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 Staff: M. Kubran-V  
 Staff Report: 5/20/21  
 Hearing Date: 6/11/21

**STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE**

**Appeal No.:** A-4-STB-21-0027

**Applicant:** Timothy R. Coleman

**Appellant:** Commissioner Padilla and Commissioner Escalante

**Local Government:** County of Santa Barbara

**Local Decision:** Coastal Development Permit (No. 18CDH-00000-00013) approved with conditions by the Zoning Administrator on March 8, 2021

**Project Location:** 607 Sand Point Road, Santa Barbara County (APN 004-098-006)

**Project Description:** Demolition of a 4,274 sq. ft. residence and attached garage, and construction of a new 7,170 sq. ft. residence (including a 2,883 sq. ft. at grade understory), a 1,141 sq. ft. deck, hot tub, new hardscaping and landscaping, and grading consisting of 250 cu. yds. of cut and 155 cu. yds. of fill.

**Staff Recommendation:** Substantial Issue Exists

**Motion & Resolution:** Page 6-7

**NOTE:** The Commission will not take public testimony during this “substantial issue” phase of the appeal hearing unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting, during which it will take public testimony.

## SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The motion and resolution for a “no substantial issue” finding (for which a “no” vote is recommended) are found on pages 6-7.

The standard of review for this phase of the appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project’s conformity with the policies contained in the certified County of Santa Barbara Local Coastal Program (LCP) and/or the public access policies of the Coastal Act. Here, the appellants contend that the approved project is not consistent with the policies and provisions of Santa Barbara County’s certified LCP and the Coastal Act regarding coastal hazards and the provision of public access. Those policies and provisions include: Land Use Plan (LUP) Policies 3-12, 3-14, and 7-3; Coastal Zoning Ordinance (CZO) Section 35-61; and Coastal Act Sections 30210, 30211, 30212, and 30253. The LCP incorporates all Chapter 3 Coastal Act provisions as guiding policies.

On March 8, 2021, Santa Barbara County approved a Coastal Development Permit for the demolition of a 4,274 sq. ft. residence and attached garage, and construction of a new residence. The new construction includes a 7,170 sq. ft. residence (including a 2,883 sq. ft. understory garage, mechanical vault, and storage level constructed at grade), a 1,141 sq. ft. cantilevered deck and hot tub, new hardscaping and landscaping, and grading consisting of 250 cu. yds. of cut and 155 cu. yds. of fill. The subject project is located on a beachfront property at 607 Sand Point Road in the Carpinteria area of Santa Barbara County. The property, and the sole road leading to it, are located on a sand spit between the ocean and a tidally-influenced salt marsh ([Exhibits 1 and 2](#)).

The County’s certified LCP and Section 30253 of the Coastal Act (which is incorporated into the LCP) require new development to: minimize risks from hazards; not create or contribute significantly to erosion; be designed to fit the site topography, soils, geology, hydrology, and any other existing site conditions; and also require that areas of the site which are not suited for development because of known soil, geologic, flood, erosion, or other hazards remain in open space. Additionally, Coastal Act Sections 30210, 30211, and 30212 serve to maximize public access to the shoreline, and LUP Policy 7-3 and CZO Section 35-61 state that granting of lateral easements to allow for public access along the shoreline shall be mandatory for all new development between the first public road and the ocean.

Due to its location, the project site is extremely vulnerable to coastal hazards and flooding. The coastal hazard analysis prepared for the subject development has shown that the approved residence, which is significantly larger than the existing residence, is expected to be subject to substantial wave action, shoreline erosion, and flooding over its expected life. Despite this, the County approved the subject development without requiring analysis of a reduced structure size or other siting and design alternatives that would minimize coastal hazard risks. Rather, the County determined that the approved project would minimize coastal hazard risks because the upper level of the structure

(the designated habitable portion) would be constructed above the future estimated water levels. Additionally, the County failed to require a public access easement per LUP Policy 7-3 and CZO Section 35-61. Instead, the County determined that the project would not interfere with public beach access, and therefore, the nexus or rough proportionality to support a lateral easement did not exist.

