

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT
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**W12a**

Appeal Filed: 5/14/21
 49th Working Day: 7/26/21
 Staff: D. Venegas - V
 Staff Report: 6/24/21
 Hearing Date: 7/7/21

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

APPEAL NUMBER: A-4-MAL-21-0034

APPLICANT: Cuthbert Surf LLC

APPELLANT: Saeed and Charlton Anne Sadeghpour

LOCAL GOVERNMENT: City of Malibu

LOCAL DECISION: Coastal Development Permit No. 20-023 approved by the Malibu City Council on April 26, 2021

PROJECT LOCATION: 30181 Cuthbert Road, City of Malibu, Los Angeles County (APN: 4469-007-002)

PROJECT DESCRIPTION: Construction of a 1,365 sq. ft. addition to a previously approved fire-rebuild of a residence, building height increase from 14 ft. to 18 ft., and the addition of 6,738 sq. ft. of impermeable coverage (deck, patios, and hardscaping), front yard fence, rear and side yard retaining walls, a pool and spa, and a new onsite wastewater treatment system.

STAFF RECOMMENDATION: **No Substantial Issue**

MOTION & RESOLUTION: **Page 7**

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

The Commission's role at the "substantial issue" phase of an appeal is to decide whether the appeal of the local government action raises a substantial issue with respect to the grounds on which the appeal was filed, which can include a claim that the approved development is not in conformity with the applicable provisions of the certified Local Coastal Program (LCP) or with the public access policies of the Coastal Act (Pub. Res. Code §§ 30210-14). Staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the subject appeal has been filed. The **motion** and **resolution** for a "no substantial issue" finding are found on **page 7**.

On April 26, 2021, the Malibu City Council approved a Coastal Development Permit (CDP) for the construction of a 1,365 square foot addition to a previously approved fire-rebuild of a single-family residence, a building height increase from 14 feet to 18 feet, 6,783 square feet of new impermeable coverage, view permeable fence, retaining walls, pool and spa, and a new onsite wastewater treatment system on a 0.51-acre parcel located at 30181 Cuthbert Road in the City of Malibu. The subject site is within the Malibu Park neighborhood approximately ½ mile inland from Zuma Beach in western Malibu and is bordered by residentially developed lots to the south, west, and east. Topography in the area generally slopes down from northeast to southwest. The Post LCP Certification Permit and Appeal Jurisdiction map certified for the City of Malibu (Adopted September 13, 2002) indicates that the appeal jurisdiction for this area extends 100 feet of a stream, which includes the subject property. As such, the City's CDP for the subject project is appealable to the Commission.

The property was previously developed with a 2,900-square foot residence that was destroyed in the 2018 Woolsey Fire. On March 18, 2020, the City approved a fire rebuild exemption for a 3,176 sq. ft. replacement residence (in-kind replacement plus 10 percent larger than the original structure that existed before the Woolsey Fire, as allowed by the disaster replacement exemption provisions of the LCP). The subject CDP includes a 1,365 sq. ft. addition to the residence, building height increase from 14 feet to 18 feet, the addition of 6,738 sq. ft. of impermeable coverage (deck, patios, and hardscaping), front yard fence, rear and side yard retaining walls, a pool and spa, and a new onsite wastewater treatment system that did not meet the criteria for a disaster replacement exemption. Lastly, the project site is not within an area designated Environmentally Sensitive Habitat Area (ESHA) on the Malibu LCP ESHA and Marine Resources Map.

The subject appeal submitted by the appellants does not include any specific allegation of the approved development's inconsistency with any specific coastal resource protection policy or provision of the certified City of Malibu LCP. After review of the appeal submittal, the Executive Director determined the appeal to be patently frivolous pursuant to Public Resources Code Section 30620(d). Within five working days of the receipt of the Executive Director's frivolous appeal determination, the appellants submitted the requisite \$300.00 filing fee in order to have the appeal evaluated in a

substantial issue hearing process pursuant to Public Resources Code Section 30620(d). Accordingly, the Commission is required to hold a Substantial Issue hearing to determine whether the appeal raises a substantial issue of conformance with the City of Malibu's certified LCP.

