

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

Th13a



Appeal Filed:	12/18/24
49th Working Day:	Waived
Staff:	T. Liddell - V
Staff Report:	3/20/25
Hearing Date:	4/10/25

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

APPEAL NUMBER:	A-4-SBC-24-0054
APPLICANT:	The Wright Family H. Limited Partnership
APPELLANTS:	Keep the Funk, Inc.; and Steven Johnson
LOCAL GOVERNMENT:	City of Santa Barbara
LOCAL DECISION:	Approval with Conditions of Coastal Development Permit No. PLN2019-00052
PROJECT LOCATION:	101 Garden Street, City of Santa Barbara, Santa Barbara County
PROJECT DESCRIPTION:	Construction of a new 250-room hotel with a 238- space underground parking structure, 29 parking spaces above ground, six affordable housing units, a 208 square-foot market, meeting rooms, a fitness center, a swimming pool, two spas, a courtyard, and a roof deck. The project also includes restoration of an on-site drainage area.
STAFF RECOMMENDATION:	No Substantial Issue
MOTION & RESOLUTION:	Pages 6-7

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 **pages 6-7**.

The approved development is a new 250-unit hotel at 101 Garden Street in the City of Santa Barbara, Santa Barbara County. The project includes the construction of typical hotel accommodations such as a fitness room, courtyards, and a pool, but also restoration of an onsite soft-bottom drainage feature, testing and remediation of the site's contaminated soil and groundwater, excavation and floodproofing of an underground parking garage, addition of a small public market, and construction of six onsite housing units intended for employees.

The appellants in this case assert that the project is inconsistent with the certified City of Santa Barbara LCP based on several contentions, including that the impact of onsite soil and groundwater contamination could be exacerbated by project activities and the site's vulnerability to flooding and sea level rise, that the project fails to minimize the risk of flood and coastal hazards, and that the project is incompatible with the needs and character of the surrounding community and visiting public. Contrary to these claims, the City's review and approval adequately addresses the LCP policies related to each. The soil and groundwater contamination is required by a condition of the subject CDP approval to be further assessed and remediated under the supervision of Santa Barbara County Environmental Health Services prior to construction. While the full nature of the contamination is not yet known and so the full details of the remediation plan not yet decided, the City had sufficient information regarding the results of previous site assessments and the typical remediation standards imposed by County Environmental Health Services to conclude that the project as conditioned would protect coastal resources. The City also had sufficient evidence to conclude that the project conformed with the flood and coastal hazard policies of the LCP. This evidence includes a letter of support from the Federal Emergency Management Agency and a sea level rise analysis conducted in accordance with the Commission's adopted guidance on the matter. Finally, the project complies with the LCP policies related to community character and moderate cost visitor serving accommodations. The hotel constitutes a visitor serving use which has priority under the LCP, and its design and scale is similar to nearby hotels. Prior to approval, the City and the applicant coordinated with Commission staff to confirm that all of the hotel units met the definition of moderate-cost, visitor-serving accommodations. An analysis of the issue using the Commission's preferred approach reaches the same conclusion.

In summary, the City's findings that the project is consistent with the certified LCP, and its approval of the project for this reason, is based on sufficient factual evidence and legal support. While the extent and scope of the development is relatively large, the approved project will not negatively impact any significant coastal resources. In addition, the project does not raise issues of regional or statewide significance, and the City's decision will not have an adverse precedential value for future interpretation of its LCP. With these factors in mind, staff believes that on balance this appeal does not raise a substantial issue. Accordingly, staff recommends that the Commission find that the appellants' contentions raise no substantial issue with regard to the approved project's consistency with the policies and provisions of the City's certified LCP.

Table of Contents

I. APPEAL JURISDICTION AND PROCEDURES.....	5
A. APPEAL PROCEDURES.....	5
1. Appeal Areas	5
2. Grounds for Appeal	5
3. Substantial Issue Determination	5
4. De Novo Permit Hearing.....	6
B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL	6
II. STAFF RECOMMENDATION FOR NO SUBSTANTIAL ISSUE	6
III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE.....	7
A. PROJECT DESCRIPTION AND SETTING	7
B. APPELLANT'S CONTENTIONS	8
C. ANALYSIS OF SUBSTANTIAL ISSUE	8
1. Water Quality and Biological Productivity	9
2. Flooding and Coastal Hazards	16
3. Public Access and Recreation	21
4. Factors Considered in Substantial Issue Analysis.....	30

EXHIBITS

Exhibit 1	<u>Vicinity Map</u>
Exhibit 2	<u>LUP Lower State Component Area Map</u>
Exhibit 3	<u>Contaminant Concentrations Table</u>
Exhibit 4	<u>Drain Restoration Plan</u>
Exhibit 5	<u>FEMA Email to the City of Santa Barbara</u>
Exhibit 6	<u>CoSMoS Flood Projections</u>
Exhibit 7	<u>Visual Rendering and Nearby Hotels</u>
Exhibit 8	<u>Moderate-Cost Accommodations Tables</u>
Exhibit 9	<u>Final Local Action Notice for PLN2019-00052</u>
Exhibit 10	<u>Appeal by Keep the Funk</u>
Exhibit 11	<u>Appeal by Steven Johnson</u>
Exhibit 12	<u>Appeal Response to Appeal</u>

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, submerged lands, or public trust lands; 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 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 City's CDP approval is appealable to the Coastal Commission because portions of the project are within an area that is identified by the City's approved post LCP certification map as potentially subject to the public trust but filled, developed, and committed to urban uses.

