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# F10a

**Prepared June 9, 2022 for June 10, 2022 Hearing**

**To:** Commissioners and Interested Persons  
**From:** Stephanie Rexing, North Central Coast District Manager  
Peter Benham, Coastal Planner  
**Subject:** **STAFF REPORT ADDENDUM for F10a, Appeal Number A-2-SON-22-0015 (Chang SFD)**

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In the time since the staff report for this item was published (on May 20, 2022), the Appellant submitted comments on the report as well as the project in general (received June 3, 2022; see correspondence package for this item), and also subsequently provides a series of 1990's era memos and information from the California Division of Mines and Geology and a map from Sonoma County's Hazard Mitigation Plan (received June 8, 2022; also in the correspondence package). In addition, Sonoma County submitted a response to the Appellant's first set of comments (received June 7, 2022; again see the correspondence package for this item). The purpose of this addendum is to modify the staff recommended findings to respond to comments received, none of which in staff's opinion change staff's recommendation, which continues to be that the appeal does not raise a substantial issue with respect to LCP conformance. The staff recommended findings are modified to include the following:

## **G. RESPONSE TO COMMENTS**

Since publication of the staff report on May 20, 2022, the Commission received one comment letter from the Appellant on June 3, 2022, and a second comment letter from Sonoma County on June 7, 2022. The Appellant raises twelve numbered issues, and the County responds to the same twelve numbered issues, and so the response below is thus also organized by the same twelve issues. The thirteenth item responds to the materials received from the Appellant on June 8, 2022.

### **1. County CDP Application status**

The Appellant alleges that County CDP CHP18-0009 (i.e., the CDP action that has been appealed in this case) was actually issued in 2016 and is now expired. However, according to County records, the CDP application was first submitted in April 2018, and it has been going through the County's CDP review process since that time, culminating in the County Board of Supervisors' approval of the CDP in April 2022. It is that action that the Appellant has appealed, and there is no evidence to suggest that the CDP has been issued, let alone expired. In fact, filing an appeal automatically stays operation of a

locally-approved CDP (Public Resources Code § 30623). In this case, pursuant to Section 13572 of the Commission's regulations, the Commission notice of appeal informed the County that the effective date of its approval decision had been suspended. This is a non-issue.

## **2. Site Address**

The Appellant claims that the address for the project was changed inappropriately (from 900 Highway 1 to 153 Harbor View Way). According to the County, the address on the submitted application was 900 Highway 1, but because the site was vacant and lacked an address, the County initiated the local addressing process, which ultimately resulted in the 153 Harbor View Way address,<sup>1</sup> which address is the same in this appeal. This process explains the change in address. More broadly, it is not clear to what extent the address change has any relation to the contentions in the appeal that the project is not consistent with the certified LCP, and this too is a non-issue.

## **3. CEQA Compliance**

The Appellant alleges that the project requires an Environmental Impact Report or Mitigated Negative Declaration under CEQA and did not obtain one. However, the County, acting as the lead CEQA agency, determined that the project is exempt from CEQA because it is a single-family home that meets the exemptions identified in CEQA Sections Section 15303 Class 3(a). Further, the County's compliance with CEQA was not an allegation in the appeal and is not a valid grounds for an appeal under Section 30603(b)(1), which limits the grounds for an appeal to allegations that a project is not consistent with the certified LCP or the public access policies of the Coastal Act.

## **4. Other Agency Permits**

The Appellant alleges that the project requires permits from the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and the North Coast Regional Water Quality Control Board and has not obtained them. However, and as the County identifies in its response, it is not clear why permits from these agencies would be required for the proposed project, including as it is residential development that does not affect resources over which these agencies have jurisdiction. While the lack of required permits from other agencies, if it were true as a factual matter, could provide valid context for understanding the potential impacts of appealed projects, here the failure to obtain other required permits was not an issue raised by the appeal and, on its own, is not a valid grounds for an appeal under Section 30603(b)(1) of the Coastal Act.

## **5. Project Runoff**

The Appellant alleges that the project will connect to the Harbor View subdivision's drainage system, and will pollute and drain into Bodega Bay. However, the project is not a part of the Harbor View subdivision, and it is required to meet all LCP water quality tests by itself, which was accomplished via County CDP terms and conditions for runoff and sediment/erosion control. Further, water quality impacts were not raised in the appeal, and the Commission's review is limited to determining if the appeal raises a

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<sup>1</sup> The assessor parcel number has always been APN 100-100-031.

substantial issue as to consistency with the LCP. Any issues outside the scope of the appeal are not properly before the Commission.