The subject appeal contends that the project as approved is inconsistent with Local Implementation Plan (LIP) Section 13.6.2 regarding the demonstration of ownership/legal interest in a property that is the subject of a CDP application because the City disregarded their (the appellants) property rights. The appellants claim they are the holders of a legally recorded view easement that imposes height restrictions (that are different from those in the LCP) on the subject property and that the applicant must obtain consent from the easement holder (the appellants) to construct any building over 15.5 feet in height on the subject property. Furthermore, the appellants claim the applicant has not obtained such consent from the appellants and therefore the applicant does not have the right to construct any building over 15.5 feet in height.

The appeal is based on the validity and effect of a private easement on private property that does not relate to the protection of coastal resources. The cited LIP Section 13.6.2 is procedural and sets forth some of the required evidence that must be submitted to the City in every application. It does not contain any development standards, much less those intended to protect coastal resources. Therefore, it is not clear that this is a valid ground for appeal under Section 30603(b)(1) of the Coastal Act. Section 30603(b)(1) limits appeals to those based on "an allegation that the development does not conform to the standards" in the LCP or public access policies of the Coastal Act.

Even if this were a valid ground for appeal, the City's action demonstrates that the project is consistent with all applicable requirements of LIP Section 13.6.2. The City's findings state that the applicant has provided evidence to show it has a right to develop the parcel and has provided a title report that does not include the alleged height restriction. To the extent that the appellants believe that they possess a valid easement that would prevent the construction of this approved project, that is a civil matter between the two private parties and their remedies lie elsewhere.

Further, the appeal claims the City and the applicant abused the LCP fire-rebuild permit process for this project by processing a disaster replacement exemption for a portion of the project, and the subject CDP for a portion of the project that was not exempt, rather than just a CDP for entire project. The appellants state that this process is not consistent with the City's "fire rebuild flowchart". However, the fire rebuild flowchart is a guidance document that was prepared by the City to guide fire rebuild applicants through the permit process for different redevelopment options. This flowchart is not a part of the City's certified LCP, and thus the fire rebuild flowchart is not the standard of review for the subject CDP and is not relevant to this appeal.

For all of these reasons, the appellants' contentions that (1) the project is not consistent with LIP Section 13.6.2 and (2) the City and the applicant abused the LCP fire-rebuild permit process, are not valid grounds for an appeal. As such, the appellant's

contentions raise no substantial issue with regard to the approved project's consistency with the policies and provisions of the City of Malibu certified LCP.

In summary, the City's record includes extensive factual evidence and legal support for the City's findings that the project is consistent with the policies and provisions of the City's LCP. In addition, the extent and scope of the subject development on this particular site is relatively small, does not have a significant adverse effect on significant coastal resources, does not raise issues of regional or statewide significance, and the local action does not set an adverse precedent for future interpretations of Malibu's LCP. Therefore, staff recommends that the Commission find that the appellant's contentions raise no substantial issue with regard to the approved project's consistency with the policies and provisions of the City of Malibu's certified LCP.

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EXHIBITS

[Exhibit 1 Vicinity Map](#)

[Exhibit 2 Aerial Photo](#)

[Exhibit 3 Parcel Map](#)

[Exhibit 4 Project Plans](#)

[Exhibit 5 Appeal by Saeed and Charlton Anne Sadeghpour](#)

[Exhibit 6 Final Local Action Notice and City Resolution](#)

[Exhibit 7 Correspondence from Applicant dated June 10, 2021](#)

I. APPEAL JURISDICTION AND PROCEDURES

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of a local government's Local Coastal Program (LCP), the 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 streams and wetlands and lands within 300 feet of the top of the seaward face of a coastal bluff (Coastal Act Section 30603(a)). Any developments that constitute major public works or major energy facilities may also be appealed to the Commission (Coastal Act Section 30603(a)(5)).