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 *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 29, 2024, the City of Santa Barbara (City) Planning Commission approved Coastal Development Permit No. PLN2019-00052 with conditions. On October 10, 2024, the project was appealed to the City Council by Lozeau Drury LLP, on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”); Law Office of Marc Chytilo, on behalf of Keep the Funk, Inc.; Steven Johnson; and Rich Untermann. Keep the Funk, Inc. and Steven Johnson are also the appellants here. The appeal was denied and the permit for the project was approved by the City Council on December 10, 2024.

The City’s Notice of Final Action was received by Commission staff on December 16, 2024 ([Exhibit 9](#)). Commission staff provided notice of the ten working-day appeal period, which began on December 16, 2024 and ended on December 31, 2024. Keep the Funk, Inc. filed an appeal on December 18, 2024 and Steven Johnson filed an appeal on December 31, 2024, each within the Commission’s appeal period ([Exhibits 10 and 11](#)). Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal forms and requested that the City provide its administrative record for the permit. The administrative record was received in the Commission’s Ventura office on January 10, 2025. 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 in this case would have been March 3, 2025; however, according to Section 30625(a), the applicant can waive that time limit. On January 14, 2025, prior to expiration of the 49-working day deadline for Commission action, the applicant waived its right to a hearing within 49 working days.

II. STAFF RECOMMENDATION FOR NO SUBSTANTIAL ISSUE

MOTION: ***I move that the Commission determine that Appeal No. A-4-SBC-24-0054 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-SBC-25-0054 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 SETTING

The subject Coastal Development Permit (CDP) approved by the City of Santa Barbara (City) is for removal of existing storage structures and construction of a new, 250-unit hotel at 101 Garden Street. The approved development also includes assessment and remediation of the site's contaminated soil and groundwater, restoration of the approximately one-half acre drainage feature and the small on-site wetland, and includes construction of a 238-space subterranean parking garage. The final project will also include 6 affordable housing units intended for the hotel's employees; common hotel guest amenities including a pool, spa, fitness room, and lounge; and a small market open to guests and the general public.

The 4.53-acre project site is comprised of 6 parcels to be merged into 1 lot, located within the Lower State Component Area of the City's LUP ([Exhibit 2](#)). The Lower State Component Area is a highly developed portion of downtown Santa Barbara, bounded by Cabrillo Boulevard to the south, Highway 101 to the north, Garden Street to the east and Mission Creek to the west.

Centered within this component area, adjacent to the project site, is a neighborhood known as "the Funk Zone." Originally characterized by auto shops, fish processing facilities, industrial uses, and warehouses, the Funk Zone has evolved over time with regulatory and economic changes to now include an eclectic mix of uses including residences, artist and craftsmen studios, restaurants, wineries, breweries, and small markets. The Funk Zone and nearby Sterns Wharf and East Beach are popular areas for both residents and visitors.

The subject parcels all have a land use designation of Hotel & Related Commerce II/Medium High Residential and are zoned as Hotel and Related Commerce II/Coastal Overlay Zone (HRC-2/S-D-3). Pursuant to the City's LCP, the goal of the HRC-2/S-D-3 zone is to "promote, maintain, and protect visitor-serving and commercial recreational uses," though the designation also allows for residential uses in certain areas, of which the project site is one.

B. APPELLANT’S CONTENTIONS

The City’s final action on the subject CDP was appealed to the Commission by Keep the Funk, Inc. on December 18, 2024 and by Steven Johnson on December 31, 2024 ([Exhibits 10 and 11](#)). The appellants contend that the project as approved is inconsistent with the water quality, hazard mitigation, and public recreation and access policies of the City’s Land Use Plan and the public access policies of the Coastal Act. Specifically, they allege that the project risks mobilizing the contaminated groundwater beneath the site, that it fails to address the danger of constructing a subterranean parking garage in an area vulnerable to sea level rise and floods, and that it does not serve moderate-income visitors or the surrounding Funk Zone community. The contentions of the appeal are discussed and addressed in greater detail below.

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. In this case, the appellant cited both the public access policies of the Coastal Act and the policies contained in the certified City of Santa Barbara LCP as grounds for appeal.

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. Water Quality and Biological Productivity

Several of the issues raised in the appeal are related to the presence of contaminants in the soil and groundwater found beneath the site. The appellants argue that the approved project poses a significant risk of spreading these contaminants and degrading coastal resources, and is thus inconsistent with the following LCP policies.

City of Santa Barbara Coastal Land Use Plan Policy 2.1-6 states:

Reserve Capacities for Higher-Priority Land Uses. If conditions in the City change in the future and existing or planned public works facilities can accommodate only a limited amount of new development, public works services to coastal-dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by residential, general commercial, light industrial, and other lower-priority uses within the Coastal Zone. New development of lower-priority uses shall not be permitted if their use of the public works capacity would preclude the development of coastal dependent, essential public services, and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses.

City of Santa Barbara Coastal Land Use Plan Policy 3.2-9 states:

Development Adjacent to Parks and Recreation Areas. Development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade these areas and to be compatible with the continuance of these areas.

City of Santa Barbara Coastal Land Use Plan Policy 4.1-3 states:

Protection of Coastal Waters, Wetlands, and Marine Resources. Protect, maintain, and, where feasible, restore the biological productivity and the quality of coastal waters, creeks, wetlands, estuaries, lakes, and marine resources.

City of Santa Barbara Coastal Land Use Plan Policy 4.1-4 states:

Protection of ESHAs. As outlined in Coastal Act Section 30240, ESHAs shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

City of Santa Barbara Coastal Land Use Plan Policy 4.1-12 states:

Alteration and Disturbance of ESHAs, Wetlands, and Creeks.