## **6. Zoning Change**

The Appellant alleges that the County inappropriately changed the zoning for the subject site from commercial to Planned Community (PC), Coastal Combining (CC), Geologic (G), and Scenic Resource (SR) without required approvals. There is nothing provided to substantiate this allegation, and, in fact, the LCP zoning for the property has retained its zoning designation since its creation, all of which allows for single-family residences as one of several permitted uses, and which was used as the basis for the County's consideration of the CDP application and Commission staff's consideration of the appeal. This issue does not relate to any of the appeal contentions, is not factually accurate, and does not raise a substantial issue as to LCP conformance.

## **7. Address/Deed and Seismic**

The Appellant again alleges improprieties related to the site address and suggests that there is a legal issue because the project deed uses a different address than 153 Harbor View Way. However, the property was created by grant deed in 1962 based on a legal description of the property, not based on the address then used, and it is the legal description that defines the property. Any discrepancy as to the site address is immaterial and irrelevant to the appeal contentions and does not, therefore, support that the appeal has raised a substantial issue as to the project's consistency with the certified LCP (or Coastal Act public access policies).

The Appellant also alleges that the County's code does not allow a house to be constructed across an active fault trace or within 50 feet of any fault, and that because it is in the G zoning district it requires a special geologic report reviewed and approved by a licensed geologist working with USGS to address seismic issues. However, as described in the staff report, the house is not on top of or within 50 feet of a fault or fault trace, and has obtained a geologic report as required by the G zoning district. Review and approval by a licensed geologist working with USGS is not required in G zoning districts. In addition, as also described, the project does not require additional analysis pursuant to the Alquist-Priolo Act, and has met its LCP requirements as they relate to minimizing risk due from seismic activity.

## **8. Public Views**

The Appellant alleges that the project was designated SR (or Scenic Corridor), and that the project does not meet corresponding LCP requirements. However, the SR portion of the site is limited to the area nearest Highway 1, and does not apply to the portion of the site where the house would be sited. In addition to meeting LCP height requirements, as described in the staff report, the County also indicates that the proposed project was evaluated against other more subjective LCP public view provisions and met those requirements as well. This too does not alter the Commission's findings that the appeal does not raise a substantial issue as to the project's consistency with the LCP.

## **9. Wetlands**

The Appellant alleges that proposed development will impact wetlands on the property and wetlands on the adjacent lot. As described in the staff report, the proposed

development is more than 200 feet from the seasonal wetlands identified on the lot and even further from adjacent wetlands. As discussed further in the staff report, given the horizontal distances between the development footprint and the wetland, the roughly 50-foot elevation distance between the development footprint and the wetland, the various siting and design standards approved by the County to avoid wetland impacts (e.g., filtering, treating, and directing residential drainage away from the wetland), and the status of the wetland as a fringe of a larger wetland, the County's determination appears reasonable, satisfies LCP wetland requirements, and does not raise a substantial issue regarding protection of wetlands.

### **10. Water and Wastewater**

The Appellant alleges that the project does not have authorizations for water and sewer service from the Bodega Bay Public Utility District. However, the County has confirmed that the proposed development will be provided water and sewer services by Bodega Bay Public Utility District.

### **11. Potential Future Conversion**

The Appellant alleges that the project consists of a large residence that may eventually be converted to commercial use (e.g., bed and breakfast). However, the CDP decision appealed to the Commission only regards the County's approval of a CDP for the residence in question. Any future conversion would have to be through its own CDP and LCP evaluation, and is not germane to the appeal here.

### **12. Wetlands**

The Appellant alleges that a previous EIR associated with the Harbor View subdivision just inland of this site, prepared in 1994, shows a larger wetland on the subject site than is shown in the project's biological assessment. However, a wetland delineation from nearly three decades ago for a different project that did not propose development on this site, while informative context, does not provide a current assessment of resource values. In fact, and as required by the LCP, the Applicant provided a new biological assessment on which the County relied, all of which supports that this project conforms to LCP wetland policies, as described in the staff report

### **13. Seismic**

Finally, the Appellant provides maps from the County's Hazard Mitigation Plan showing the Bodega Bay area with areas of high liquefaction susceptibility, and also provides snippets from a letter or a report apparently associated with the Harbor View subdivision (and circa early 1990s) allegedly provided on behalf of the California Division of Mines and Geology regarding Sonoma County geologic review at that time. The text provided in the letter/report suggests that the County review all geologic reports using a third party geologist trained in fault investigations and certified by the State Board of Registration for Geologists and Geophysicists; and identifies that a portion of the Harbor View subdivision area is within an active fault zone.

While the letter/report's veracity is unclear, what is clear is that it was written some three decades ago for a different project nearby, and not for this project, or this site. As described in the staff report, the single-story, wood-framed nature of the proposed development makes it exempt from the special geologic study required by the Alquist-

Priolo Fault Zoning Act for development associated with fault zones, and it otherwise meets LCP risk minimization requirements. The County's approval of the project does not raise a substantial LCP conformance issue.