In this case, the subject property is located at 30181 Cuthbert Road in the City of Malibu. The Post LCP Certification Permit and Appeal Jurisdiction map certified for the City of Malibu (Adopted September 13, 2002) indicates that the appeal jurisdiction for this area extends 100 feet of a stream, which includes the subject property. As such, the City's CDP for the subject project is appealable to the Commission.

2. Grounds for Appeal

The available grounds for an appeal of a local government approval of development are limited to an allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth in the Coastal Act (Coastal Act Section 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 no substantial issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on the "substantial issue" question. A majority vote of the Commissioners present is required to determine that an appeal raises no substantial issue and that the Commission will therefore not review the CDP application *de novo*. If the Commission determines that no substantial issue exists, then the local government's CDP 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 apply 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 and recreation policies of the Coastal Act (Coastal Act Section 30604(b) & (c)). If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On February 1, 2021, the City of Malibu (City) Planning Commission approved Coastal Development Permit No. 20-023 with conditions. On February 10, 2021, the project was appealed to the City Council by Saeed and Charlton Anne Sadeghpour, who are also the appellants here. The appeal was denied and the permit for the project was approved by the City Council on April 26, 2021.

The City's Notice of Final Action was received by Commission staff on April 30, 2021 (Exhibit 6). Commission staff provided notice of the ten working-day appeal period, which began on May 3, 2021 and ended on May 14, 2021. Saeed and Charlton Anne Sadeghpour filed an appeal on May 14, 2021, during the Commission's appeal period (Exhibit 5). Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal and requested that the City provide its administrative record for the permit. The administrative record was received on June 18, 2021. Pursuant to Section 30621(a) of the Coastal Act, a hearing on an appeal must be set no later than 49 working days after the date on which the appeal was filed with the Commission, which would be July 26, 2021.

II. STAFF RECOMMENDATION FOR NO SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-MAL-21-0034 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

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

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-4-MAL-21-0034 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.

III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The subject Coastal Development Permit (CDP) approved by the Malibu City Council is for the construction of a 1,365 square foot addition to a previously approved fire-rebuild of a single-family residence, a building height increase from 14 feet to 18 feet, 6,783 square feet of new impermeable coverage, view permeable fence, retaining walls, pool and spa, and a new onsite wastewater treatment system at 30181 Cuthbert Road. The subject site is zoned Rural Residential-Two Acre (RR-2).

The subject site is a corner lot within the Malibu Park neighborhood and is located approximately ½ mile inland from Zuma Beach in western Malibu. Surrounding land uses also consist of single-family residences in the Rural Residential (RR-2) zoning district. Topography in the area generally slopes down from northeast to southwest. This sloping topography has resulted in residences in the area with a stepped or notched style design. The subject site was previously developed with a 2,900-square foot residence that was destroyed in the 2018 Woolsey Fire. On March 18, 2020, the City approved a fire rebuild exemption for a 3,176 sq. ft. replacement residence (in-kind replacement plus 10 percent larger than the original structure that existed before the Woolsey Fire, as allowed by the disaster replacement exemption provisions of the LCP). The subject CDP includes a 1,365 sq. ft. addition to the residence, building height increase from 14 feet to 18 feet, the addition of 6,738 sq. ft. of impermeable coverage (deck, patios, and hardscaping), front yard fence, rear and side yard retaining walls, a pool and spa, and a new onsite wastewater treatment system that did not meet the criteria for a disaster replacement exemption. The site will continue to be accessed from the existing driveway off Cuthbert Road. Lastly, the project site is not within an area designated Environmentally Sensitive Habitat Area (ESHA) on the Malibu LCP ESHA and Marine Resources Map. No native trees are proposed to be removed.