- A. Any area that contains or contained habitat meeting the definition of ESHA, wetland, or creek shall not be deprived of protection, as required by the

policies and provisions of the Coastal LUP, on the basis that the habitat has been:

- i. Temporarily damaged or eliminated by natural disaster (e.g., landslide, flooding, fire) from which it will likely recover; or
- ii. Impacted by illegal development or other illegal means, including removal, filling, degradation, or elimination of species that are rare or especially valuable because of their nature or role in an ecosystem.

Any such ESHA, wetland, or creek shall be assessed for the purposes of defining its status as an ESHA, wetland, or creek according to its condition prior to the natural disaster or illegal activity.

- B. Once an area has been determined to be an ESHA, wetland, or creek, all the policies protecting ESHAs, wetlands, and creeks in the Coastal LUP apply regardless of the quality or level of disturbance of the ESHA, wetland, or creek.

City of Santa Barbara Coastal Land Use Plan Policy 4.1-15 states, in relevant part:

ESHA, Wetland, and Creek Habitat Buffers. New development and substantial redevelopment in areas adjacent to ESHAs, wetlands, and creeks shall be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas. A habitat buffer shall be required between new development or substantial redevelopment and any ESHA, wetland, or creek and shall be of sufficient size to: protect biological integrity, serve as transitional habitat, provide distance from human disturbances, and avoid hazards from erosion ...

Minimum habitat buffers for any ESHAs, wetlands, or creeks not specifically listed below shall be determined on a case-by-case basis as part of a biological assessment process ...

City of Santa Barbara Coastal Land Use Plan Policy 4.1-17 states, in relevant part:

Development within Habitat Buffer Areas.

- A. New development and substantial redevelopment shall only be allowed in ESHA, wetland, and creek habitat buffers if it does not significantly disrupt the habitat values of ESHAs, wetlands or creeks...

City of Santa Barbara Coastal Land Use Plan Policy 4.1-27 states:

Restoration of Habitats. Restoration and enhancement of ESHAs, wetlands, and creeks shall be encouraged.

City of Santa Barbara Coastal Land Use Plan Policy 4.1-30 states:

Habitat Buffers from Restored Areas. Where an area not considered an ESHA, wetland, or creek is successfully restored or enhanced, additional habitat buffers shall not be required from the expanded habitat area. This policy does not apply to restoration of habitats that were temporarily disturbed by natural disaster, illegally removed or disturbed, or habitats restored as mitigation for impacts to ESHAs, Wetlands, and creeks pursuant to Policy 4.1-13 *Mitigation of Impacts to ESHAs, Wetlands, and Creeks*.

City of Santa Barbara Coastal Land Use Plan Policy 4.1-37 states:

Bird Safe Buildings. All new development or substantial redevelopment within 100 feet of ESHAs, wetlands, creeks, or open space shall provide bird-safe building design features in order to reduce potential for bird strikes. Design features include minimizing the amount of untreated glass or glazing on the building façade; incorporating glazing treatments to ensure that large areas of glass are visible to birds; ensuring that building edges of exterior courtyards and recessed areas are clearly defined; using opaque materials and non-reflective glass; siting trees and other vegetation to avoid or obscure reflection on building facades; designing buildings to minimize light spillage and maximize light shielding to the maximum feasible extent; and avoiding the use of “bird traps” such as glass courtyards, transparent building corners, interior atriums, windows installed opposite each other, clear glass walls, skywalks, and transparent glass balconies. Where any such “bird traps” may exist in buildings proposed for remodeling or redevelopment, design and site landscaped areas, including patios and interior courtyards, to avoid these areas.

City of Santa Barbara Coastal Land Use Plan Policy 4.2-10 states, in relevant part:

Storm Water Management Program Requirements. The City’s Storm Water Management Program shall, at a minimum, be consistent with the following requirements for development. Where there is a conflict between these policies and other applicable standards in effect, such as NPDES Storm Water permits, the requirements that on balance are most protective of coastal resources shall be applied.

- A. Plan, site, and design development to minimize the transport of pollutants in runoff from the development into coastal waters.
- B. Plan, site, and design development to minimize post-development changes in the site’s runoff flow regime (i.e., volume, flow rate, timing, and duration), to preserve the pre-development hydrologic balance and prevent adverse changes in the hydrology of coastal waters (i.e., hydromodification).
- C. Address runoff management early in site design planning and alternatives analysis, integrating existing site characteristics that affect runoff (such as topography, drainage patterns, vegetation, soil conditions, natural hydrologic features, and infiltration conditions) in the design of strategies

that minimize post-development changes in the runoff flow regime, control pollutant sources, and, where necessary, remove pollutants.

...

- E. Plan, site, and design development to protect and, where feasible, restore hydrologic features such as stream corridors, drainage swales, topographical depressions, groundwater recharge areas, floodplains, and wetlands.

...

- J. In areas in or adjacent to an Environmentally Sensitive Habitat Area (ESHA), plan, site, and design development to protect the ESHA from any significant disruption of habitat values resulting from the discharge of stormwater or dry weather runoff flows.

...

- M. Minimize water quality impacts during construction by minimizing erosion and runoff, minimizing the discharge of sediment and other pollutants resulting from construction activities, and minimizing land disturbance and soil compaction.

...

City of Santa Barbara Coastal Land Use Plan Policy 4.2-21 states:

Biological Productivity and Water Quality. As outlined in Coastal Act Section 30231, the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

City of Santa Barbara Coastal Land Use Plan Policy 6.1-14 states:

Hazardous Substances. Development involving the transport of hazardous materials shall be evaluated during environmental review for potential health, safety, and coastal resource adverse impacts. New development and substantial redevelopment shall minimize use and production of hazardous waste to the extent feasible, and in projects where potential health, safety, and coastal resource adverse impacts are identified, appropriate measures to minimize the risk of adverse impacts shall be required.