Given the degree of risk posed by existing and projected coastal hazards in this highly vulnerable area, the County has not made the required findings under the LCP's hazards policies. The County's approval has not demonstrated that the project design would minimize hazards from the identified sea level rise scenarios for as long as possible without relying on existing or new protective structures and while avoiding or minimizing impacts to coastal resources and public access. Therefore, staff recommends that the Commission determine that a substantial issue exists with respect to the grounds raised by Commissioners Padilla and Escalante in the subject appeal, because there are questions as to whether the permit approved by Santa Barbara County is consistent with the coastal hazard and public access policies and provisions of the County's certified LCP and the public access policies of the Coastal Act.

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### EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Parcel Aerial](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Final Local Action Notice](#)

[Exhibit 5 – Appeal Form](#)

## **I. APPEAL JURISDICTION AND PROCEDURES**

### **A. Appeal Procedures**

The Coastal Act provides that after certification of local coastal programs (LCPs), a local government's actions on Coastal Development Permit (CDP) applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their CDP actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

#### **1. Appeal Areas**

Approvals of CDPs by cities or counties may be appealed if the development authorized is to be located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea, 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 greater, on state tidelands, or along or within 100 feet of natural watercourses, and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act § 30603(a)). Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act § 30603(a)(4)). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act § 30603(a)(5)).

In this case, the County's CDP approval is appealable to the Coastal Commission because the entire project site is located between the sea and the first public road paralleling the sea.

#### **2. Grounds for Appeal**

The grounds for appeal of a local government approval of development shall be limited to an allegation that the development does not conform to the standards set forth in the certified LCP and/or the public access policies set forth in the Coastal Act (See Public Resources Code § 30603(b)(1)).

#### **3. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on the substantial issue question. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side, at the Chair's discretion, to address whether the appeal raises a substantial issue.

Pursuant to Section 13117 of the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage 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. It takes a majority of Commissioners present to find that an appeal raises no substantial issue and that the Commission will therefore not review the merits of the appeal de novo. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

#### **4. De Novo Permit Hearing**

Should the Commission determine that a substantial issue exists, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified LCP and, if the development is between the sea and the first public road paralleling the sea, the public access policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

### **B. Local Government Action and Filing of Appeal**

On March 8, 2021, the Zoning Administrator for the County of Santa Barbara approved CDP No. 18CDH-00000-00013 subject to conditions for the demolition of a 4,274 sq. ft. residence and attached garage and construction of a 7,170 sq. ft. residence, including 1,283 sq. ft. understory garage and 1,600 sq. ft. understory storage, a 1,141 sq. ft. cantilevered deck and hot tub, hardscaping, landscaping, and grading consisting of 250 cu. yds. of cut and 155 cu. yds. of fill. The Zoning Administrator's approval of the CDP was not appealed locally (i.e., to the Planning Commission). The Notice of Final Action for the project was received by Commission staff on March 22, 2021 ([Exhibit 4](#)). The Commission's ten working-day appeal period for this action began on March 23, 2021 and concluded at 5 p.m. on April 6, 2021.

An appeal of the County's action was filed by Commissioners Padilla and Escalante on April 5, 2021, during the appeal period ([Exhibit 5](#)). Commission staff immediately notified the County, the applicant, and interested parties that were listed on the appeal form and requested that the County provide its administrative record for the permit. The administrative record was received on April 7, 2021.

## **II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE**

### **Motion:**

I move that the Commission determine that Appeal No. A-4-STB-21-0027 raises NO substantial issues with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

**Staff Recommendation of Approval:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. 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 an affirmative vote of the majority of the appointed Commissioners present (i.e., a tied vote results in a finding that a “substantial issue” is raised).