B. APPELLANT'S CONTENTIONS AND APPEAL

The City's final action on the subject CDP was appealed to the Commission by Saeed and Charlton Anne Sadeghpour (appellants) on May 14, 2021 (Exhibit 5). The appeal contends that the project as approved is inconsistent with Local Implementation Plan (LIP) Section 13.6.2 (cited below) because the City disregarded their (the appellants) property rights. The appellants claim they are the holders of a legally recorded view easement (that imposes height restrictions) on the subject property and that the applicant must obtain their consent as the easement holder to construct any building over 15.5 feet in height on the subject property. Furthermore, the appellants claim the applicant has not obtained such consent from the appellants and therefore the applicant does not have the right to construct any building over 15.5 feet in height.

The appeal also claims the City and the applicant abused the LCP fire-rebuild permit process for this project by processing a disaster replacement exemption for a portion of the project, and the subject CDP for a portion of the project that was not exempt, rather than just a CDP for entire project. The appellant references the City's fire rebuild flowchart regarding this allegation. Lastly, the appellants argue that the applicant disregarded the Malibu Planning Commission's direction during its first hearing to redesign the subject project.

As the subject appeal did not include any specific allegation of the approved development's inconsistency with any specific coastal resource protection policy or provision of the certified City of Malibu Local Coastal Program (LCP) or the public access policies of the Coastal Act, on May 21, 2021, Commission staff sent a letter to the appellant explaining that the Executive Director determined the appeal to be patently frivolous pursuant to Public Resources Code Section 30620(d). On May 28, 2021, and within five working days of the receipt of the Executive Director's frivolous appeal determination, the appellant submitted the requisite \$300.00 fee in order to have the appeal evaluated in a substantial issue hearing process pursuant to Public Resources Code Section 30620(d). Accordingly, the Commission is required to hold a Substantial Issue hearing to determine whether the appeal raises a substantial issue regarding the project's conformance with the City of Malibu's certified Local Coastal Plan.

C. ANALYSIS OF SUBSTANTIAL ISSUE

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 appellant 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.

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 coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its local coastal program; and
5. Whether the appeal raises only local issue as opposed to those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor. In this case, the Commission determines that the appeal raises no substantial issue with regards to the grounds on which the appeal has been filed, as discussed below.

1. Appellants' Stated Grounds

The appellants state three grounds in their appeal. First, they assert that the project, as approved by the City, does not conform to the coastal development permit requirements of the Malibu Local Implementation Plan (LIP) Section 13.6 (Application Requirements and Fees), specifically Section 13.6.2 (Proof of Ownership or Owner's Consent). They also assert that the City and the applicant abused the LCP fire-rebuild permit process by processing a disaster replacement exemption for a portion of the project, and the subject CDP for a portion of the project that was not exempt, rather than just a CDP for entire project. Finally, the appellants argue that the applicant and City staff disregarded the Planning Commission's direction to redesign the subject project. The appeal does not include any specific allegation that the approved development is inconsistent with any specific coastal resource protection policy or provision of the certified City of Malibu Local Coastal Program (LCP) or the public access policies of the Coastal Act.

Malibu LIP Section 13.6.2 (Proof of Ownership or Owner's Consent) states:

- A. In addition to other information required to be submitted with an application, applicants must prove that they own the property which is the subject of the application or provide the City with written consent from the owner for the proposed development for the City to file the application.
- B. Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property.
- C. Where the applicant for a Coastal Development Permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the City shall not require the holder or owner of any superior interest in the property to join as a co-applicant. All holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant.
- D. Prior to the issuance of a Coastal Development Permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

The appeal asserts that the project as approved is inconsistent with Section 13.6.2 (cited above) because the City disregarded their (the appellants) property rights. Specifically, LIP Section 13.6.2(A) requires applicants to prove that they own the property which is the subject of a CDP application, or provide the City with written consent from the property owner to allow another party (e.g. a party with an option to purchase the property, a party in escrow to buy the property) to submit an application for the proposed development.