Contaminated Soil and Groundwater

The project site has historically been used for lumber production and other industrial purposes and, up until 1992, contained a leaking underground fuel tank. These activities left behind several constituents of concern, such as heavy metals, petroleum hydrocarbons, and chlorinated solvents in the site's soil and groundwater.

Sampling of contaminants has been carried out on the project site, but due to the existing, on-site development, the full nature and extent of the contamination has not yet been characterized. Once the existing development has been removed, the applicant will carry out a site assessment plan approved in January of 2023 by County of Santa Barbara Environmental Health Services (SBCEHS), installing and sampling up to nine permanent groundwater monitoring wells, 18 soil borings, and 19 soil vapor probes at the site. This work is in addition to the 15 hydropunch borings, 40 soil borings, and 13 vapor probes already sampled. Based on the results of the assessment, the applicant is required by condition D.2.g of the subject CDP to prepare, obtain SBCEHS approval for, and carry out a site remediation plan prior to construction of the hotel.

The appellant contends that the City erred in its decision to approve the subject CDP prior to knowing the full extent and nature of the contamination and the complete details of the required remedial action plan. Specifically, they argue that the depth of the completed testing has not ruled out the existence of a layer of dense nonaqueous phase liquids (DNAPLs) resting atop an underground aquitard. Contaminants including trichloroethylene (TCE) and other chlorinated solvents can become DNAPLS by percolating into the soil and sinking below the groundwater. The appellant posits that the extraction and dewatering associated with the underground garage could draw these contaminants upwards, into the soil and flowing groundwater, causing substantial, negative impacts to coastal resources and public health.

Contrary to these contentions, the project, as approved and conditioned by the City of Santa Barbara, effectively mitigates the potential harm that the contamination poses to coastal resources. SBCEHS has stated that a DNAPL of TCE is unlikely to exist beneath the site. This is because such a plume would have been the result of a point source release of hundreds or thousands of gallons of chlorinated solvents, which would cause high levels of the solvents to appear in the soil, soil vapor, and groundwater. The site assessments conducted thus far indicate that the concentration of chlorinated solvents in the groundwater is well below levels which would suggest the existence of a DNAPL.

[A 2009 EPA paper on DNAPL remediation](#) suggests using the “1% of solubility” rule of thumb for inferring the presence of a DNAPL.¹ This approach states that a DNAPL should be suspected when the concentration of a dissolved contaminant in groundwater is above 1% of its pure-phase solubility. [Exhibit 3](#) compares the 1% threshold of several

¹ United States Environmental Protection Agency, Solid Waste and Emergency Response. *DNAPL Remediation: Selected Projects Where Regulatory Closure Goals Have Been Achieved*. August 2009. https://www.epa.gov/sites/default/files/2015-04/documents/dnapl_remed_closure542r09008.pdf

chlorinated solvents (listed in Appendix B of the aforementioned EPA paper) with the maximum groundwater concentration of those solvents found in samples from the site.² This table shows that all of the maximum identified concentrations are orders of magnitude below the level at which a DNAPL would be suspected to be present. Therefore, the contention that a DNAPL exists beneath the site is unfounded given the data available to the City.

While there is no evidence of a DNAPL layer beneath the site's groundwater, the chlorinated solvents that are dissolved in the groundwater could still be mobilized during dewatering. However, SBCEHS states that they are not present in high enough concentrations to be absorbed by the soil in any significant amount. The risk posed by dissolved contaminants is further addressed by the applicant's preconstruction plan for the subterranean parking garage. As previously discussed, a network of groundwater monitoring wells will be installed to test for contaminants prior to excavation. In addition, a groundwater pump test will estimate the volume and rate of groundwater generated during dewatering. This water will be treated through a sediment filter and, if contaminants are present, through activated carbon filters before it is discharged either to a storm drain or a sanitary sewer. Discharging into a storm drain requires Regional Water Quality Control Board approval and discharging into a sanitary sewer requires City Sanitation District approval. Both require monitoring, lab testing, and reporting.

The applicant has also stated that the underground parking garage will be designed to withstand any hydrostatic pressure from the surrounding groundwater without the need for post-construction pumping. Ongoing pumping could have potentially caused further upwelling of contaminated groundwater, so by avoiding it the applicant has constrained the risk of contaminant mobilization to the excavation and dewatering phase of the project. Given that this phase will involve adequate testing and treatment, and that the concentration of groundwater contamination is too low to pose a risk of further contaminating the surrounding soil, the issue of groundwater contamination will be adequately addressed.

The remaining category of contaminants, those found in the site's soil, will also be addressed by the project activities and remediation requirements. SBCEHS will require that the site be cleaned up to commercial screening levels, that a health risk assessment be conducted, and, depending on the results of the assessment, that certain areas of the site be cleaned up to residential standards due to the six onsite housing units. A soil and groundwater memorandum which the applicant submitted to the Santa Barbara City Council outlines the remediation plan in further details:

The most feasible approach would be to remove soil impacted with [constituents of concern] above commercial screening levels, then prepare a health risk assessment (HRA) to evaluate residual impacts and the associated health risk. Assuming the HRA indicates there is no significant health risk associated with leaving residual impacts above residential screening levels, no further soil remediation may be necessary. [...] If

² Site data is available from the California State Water Resources Control Board's GeoTracker website: https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000012868

the soil needs to be cleaned up to residential screening levels, the majority of the soil on the south/western portion of the site would need to be excavated and removed to approximately 4 feet below grade. Some hotspot areas of soil on the south/western portion of the site would need to be further excavated and removed as well as other hotspot areas in the northern portion of the site.