**Resolution to Find Substantial Issue:**

The Commission hereby finds that Appeal No. A-4-STB-21-0027 raises 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 Program and the public access policies of the Coastal Act.

**III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE**

**A. Project Description and Background**

The subject Coastal Development Permit (CDP) was approved by the County of Santa Barbara Zoning Administrator on March 8, 2021 for the demolition of the existing 3,548 sq. ft. residence and a 726 sq. ft. attached garage, and the construction of a new 7,170 sq. ft. single family dwelling, including a 2,883 sq. ft. understory constructed at grade that consists of a three-car garage, additional storage, and a mechanical vault. The approved project also includes a 1,141 sq. ft. cantilevered deck with a built-in hot tub, a renovated driveway, new hardscaping and landscaping, and grading consisting of 250 cu. yds. of cut and 155 cu. yds. of fill ([Exhibit 3](#)). The subject project is located on a beachfront property at 607 Sand Point Road in the Carpinteria area of Santa Barbara County. The subject property is zoned Single Family Residential (R-1) and is bordered by a private road (Sand Point Road) and the El Estero (Carpinteria) Slough to the north, the Pacific Ocean to the south, and residentially developed properties to the east and west ([Exhibits 1 and 2](#)). Many of the properties along Sand Point Road were initially developed in the 1940’s and 1950’s as seasonal beach cottages, which have been steadily redeveloped over the years with larger residences. Sand Point Road is the only access road to this house, as well as the other houses on it. The existing home on the subject property was originally constructed in 1963. An addition was constructed in 1985, and in 1997 a portion of the home was demolished and another addition was constructed.

An existing rock revetment is also situated on the property, which is part of a larger rock revetment extending from 539 to 845 Sand Point Road that was initially constructed in 1964 to protect the existing residences ([Exhibit 2](#)). This revetment was then fortified and enlarged further seaward in 1983 without the benefit of a CDP. Repair work to replace areas of the 1983 revetment was performed in 1994 and 1998, also without the

necessary CDPs. Commission Enforcement staff is working with the County and affected property owners in order to address these violations.

## **B. APPELLANT'S CONTENTIONS**

The appeal filed by Commissioners Padilla and Escalante is attached as [Exhibit 5](#). The appeal grounds assert that the approved project is not consistent with policies and provisions of Santa Barbara County's certified Local Coastal Program (LCP) and the Coastal Act regarding coastal hazards and the provision of public access. Those policies and provisions include: Land Use Plan (LUP) Policies 3-12, 3-14, and 7-3; Coastal Zoning Ordinance/Implementation Plan (CZO/IP) Section 35-61; and Coastal Act Sections 30210, 30211, 30212, and 30253.

## **C. ANALYSIS OF SUBSTANTIAL ISSUE**

### **1. Hazards and Shoreline Development**

The appellants contend that the project, as approved by the County, does not conform to the policies of the LCP relating to coastal hazards and shoreline development. Specifically, the appellants raise issues with respect to consistency with the LUP policies (cited below) that require new development to avoid impacts to coastal resources and to be sized, sited, and designed to minimize risks from hazards without the need for shoreline protective devices.

Land Use Plan Policy 1-1 states that all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County Land Use Plan as guiding policies.

Coastal Act Section 30253, in relevant part, states:

New development shall:

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

Land Use Plan Policy 3-12 states:

Permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works, i.e., dams, stream channelizations, etc.

Land Use Plan Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

The project site is located on a sand spit between the ocean and a tidally influenced salt marsh and is extremely vulnerable to coastal hazards and flooding. Pursuant to the County's Floodplain Management Ordinance and Flood Hazard Overlay, the project site is located within a "Coastal High Hazard Area." Section 30253 of the Coastal Act, which is incorporated into the County's LCP, mandates that new development minimize risks to life and property in areas of high geologic and flood hazard, and not create or contribute significantly to erosion. LUP Policy 3-12 states that permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works, and LUP Policy 3-14 provides, in relevant part, that all development shall be designed to fit the site topography, hydrology, and any other existing conditions, and areas of the site which are not suited for development because of known flood or other hazards shall remain in open space.