In this case, the appellants are the owners of the property located at 30163 Cuthbert Road which is directly north of the subject property. The appellants assert that there is a deed restriction in the form of a view easement on the subject property (30181 Cuthbert Road) that restricts the height of structures to 15 feet and 5 inches and further argue that the proposed structure exceeds the restriction in the deed restriction. The appellants claim they are the holders of this recorded view easement on the subject property and that pursuant to LIP Section 13.6.2, the applicant must obtain consent from the easement holder (the appellants) to construct any building over 15.5 feet in height. Further, the appeal states that the appellants have not provided the applicant with consent to construct any building over 15.5 feet in height and therefore the applicant is not in compliance with the requirements of LIP Section 13.6.2.

The appeal is based on the validity and effect of a private easement on private property that does not relate to a development standard or the protection of coastal resources. The cited LIP Section 13.6.2 is procedural and sets forth some of the required evidence that must be submitted to the City in every CDP application. It does not contain any development standards, much less ones related to the protection of coastal resources. Therefore, it is not clear that this is a valid ground for appeal under Section 30603(b)(1) of the Coastal Act. Section 30603(b)(1) limits appeals to those based on “an allegation that the development does not conform to the standards” in the LCP or public access policies of the Coastal Act. The procedural requirement under LIP Section 13.6.2 is not a “standard” set forth in the LCP.

Even if this were a valid ground for appeal, the City’s action demonstrates that the project is consistent with all applicable requirements of LIP Section 13.6.2 (the subject property is not along the shoreline so subpart B is not applicable). Specifically, the administrative record contains evidence that the applicant is the owner of the subject property (as required in subpart A) and as the fee title owner the applicant has the authority to comply with all conditions of approval (subpart D). With respect to subpart C, because the applicant is the owner in fee title it is not clear if the rest of the provision of subpart C apply. The City’s findings state that the applicant has provided evidence to show it has a right to develop the parcel and has provided a title report that does not include the alleged height restriction. To the extent that the appellants believe that they possess a valid easement that would prevent the construction of this approved project, that is a civil matter between the two private parties and their remedies lie elsewhere.

Furthermore, the approved maximum building height at issue is consistent with the LCP. The height increase approved by the City for the residence in this case (from 14 feet to 18 feet) conforms with the structure height requirements of the City’s LCP and does not adversely impact any scenic public views. It is public views to and along the ocean and scenic coastal areas, rather than private views, that are protected as a coastal resource under the Coastal Act and the LCP. Therefore, no significant coastal resource issue is raised with respect to the visual resource policies of the certified LCP.

The appeal further claims that the City and the applicant abused the LCP fire-rebuild permit process for this project by processing a disaster replacement exemption for a portion of the project, and the subject CDP for a portion of the project that was not

exempt, knowingly bypassing the requirements of a full CDP for the entire project. The appellants state that this process is not consistent with the City's "fire rebuild flowchart." It is true that the City granted a CDP exemption for the portion of the project that met the LCP's disaster replacement exemption criteria and then approved a CDP for only those portions that exceeded the criteria (as described in detail above). However, the fire rebuild flowchart submitted as an attachment to the appeal is a guidance document that was prepared by the City to guide fire rebuild applicants through the permit process for different redevelopment options. This flowchart is not a part of the City's certified LCP, and thus the fire rebuild flowchart is not the standard of review for the subject CDP and is not relevant to this appeal. Therefore, this claim is not a valid ground for appeal in accordance with Section 30603(b)(1) of the Coastal Act, because the fire rebuild flowchart is not a standard set forth in the LCP. Even if it were, the City's findings state that the replacement structure, as a whole (with the additions approved in the subject CDP), complies with the size, height, location, grading, and residential development standards of the City's LCP. The appellants have not alleged otherwise on this point.

Finally, the appellants argue that the applicant disregarded the Planning Commission's direction during its first hearing to redesign the subject project. However, this claim does not appear to point to an inconsistency with any specific policy or provision of the certified Malibu LCP. Therefore, this is not a valid ground for appeal.