This constitutes a clear plan to test for and remediate contamination in the site's soil which will protect the water quality and biological productivity of nearby coastal resources beyond the "no project" alternative. Similarly, SBCEHS and the applicant have taken due precautions in considering the issue of groundwater contamination. These precautions include the planned installation of up to nine groundwater monitoring wells for continued testing. Lastly, SBCEHS has evaluated the potential for a DNAPL to exist beneath the site and for project activities to mobilize this plume and found this to be unlikely given the available data.

Condition D.2.g of the subject CDP enables SBCEHS to review the results of the planned additional assessment, to require further testing or remedial action as is necessary, and to oversee implementation of the remedial action plan subject to their approval. Similarly, the testing, remediation, and excavation for the separately permitted upgrade to the sewer line serving the hotel will be overseen by the California Department of Toxic Substances Control. The project, as approved, is sufficiently protective of the water quality and biological productivity of coastal resources, and so to the health of the recreating public.

In conclusion, the City's decision to find that the approved development, including the remediation of site contamination will protect water quality was based on substantial evidence. As such the appeal contentions on this point raise no substantial issue regarding consistency with the applicable policies of the City's LCP.

Onsite Wetland

Beyond environmental concerns related to the contaminated soil and groundwater beneath the site, the appellant also contends that the project will adversely impact the on-site wetland in violation of the City's LCP.

Based on a 2022 aquatic resources delineation report prepared for the site, the City found that the soft-bottomed drain running along Garden Street contains 1,085 square feet of wetland as defined by the LCP. Though the anthropogenic drainage feature is degraded and populated with non-native species, a small portion meets the definition of coastal wetland due to the presence of wetland plant species including California Bulrush. Additionally, there is one Coast Live Oak tree within the drain. As part of the approved project, these native plants are to be left in place and the remaining drain area cleared of all trash and non-native plant species. Condition D.2.c of the subject CDP requires the applicant to submit and carry out a final habitat restoration plan for replanting the drain with native species and monitoring the restored area to ensure that replanting efforts are successful.

The City's LCP only identifies a required minimum habitat buffer width for certain significant habitat areas in the region. For other areas, including the subject wetland areas, it directs the buffer to be determined on a case-by-case basis as part of the biological assessment process. Based on the submitted Biological Analysis and Aquatic Resources Delineation reports, the City determined the appropriate habitat buffer to be 15 feet from the top bank of the drain, as shown in the habitat restoration plan in [Exhibit 4](#). The approved main entrance driveway from Garden Street and adjacent sidewalk encroach into this buffer, including 822 square feet of permanent encroachment and 244 square feet of temporary encroachment during construction. The City's LCP prohibits encroachments into habitat buffers unless such encroachments are unavoidable and do not significantly disrupt the habitat values of wetlands. Given that the driveway provides access from the public street to the project site, and that the minor impacts within the buffer zone are accompanied by complete restoration of the drain and a 14,716 square foot expansion of coastal scrubland, riparian, and wetland areas, the City's ecological assessment of the driveway and sidewalk is consistent with the LCP requirements. As such, the appeal contentions that the approved project will impact on-site wetlands raises no substantial issue.

Lastly, the appellant contends that the project is not in conformance with LUP Policy 4.1-37 *Bird Safe Buildings* which mandates that "all new development or substantial redevelopment within 100 feet of ESHAs, wetlands, creeks, or open space shall provide bird-safe building design features in order to reduce potential for bird strikes". While the City did not make any findings related to this policy, the hotel's design does avoid the use of building features which the LCP identifies as being unsafe for birds. The project does not use "'bird traps' such as glass courtyards, transparent corners, interior atriums, windows installed opposite each other, clear glass walls, skywalks, [or] transparent glass balconies", and minimizes reflection from the building by siting trees around its perimeter. Thus, the project appears to be in conformance with the bird-safe building design requirements of the City's LCP. The lack of findings specifically addressing Policy 4.1-37 does not rise to the level of a substantial issue.

In conclusion, the City properly found that the approved development will protect the small onsite wetland area and that removal of invasive plant species and debris will enhance habitat values along the drainage feature, consistent with the LCP. As such, the appeal contentions on this point raise no substantial issue regarding the project's consistency with the biological resource policies of the City's LCP.

2. Flooding and Coastal Hazards

The appellants contend that the approved project, in particular its subterranean parking garage and incomplete assessment of the site's soil and groundwater contamination, is inconsistent with the following City of Santa Barbara LCP policies related to flooding, sea level rise, and coastal hazards.

City of Santa Barbara Coastal Land Use Plan Policy 5.1-5 states:

Evacuation Route Evaluation. Periodically evaluate the effectiveness of existing and proposed fire emergency evacuation routes, and develop standards or conditions that can be applied to projects to assure that adequate evacuation routes are provided and maintained, where feasible.

City of Santa Barbara Coastal Land Use Plan Policy 5.1-18 states:

Hazard Risk Reduction. New development and substantial redevelopment shall do all of the following, over the expected life of the development, factoring in the effects of sea level rise:

- A. Minimize risks to life and property from high geologic, flood, and fire hazards;
- B. Assure stability and structural integrity; and
- C. Neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

City of Santa Barbara Coastal Land Use Plan Policy 5.1-19 states:

Adaptation in Development. New development and substantial redevelopment shall consider the expected life of proposed development in conjunction with the best available information on climate change effects, particularly sea level rise, and incorporate adaptation measures, as needed, in the location, siting, and design of structures in order to minimize hazards and protect coastal resources for the life of the development.