The approved residence includes a 4,287 sq. ft. designated habitable level with a finished floor elevation of 18.17 ft. NAVD88 and a 2,883 sq. ft. designated non-habitable at-grade understory, consisting of a three-car garage, additional storage space, and a watertight mechanical vault, with a finished floor elevation of 9.58 ft. NAVD88. The lower level (non-habitable portion) of the structure would be constructed using break-away walls, except for the walls around the mechanical vault which would be concrete. The approved structure's footprint would be the same size as the existing structure (4,607 sq. ft.) and would be sited approximately 16 ft. 8 inches farther landward than the existing structure. In addition, the approved project includes installation of a 1,141 sq. ft. cantilevered deck and hot tub on the seaward side of the house.

A site-specific coastal hazards analysis was prepared for the subject project. It analyzed the development under the three sea level rise scenarios the Ocean Protection Council recommends evaluating. The coastal hazards analysis concluded the development would be safe under the medium-high sea level rise scenario during a 100-year storm event and without reliance on the existing revetment, because the finished floor elevation of the upper level (habitable portion) of the structure would be above the estimated storm surge elevation of 17.9 ft. NAVD88. The analysis also concluded that if the existing revetment were to be removed, storm surge from the ocean would impact the lower level of the structure at the current sea level during a 100-year storm event. Additionally, the analysis determined that if the existing revetment was removed, during non-storm conditions under the medium-high sea level rise scenario, the lower level of the structure would start to become impacted with mean higher high water levels after the year 2080 (around the 50<sup>th</sup> year of the project's design life). Further, the analysis found that the access road to the project site could become permanently inundated

under the medium-high sea level rise scenario toward the end of the structure's design life around the year 2090.

Despite the analysis' demonstration that the approved project is expected to be subject to substantial wave action, shoreline erosion, and flooding over its expected life, the County concluded that the project would minimize coastal hazard risks because the habitable portion of the approved structure would be "constructed above potential future flood heights and [the structure] is designed to withstand extreme weather related events." The County also determined that the approved structure would not be significantly larger than the existing structure because the footprint would be the same size as the existing structure's footprint. However, the approved residence is 2,896 sq. ft. larger than the existing residence and includes a 739 sq. ft. increase in the structure's designated habitable portion. The applicant provided an analysis of some alternatives to the approved project, including interior and exterior renovation of the existing residence, elevating and remodeling the existing residence, and siting the dwelling further landward than the approved structure. Substantial renovation was found to be infeasible because the structure would not meet flood elevation requirements. Elevating the structure was found to be infeasible due to structural challenges associated with the structure's floor plan and irregular footprint. Siting the residence in a more landward location was also found to be infeasible, because it would push the residence onto lower elevations and within the 100 ft. buffer from the marsh. Other siting and design alternatives, such as reducing the size and footprint of the structure, were not analyzed.

In order to be consistent with the LCP, there must be an analysis of all feasible siting and design alternatives that will minimize risks from coastal hazards under reasonably foreseeable sea level rise, storm, and wave uprush scenarios. Given the degree of risk posed by existing and projected coastal hazards in this highly vulnerable area, the County's approval in this case has not demonstrated that the project design would minimize hazards from the identified sea level rise scenarios for as long as possible without relying on existing or new protective structures and while avoiding or minimizing impacts to coastal resources. The County's findings fail to analyze a full range of siting and design alternatives, such as reducing the structure's size and footprint, which would locate development as far landward as feasible in consideration of the significant site constraints that exist at this location and would minimize impacts from hazards.

The County included several conditions of approval which stipulate that the approved development shall be removed from the site if it is substantially destroyed by coastal hazards. However, these conditions do not serve to ensure that the approved development minimizes risk from coastal hazards and avoids or minimizes impacts to coastal resources over time as required by the County's LCP and Section 30253 (which is incorporated in the LCP). As discussed below, these issues support a finding that a substantial issue is raised regarding the approved development's consistency with the hazard and shoreline development policies and provisions of the certified LCP and Coastal Act policies incorporated into the LCP referenced above.

