southeast Area Development and Improvement Plan – Land Use Policy #5:

Environmentally sensitive habitat area, as defined by the Coastal Act Section 30107.5, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Southeast Area Development and Improvement Plan – Land Use Policy #6:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Commission has historically recognized that trees, birds, and wildlife in urban areas of the Long Beach Coastal Zone are resources that need to be protected. Appropriate measures should be taken to ensure the protection and longevity of coastal resources which support biological productivity, including trees adjacent to Mother's Beach and the public promenade.

The City of Long Beach approved the CDP (**Exhibit 3**) subject to Special Condition 4 which states that all modifications to vegetation shall comply with the Migratory Bird Treaty Act (MBTA), including the completion of nesting bird surveys prior to any tree or vegetation removal. The City also conditioned a one-to-one tree and landscape area replacement plan, as per Special Condition 7. The tree boxes must be 48-inches in diameter and the trees must be in conformity with Section 21.42 of the Long Beach Municipal Code which calls for street trees to be "spaced a reasonable and safe distance from driveways, light standards, intersections, utility poles and street furniture and shall be located only in the prescribed width of parkway at least thirty inches (30") wide between the sidewalk and curb." Furthermore, Special Condition 8 states that all special conditions of the Tree

Trimming and Removal Policy that applies in other areas of the City near the project site, approved by the Coastal Commission through CDP No. 5-08-187, that can feasibly be applied to the project, shall be adhered to. However, as mentioned above, even though the subject site is not in the Tidelands Area or the State Permit Jurisdiction area of the Coastal Zone which is the subject area of CDP No. 5-08-187, the City has required that the project adhere to all the conditions that can be feasibly applied here. Special Condition 9 of the City approved CDP states that all new trees to be installed as part of this project will be from a tree list created by a qualified biologist, that provides trees species suitable for nesting coastal bird species.

Moreover, Special Condition 10 requires that a “monitoring program shall be submitted to the Department of Development Services prior to the commencement of tree trimming, relocation, or replacement. The monitoring program shall be in place for a minimum of a five (5) year period to monitor the health of the trimmed, relocated, or replaced trees. If trees require replacement during the five (5) year period, all special conditions of Coastal Permit No. 5-08-187 that can feasibly be applied to the project that is the subject of this permit shall be adhered to.”

CDP 5-08-187 prohibits tree removal as well as the removal or disturbance of any tree or branch with a nest that has been active in the past 5 years during the breeding and nesting season (January through September) unless a qualified biologist deems that a tree is a public health and safety hazard. The removal of any breeding or nesting tree requires a one-to-one mitigation ratio and replacement trees shall be native or non-native, non-invasive tree species. Furthermore, for each tree replaced, a tree planting plan shall be developed to specify the tree location, tree size (no less than a 36-inch tree box size), planting specifications, and the aforementioned 5-year monitoring program with specific performance standards. According to CDP 5-08-187, this monitoring program shall be submitted annually for the review and approval of the Director of the Department of Parks, Recreation and Marine, a representative of the Audubon Society, and “maintained with the Executive Director of the California Coastal Commission on file as public information to determine baseline data for future tree trimming and removal decision making”. While the project description does not include tree trimming, Commission-approved CDP 5-08-1987 has requirements related to tree trimming, which the applicant and the City would follow if trimming were required.

The City-approved development, as conditioned, is protective of coastal resources and will avoid impacts to ESHA, as required by the City’s LCP, because there will be no removal of trees with nesting birds in them and a qualified biologist will ensure that removed trees are replaced with new trees supportive of nesting coastal birds. The City’s actions to approve the permit and require special conditions to protect coastal resources are not inconsistent with the policies of the certified LCP. Therefore, the Commission finds that the appellant’s contention that the City did not impose the proper conditions does not raise a substantial issue with respect to the project’s conformance to the certified LCP.