City of Santa Barbara Coastal Land Use Plan Policy 5.1-20 states:

Avoid or Minimize the Effects of High Geologic Hazards. New development and substantial redevelopment in areas of potential fault rupture, groundshaking, liquefaction, tsunami, seiche, slope failure, landslide, soil erosion, expansive soils, radon, or high groundwater shall be sited, designed, constructed, and operated (including adherence to recommendations contained in any site specific geologic evaluation required) to ensure that the development minimizes risks to life and property, assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area over its expected life, factoring in the effects of sea level rise.

City of Santa Barbara Coastal Land Use Plan Policy 5.1-28 states:

Minimize the Effects of High Flood Hazard. New development and substantial redevelopment shall meet the following requirements over the expected life of the development, factoring in the effects of sea level rise:

- A. Avoid high flood hazards where feasible;

- B. Where avoidance of high flood hazards cannot be feasibly achieved, minimize flood risk by increasing elevation of structures, restricting basements or habitable floor area below grade, restricting grading, restricting fencing or yard enclosures that cause water to pond, and/or utilizing flood proof materials consistent with local building requirements; and
- C. Neither create nor contribute significantly to downstream flooding, erosion, geologic instability, or destruction of the site or surrounding area.

City of Santa Barbara Coastal Land Use Plan Policy 5.1-35 states:

Development Standards for Potential Shoreline Hazards Screening Area 6 (Inland Coastal Flooding Area) on the Interim Shoreline Hazards Screening Areas Map.
New development and substantial redevelopment shall:

- A. Avoid high flood hazards unless determined to be infeasible or more damaging to coastal resources;
- B. Where avoidance of high flood hazards cannot be achieved, minimize flood risk by increasing elevation of structures, restricting basements or habitable floor area below grade, restricting grading, restricting fencing or yard enclosures that cause water to pond, and/or utilizing flood proof materials consistent with local building requirements; and
- C. Be designed to assure stability and structural integrity and neither create nor contribute significantly to downstream flooding, erosion, geologic instability, or destruction of the site or surrounding area over the expected life of the development, factoring in the effects of sea level rise.

Flooding

The project site is in an area with a high risk of flooding due to its low-lying topography and proximity to Mission Creek. The appellants contend that the City, in approving the project, failed to correctly interpret the federal regulations pertinent to the subterranean parking garage and so failed to minimize the risk to life and property from flood hazards as required by the LCP. Specifically, the appellants argue that the hotel should have been categorized as a residential building based on the definition given in Title 44 Part 59 of the Federal Code of Regulations, Section 1.7 of FEMA P-2037, and NFIP Technical Bulletin 6, and thus should not have been permitted to have an underground parking structure.

[Title 44 Part 59 of the Federal Code of Regulations](#) gives the following definition, in relevant part, for “other residential building”: “a mixed-use building in which the total floor area devoted to non-residential uses is less than 25 percent of the total floor area within the building”. It also defines a “non-residential building” to be “a commercial or mixed-use

building where the primary use is commercial or non-habitational”. Hotels, [NFIP Technical Bulletin 6](#) clarifies, are commercial buildings. The addition of the 6 on-site housing units make the project a mixed-use building, but the primary use is still commercial and the total floor area of non-residential use is much higher than 25%. [FEMA P-2037](#) also supports this conclusion, stating that the category of “other residential building” includes hotels where the normal occupancy of a guest is six months or more, which is not the case with the subject hotel.

The clearest guidance on the matter, however, comes from the [2024 NFIP Flood Insurance Manual](#). It states that the “other residential building” category “excludes [hotels] where the normal occupancy of a guest or resident is less than 6 months”. Therefore, staff concludes that the proposed hotel with 6 housing units is a primarily commercial mixed-use building and the underground parking garage is allowed by the federal regulations associated with flood hazards. This is the same conclusion that a FEMA Floodplain Management Specialist reached in an email to the City on the matter ([Exhibit 5](#)). The contention that the project fails to minimize flood risk by allowing an underground parking garage is therefore unsubstantiated.

The appeal makes an additional contention related to flooding which is that any contamination left in the soil from the project’s mobilization of a DNAPL would be further spread and cause further harm during a flood. As discussed in section III.C.1 of this report, the available data suggest that the presence of a DNAPL beneath the site is unlikely, and that chlorinated solvents in the groundwater are too low in concentration to absorb to the surrounding soil in significant amounts. So, there is no evidence that this appeal assertion raises a substantial issue. Furthermore, Commission staff notes that in the “no project” alternative, the site’s existing soil contamination would not be remediated. From the standpoint of reducing the spread of contamination during a flood, the approved project is likely to benefit coastal resources more than the “no project” alternative.

In conclusion, the City’s decision to find that the approved development will minimize risks to life and property from hazards including flooding was based on substantial evidence. As such the appeal contentions on this point raise no substantial issue regarding the flood hazard reduction policies of the City’s LCP.

Sea Level Rise

The appellant contends that the City did not adequately consider the impact of future sea level rise when analyzing the issues of soil and groundwater contamination and of flooding and coastal hazards. They argue that sea level rise will increase the risk of compound flood events, wherein high flows from Laguna Channel coincide with storm surges from the rising sea, and that these flood events would mobilize the contaminants in the soil and groundwater, exacerbating the problem.

As discussed previously, there is little evidence that the project activities, which include contaminated soil remediation, would amplify the risk of floods mobilizing the harmful chemicals present. Further, SBCEHS staff has confirmed that it considers sea level rise

and the broader risk of flooding in the review and design of remediation efforts. They have stated that their agency “generally requires remediation in areas where surface water can infiltrate. This would prevent contaminants from migrating into groundwater”. This supports the conclusion that a reduction in the amount of contaminated soil on site would decrease the risk of floods conveying the contaminants to nearby coastal resources. As with flooding, the concern that rising groundwater could mobilize contaminants in the soil is better addressed by the proposed remediation than the “no project” alternative.