## 2. Public Access

The appellants assert that the proposed project fails to conform to the following LCP and Coastal Act policies and provisions regarding provision of public access:

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212, in relevant part, states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely effected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Land Use Plan Policy 7-3, in relevant part, states:

For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory...

At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the dedicated easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval.

Article II Coastal Zoning Ordinance Section 35-61, in relevant part, states:

...

3. For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory... In coastal areas where the bluffs are less than five feet, the area of the easement to be granted shall be determined by the County based on findings reflecting historic use, existing and future public recreational needs

and coastal resource protection. At a minimum, the lateral easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the lateral easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval. This policy shall not apply to development excluded from the public access requirements of the Coastal Act by Public Resources Code Section 30212 or to development incidental to an existing use on the site.

A fundamental goal of the Coastal Act is to “maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone” (Coastal Act § 30001.5, subd. (c)). To achieve this goal, both the Coastal Act and the County’s certified LCP set forth specific policies governing the provision of public access, recreational opportunities, and development along the coast. The Coastal Act, through Sections 30210, 30211, 30212, and the County’s certified LCP, through LUP Policy 7-3 and CZO/IP Section 35-61, prioritize the public’s right to access the shoreline, require the balanced provision of maximum public access as a component of new development, and mandate that development not interfere with the public’s right of access to the sea.

The appeal raises issues related to the consistency of the project with LUP Policy 7-3 and CZO/IP Section 35-61, which require all new development between the first public road and the ocean to grant a lateral public access easement along the shoreline. The appeal also contends that the project is inconsistent with the public access provisions of the Coastal Act and certified LCP to maximize public access to and along the coast. The proposed project constitutes substantial redevelopment of the subject site, and the County’s action on the subject CDP failed to directly address LUP Policy 7-3 and CZO/IP Section 35-61 or the potential impacts to public access and recreation on and along the beach from the construction of the new residence. Instead, the County determined that a public access easement was not necessary because the project would not interfere with public beach access and adequate beach access would continue to be available approximately 2,000 feet west of the project site. Additionally, the County determined that since the approved project would be sited in a more landward location, the project would not place a burden on public access, and therefore, the required nexus or rough proportionality to support a lateral easement did not exist. However, as discussed in the prior section of this report, the development will be increasingly acted upon by wave uprush and increased wave action in the future due to anticipated sea level rise, which may exacerbate beach erosion and affect the sand supply and beach profile, thereby impacting the public’s ability to gain access along the beach over the expected life of the project.

Additionally, the County’s findings did not analyze reducing the structure’s size and footprint in order to site the structure as far landward as feasible to protect public access along the beach. The failure to analyze a smaller footprint may preclude the potential re-location of the existing unpermitted rock revetment to a more landward configuration in the future should it be needed to protect adjacent development. Given that this beach is expected to narrow in the future due to sea level rise, such preclusion of the potential re-location of the rock revetment could impede the public’s access to and along the

beach. The approval of this development contains implications for other future development proposals on lots similar to the subject lot, and thus, the proposed project will set a precedent for future proposals. These issues support finding a substantial issue is raised regarding the approved development's consistency with the public access policies and provisions of the certified LCP and Coastal Act policies referenced above.

### **3. Substantial Issue Factors Considered by Commission**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the locally-approved project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act. In this case, the appellants cited the LCP policies related to coastal hazards and the provision of public access.

The Coastal Act requires that the Commission shall hear an appeal unless no substantial issue exists with respect to the grounds on which the appeal was filed under Section 30603. (§ 30625(b)(2).) Section 13115(c) of the Commission's regulations provides that the Commission may consider various factors when determining if a local action raises a significant issue, including but not limited to the following five factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and, where applicable, the public access and recreation 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 only local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor. For the reasons discussed below, the Commission determines that the subject appeal raises a substantial issue with regard to the grounds on which the appeal has been filed.