SUBSTANTIAL ISSUE FACTORS:

- 1. The degree of factual and legal support for the local government’s decision that the development is consistent with the relevant provisions of the certified LCP.**

The City supported its approval of the project's consistency with all of the applicable policies of the certified LCP. Specifically, the City supported its findings that the proposed project would not adversely impact coastal resources by conditioning additional bird surveys prior to initiating vegetation or tree removal, as required by the Migratory Bird Treaty Act. In addition, all the special conditions of the Commission-approved Tree Trimming and Tree Removal Policy that can be feasibly applied to the project will be followed. By imposition of these conditions, the City also found that the project would protect trees and breeding and nesting birds therein consistent with the conservation goals of the certified LCP. Therefore, the Coastal Commission finds that the City provided an adequate degree of factual and legal support for the local government's decision to approve the proposed project and this factor does not support a finding of substantial issue.

2. The extent and scope of the development as approved or denied by the local government.

The local government granted a CDP for the replacement of approximately 2,500 linear feet of security wall on the north, south, and west property lines of Marina Pacifica Condominium Development along Marina Drive at 6201 East 2nd Street within the Southeast Area Development and Improvement Plan (SEADIP) Planning District 1. As part of the proposed project, tree removal and replacement on private property may be required. The BrightView document from October 25, 2019 in the City record indicated that the project intends to remove 20 trees and a large lateral removed on one tree. The City record contains an accurate representation of the elements of the proposed project of the subject CDP action. All development is on private property, near an existing wall/fence and existing trees, and neither the new wall or the replacement trees are substantial in scope. Therefore, this factor does not support a finding of substantial issue.

3. The significance of the coastal resources affected by the decision.

Development of the project could involve adverse impacts to the trees and any species in them during tree trimming, removal, transport, planting, and management. Any potential impacts are mitigated through the City's imposition of special conditions including best management practice for the selection, handling, storage, planting, and maintenance of appropriate replacement trees, a 5-year tree health monitoring program, the Commission-approved Tree Trimming and Tree Removal Policy for Tideland Areas in Long Beach, and adherence to the Migratory Bird Treaty Act. Trees that support nesting birds are a significant coastal resource, but in this case the project, as conditioned, is unlikely to affect nesting birds and the trees will be replaced. Additionally, the new fence would not obstruct public views to water areas and public open spaces. Therefore, the project will not adversely affect coastal resources.

4. The precedential value of the local government's decision for future interpretations of its LCP.

The subject site is located in the Coastal Zone, but is not in a Tidelands Area or State Permit Jurisdiction area, where all the conditions of CDP 5-08-187 are automatically applied. The

City's action to impose a condition to comply with the Commission approved CDP for the long-term protection of birds in other areas is an amelioration of resource protection policies contained in the certified LCP. The City's action to require nesting bird surveys, replanting of trees, and a monitoring plan sets a good precedent for future interpretations of the LCP. The City's action on this project, therefore, does not support a finding of substantial issue.

5. Whether the appeal raises local issues, or those of regional or statewide significance.

The appeal raises local and regional issues relating to the impacts of development on urban trees on private property and any nesting habitat therein. The City's action has required that surveys verify the existence of migratory birds prior to any tree modifications. Thus, the replacement of each tree removed and the careful management of the trees is necessary to restore and maintain any biological significance of the affected trees or species that nest within them. As mentioned above, these issues were addressed by the City through special conditions including the approval of proposed tree work in compliance with the Commission's Tree Trimming and Tree Removal Policy and the Migratory Bird Act Treaty which requires surveys prior to tree or vegetation removal, selection of appropriate tree species for tree replacements by a qualified biologist, and development of a 5-year monitoring program in order to protect trees and any nesting bird sites from potential impacts. The City-approved project will prevent any loss of suitable habitat for nesting coastal birds by adhering to the special conditions, which can be applied, where feasible, to other local, regional and statewide projects. The protection of birds and sensitive habitat areas, even in urban areas, and the requirement to replant trees displaced by urban development, is an issue of local, regional, and statewide significant. In this case, the City's action sets an example that may be followed in other urban areas. As mentioned, the City approved project includes best management practices for trees and species found within those trees and is consistent with the certified policies of the LCP. This factor supports a finding of no substantial issue.

Conclusion

In conclusion, the Commission finds that no substantial issue exists with respect to whether the local government action conforms with the policies of the City's certified LCP and incorporated SEADIP policies.

Appendix A – Substantive File Documents

1. Coastal Commission approved CDP No. 5-08-187 (Tideland Area Tree Trimming and Removal Policy)