Beyond the issue of contamination, it is also necessary to consider how sea level rise would impact the public safety and development longevity elements of the approved project. The LCP designates six different hazard areas within the City and provides hazard minimization requirements for each area factoring in the effects of sea level rise. The subject site is located in Screening Area Six (Inland Coastal Flooding Areas). LCP requirements for this area include avoiding high flood hazards where feasible and where avoidance of high flood hazards cannot be achieved, minimizing flood risk by increasing elevation of structures, restricting basements or habitable floor area below grade, restricting grading, restricting fencing or yard enclosures that cause water to pond, and/or utilizing flood proof materials consistent with local building requirements. The LCP also requires that new development be designed to: “assure stability and structural integrity and neither create nor contribute significantly to downstream flooding, erosion, geologic instability, or destruction of the site or surrounding area over the expected life of the development, factoring in the effects of sea level rise”. The City reviewed the applicant’s studies regarding potential hazards affecting the project site, factoring in the effects of sea level rise. The Commission’s adopted Sea Level Rise Policy Guidance, updated in November of 2024, recommends that commercial building projects, such as the subject project, be analyzed assuming a 75-year design life and the intermediate-high sea level rise scenario. Under these circumstances, the guidance document estimates that Santa Barbara will have experienced 4.5 feet, (approximately 137 centimeters) of sea level rise by the end of the project life in 2100.

[Exhibit 6](#) relies on data from the US Geological Survey’s Coastal Storm Modeling System (CoSMoS) to depict the anticipated ocean inundation, 100-year storm flooding, and groundwater levels in the area at 4.9 feet (150 centimeters) of sea level rise. Because CoSMoS data is only available in 25-centimeter increments, no projection for 4.5 feet is available. With 4.9 feet of sea level rise and normal spring tide conditions, Figure A of [Exhibit 6](#) conveys that much of the subject site is projected to be flooded under zero to two feet of water. However, as shown by Figure D of the same exhibit, much of the site’s topography will be elevated several feet above the currently existing grade, likely above the flood line. The habitable first floor of the hotel will be between three to four feet above the existing grade and thus will not be impacted by two feet of flooding.

The applicant states that the four to six feet of flooding which is projected to occur onsite during a 100-year storm event under 4.9 feet of sea level rise, as depicted in Figure C of the exhibit, can be addressed by deploying temporary flood barriers to prevent water from entering the garage and first floor of the hotel. Many of the nearby structures and emergency access routes would also be vulnerable to these conditions, and so the City’s

LCP identifies flooding in the Lower State Component area as an issue to be addressed programmatically.

Lastly, Figure C of [Exhibit 6](#) depicts the expected depth of the water table beneath the site with 4.9 feet of sea level rise, assuming the soil is relatively impermeable. A large portion of the site's area is expected to have emergent groundwater. The underground garage is designed to be able to withstand the hydrostatic pressure imposed by this higher water table. In addition, a sump pump will be installed to deal with any nuisance flooding that occurs.

In conclusion, staff finds that the City's approval of the subject CDP presents no substantial issue relating to the flood hazard and sea level rise policies of the LCP.

3. Public Access and Recreation

One of the appellants' central concerns is that the approved hotel does not address the needs of the public, specifically the needs of the surrounding community and the needs of moderate-income visitors. They argue that the project fails to meet the following standards of the Coastal Act and the City of Santa Barbara's LCP which are designed to protect the public's right to visit and enjoy coastal resources.

Coastal Act Section 30213 states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating

the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

City of Santa Barbara Coastal Land Use Plan Policy 2.1-4 states:

Sustainability through Nonresidential Growth Management. Implement nonresidential growth management measures in the Coastal Zone that pace land use development to:

- N. Match the availability of resources such as water, waste water treatment capacity, and other key infrastructure;
- O. Utilize transportation capacity efficiently through a traffic management strategy;
- P. Locate nonresidential development in areas best able to provide sustainable transportation, services, and recreation; and
- Q. Encourage Community Benefit Projects including:
 - i. Community priority projects that address a present or projected need directly related to public health, safety, or general welfare, and
 - ii. Economic development projects that will enhance the standard of living for City and South Coast residents.

City of Santa Barbara Coastal Land Use Plan Policy 2.1-7 states:

Priority of Coastal-Dependent Developments. As outlined in Coastal Act Section 30255, coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in the Coastal LUP, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

City of Santa Barbara Coastal Land Use Plan Policy 2.1-13 states:

Priority of Recreational Facilities. As outlined in Coastal Act Section 30222, the use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

City of Santa Barbara Coastal Land Use Plan Policy 2.1-15 states:

Maintenance and Enhancement of Public Access. As outlined in Coastal Act Section 30252, the location and amount of new development or substantial redevelopment should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial

facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses, and (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

City of Santa Barbara Coastal Land Use Plan Policy 2.1-16 states:

Siting of New Development. As outlined in Coastal Act Section 30250(a), new and substantially redeveloped residential, commercial, or industrial development, except as otherwise provided in the Coastal LUP, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

City of Santa Barbara Coastal Land Use Plan Policy 2.2-9 states:

Protection of Harbor Commercial Fishing and Recreational Boating Facilities. As outlined in Coastal Act Section 30234, facilities serving the commercial fishing and recreational boating industries shall be protected, and where feasible, upgraded. Existing berths and mooring sites shall not be reduced unless the demand for those facilities no longer exists, or adequate substitute space has been provided. Recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

City of Santa Barbara Coastal Land Use Plan Policy 3.2-5 states:

Range of Recreation Activities. As outlined in Coastal Act Section 30210, recreational opportunities shall be provided for all the people consistent with public safety needs, and the need to protect public rights, rights of property owners, and natural resource areas from overuse.