The first factor used to determine if the appeal raises a substantial issue is the degree of factual and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP and Coastal Act public access policies. As discussed extensively above, the County has not provided an adequate analysis of whether the approved development would be sized, sited, and designed to minimize the risks of coastal hazards and protect public access along the shoreline. Therefore, the County has not provided an adequate degree of factual and legal support for its decision that the proposed development is consistent with the certified LCP related to hazards and shoreline development and public access under the LCP and Coastal Act. This factor weighs heavily in favor of finding substantial issue.

The second factor is the extent and scope of the development as approved. As described above, the approved project involves demolition of a 3,548 sq. ft. residence and a 726 sq. ft. attached garage and construction of a 7,170 sq. ft. single family dwelling, including a 2,883 sq. ft. understory. The approved residence is significantly larger than the existing residence and other homes in the area, and the approved residence would be vulnerable to coastal hazards during its expected design life. Given the sensitive location of the subject site, the extent of development approved here weighs in favor of finding substantial issue.

The third factor is the significance of coastal resources affected by the decision. In this case, the project site is located on a sand spit between the ocean and a tidally influenced salt marsh. Development in such a location raises substantial issue with regard to shoreline processes, coastal hazards, and public access. Specifically, public access in shorefront areas subject to sea level rise is a very important issue, and one that weighs in favor of finding substantial issue.

The fourth factor is the precedential value of the local government's decision for future interpretation of its LCP. In this case, the precedential value of the County's decision for future interpretation of its LCP is significant, because there are several other beachfront lots nearby where substantial redevelopment could raise similar resource issues. As described above, under the certified LCP, beachfront development is required to be sized, sited, and designed to minimize risks from hazards. If redevelopment of beachfront property (such as the subject project) is not required to be consistent with the applicable LCP policies, cumulative impacts of residential development along the coastline of Santa Barbara County could result in an increased risk of hazards and degradation of coastal resources over time and weighs heavily in favor of finding substantial issue.

The final factor is whether the appeal raises only local issues or those of regional or statewide significance. In this case, the appeal not only raises local issues, but also has implications for resources of regional or statewide significance. The appeal raises issues associated with redevelopment in areas that are extremely vulnerable to coastal hazards and flooding where hazards are expected to increase over time as a result of sea level rise. These are important issues common to all jurisdictions throughout the Coastal Zone, and planning for sea level rise and shorefront adaptation are issues of top importance for the Coastal Commission right now. Therefore, this appeal raises issues of both regional and statewide significance and this factor weighs heavily in favor of finding substantial issue.

In conclusion, the Commission finds that the factors listed above demonstrate that the appeal raises a substantial issue with respect to the consistency of the approved development with the policies and provisions of the Coastal Act and the County's certified LCP regarding coastal hazards and the provision of public access. Each of the five factors described in Section 13115(c) of the Commission's regulations supports this determination. The Commission finds that there is not adequate factual and legal support for the County's position that the proposed project complies with LCP policies, and the resources at issue have regional and statewide significance. Approval of the

project despite this lack of factual and legal support will have adverse precedential value regarding interpretation of the County's LCP for future projects. The extent of the scope of development approved by the County and the coastal resources affected by this approval are also significant. Therefore, the Commission finds that a substantial issue exists with respect to the grounds raised by Commissioners Padilla and Escalante in the subject appeal, relative to the approved project's conformity to the relevant policies and provisions of the Coastal Act and the County's certified LCP.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Certified Santa Barbara County Local Coastal Plan and Coastal Zoning Ordinance

Santa Barbara County Zoning Administrator Staff Report dated February 22, 2021 (No. 18CDH-00000-00013) and attachments thereto

Santa Barbara County Notice of Final Action for Coastal Development Permit 18CDH-00000-00014.