For all of these reasons, the appellants' contentions that the project is not consistent with the LIP Section 13.6.2 fails and the other above-mentioned allegations are not valid grounds for an appeal. As such, the appellant's contentions raise no substantial issue with regard to the approved project's consistency with the policies and provisions of the City of Malibu certified LCP, or the public access policies of the Coastal Act.

2. Factors Considered in Substantial Issue Analysis

The standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellant relative to the appealable development's conformity to the policies contained in the certified LCP and/or the public access policies of the Coastal Act. In this case, the appeal does not include any specific allegation of the approved development's inconsistency with any specific coastal resource protection policy, standard, or provisions of the certified City of Malibu LCP or the public access policies of the Coastal Act.

The Coastal Act states 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. (Section 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, which are addressed below.

The first factor in evaluating the issue of whether 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 Coastal Act and certified LCP. In this case, as discussed in detail above, the Commission finds that the City had

substantial factual support for its conclusion that the proposed project would not have a significant impact on coastal resources. The City made the required findings for the approved CDP, and the City's record includes substantial factual evidence and legal support for the City's findings that the project is consistent with all of the applicable policies and provisions of the Coastal Act and certified LCP. Further, even if LIP Section 13.6.2 were a valid standard for appeal under 30603(b)(1), the City had significant factual support to find that this section of the LIP was satisfied. This factor weighs heavily against finding substantial issue.

The second factor is the extent and scope of the development as approved. As described above, the approved project consists of a single-family residential development on an approximately half-acre residential lot. Given that the project site is not particularly large, and the development type is consistent with the surrounding area, the extent and scope of the subject development on this particular lot is relatively small. This factor weighs against finding a substantial issue.

The third factor is the significance of coastal resources affected by the decision. In this case, the project site is an infill lot that is adjacent to existing single-family residences. Further, the site was previously developed with an existing single-family residence that burned down in the 2018 Woolsey Fire. The approved project is consistent with the certified LCP policies and provisions. Furthermore, there are no significant coastal resources and no environmentally sensitive habitat area (ESHA) on the site that would be negatively affected by the project. As such, there are no significant coastal resources that would be negatively affected by the City's decision. The appellants' private views do not qualify as coastal resources under either the Coastal Act or LCP. This factor weighs against finding a substantial issue.

The fourth factor is the precedential value of the local government's decision for the future interpretation of its LCP. In this case, the Commission finds that the City applied the Coastal Act and its LCP policies correctly in finding that the project is consistent with the policies and provisions of the LCP. As such, the City's decision will have no significant precedential value for future CDP decisions and this factor weighs against finding substantial issue.

The final factor is whether the appeal raises issues of regional or statewide significance. Nothing about the approved project can be properly viewed as having regional or statewide significance and the appellants have made no allegation that they do. The approved development is in an existing developed area and consistent with the policies and provisions of the LCP. Thus, this factor also weighs against finding substantial issue.

In conclusion, the Commission finds that taken together, the above factors do not support finding that a substantial issue exists. Applying the five factors identified above, the Commission finds that the following factors weigh against finding substantial issue: first, the City's record adequately supports its position that the proposed project is consistent with the applicable Coastal Act and LCP policies; second, the extent and scope of the development is not significant; third, significant coastal resources are not

affected; fourth, the local government's decision will not have a significant precedential effect on future interpretation of the City's LCP; and fifth, it does not raise regional or statewide issues, much less significant ones. All five factors weigh against a finding of substantial issue. Therefore, as discussed above, the Commission finds that the appeal raises no substantial issue with respect to the consistency of the approved development with the policies of the City's certified LCP or the public access policies in Chapter 3 of the Coastal Act.

APPENDIX A

Substantive File Documents

Certified City of Malibu Local Coastal Plan; Malibu Planning Commission Agenda Report for CDP No. 20-023 dated January 21, 2021; Malibu City Council Agenda Report for Appeal No. 21-003 dated April 15, 2021.