City of Santa Barbara Coastal Land Use Plan Policy 3.2-7 states:

Protect Coastal Recreation. Protect coastal areas suited for ocean- and water-oriented recreational use and facilities. Support opportunities for low-intensity, ocean-dependent recreational uses and encourage increased recreational boating use of coastal waters.

City of Santa Barbara Coastal Land Use Plan Policy 3.2-10 states:

Increased Recreational Demand Evaluation. New development and substantial redevelopment shall be evaluated for potential new user demand generated by the

development and associated circulation impacts on nearby coastal park and recreation facilities.

City of Santa Barbara Coastal Land Use Plan Policy 3.2-11 states:

Mitigation of Impacts on Coastal Park and Recreational Facilities. New development or substantial redevelopment that results in substantially increased user demand for coastal park and recreational facilities shall be required to provide on-site recreational open space for new users generated by the development.

City of Santa Barbara Coastal Land Use Plan Policy 3.2-12 states:

Lower Cost Visitor and Recreational Facilities. As outlined in Coastal Act Section 30213, lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The City shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

City of Santa Barbara Coastal Land Use Plan Policy 4.3-7 states:

Compatible Development. Development shall be sited and designed to be visually compatible with the character of surrounding areas and where appropriate, protect the unique characteristics of areas that are popular visitor destination points for recreational uses.

City of Santa Barbara Coastal Land Use Plan Policy 4.3-9 states:

Minimize Excavation, Grading and Earthwork. Minimize alteration of natural landforms to ensure that development is subordinate to surrounding natural features such as drainage courses, prominent slopes and hillsides, and bluffs. Site and design new development and substantial redevelopment to minimize grading and the use of retaining walls, and, where appropriate, step buildings to conform to site topography.

City of Santa Barbara Coastal Land Use Plan Policy 6.1-12 states:

Utility Pipelines Design and Routing. New utility pipelines (e.g., natural gas, water, and wastewater pipelines) shall be sited and designed to prevent erosion and avoid impacts to coastal resources to the maximum extent feasible. Improvements to existing utility pipelines shall avoid impacts to coastal resources to the maximum extent feasible. Where avoidance is not feasible, adverse impacts to coastal resources during construction, operation, or improvements to utility pipelines shall be minimized and mitigated, consistent with the policies and provisions of the Coastal LUP.

Community Compatibility

The appellant contends that the approved project is incompatible with the character and needs of the Funk Zone community. They point to Policy 4.3-7 of the City's LCP, which requires that new projects be visually compatible with their surroundings and protect the unique characteristics of areas which are popular visitor destinations. The hotel's Monterey and Spanish Colonial style architecture, they argue, appears "bland" and "monolithic" in contrast to the site's "colorful" and "eclectic" surroundings.

This description of the Funk Zone as colorful and eclectic is largely supported by the City's LUP. It states:

The Funk Zone area is centrally located in this Component Area, and the land use designation allows coastal-dependent and coastal-oriented uses, commercial recreational uses, arts-related uses, restaurants, and small stores. Historically, the Funk Zone was used for light industrial and restricted commercial uses and was a haven for local artists. [...] Over time, the mix of uses has shifted away from what was once lower cost rentals of buildings used for artist spaces and craftsman to a more vibrant mix, adding in residential uses, restaurants, wineries, breweries, small markets, and recreation.

The LUP goes on to emphasize that development projects within the Funk Zone typically revitalize and reuse existing structures, rather than demolishing the existing structures to construct new ones.

While the LUP does not define the area's specific geographic boundaries, it does note that the Funk Zone is "centrally located" within the Lower State Component Area. The project site is on Garden Street, the stated eastern border of the component area. As such, the Funk Zone proper is located somewhere to the west of the project site. In fact, there are several buildings adjacent to the west edge of the subject site that contain restaurants and other businesses facing Santa Barbara Street that appear to be part of the Funk Zone. The subject site extends to Garden Street which is a wider street that is much less pedestrian friendly than the walkable streets of the Funk Zone. Finally, the map of the Lower State Component Area shown in the LUP makes it clear that the project site is within the Hotel & Related Commerce II land use designation ([Exhibit 2](#)). The adjacent parcels along Santa Barbara Street and the majority of the area considered to be within the Funk Zone are designated as Coastal-Oriented Commercial/Medium High Residential which the LUP describes as:

This designation allows coastal-dependent and coastal oriented uses, commercial recreational uses, arts-related uses, restaurants, and residential uses in some areas with a multiple-unit density of 12-27 units per acre allowed...

The LUP's list of land uses within the Funk Zone conspicuously omits hotels, further supporting the conclusion that the subject site is treated differently in the LCP from the Funk Zone area.

Based on this conclusion, a more relevant benchmark for assessing the project's consistency with Policy 4.3-7 of the City's LCP is the aesthetic and visual qualities of other buildings, particularly other hotels, within the Lower State Component Area. [Exhibit 7](#)

shows the street profiles of five hotels in or near the component area, two of which feature an architectural style and color palette similar to that of the subject project. This design is common to several buildings within the project area and throughout the City of Santa Barbara.

This assessment matches the conclusions reached by the Santa Barbara City Historic Landmarks Commission (HLC). The HLC is responsible for preserving the City's architectural and cultural heritage, and so provided feedback on the hotel's design and appearance. After hearing the project on May 25, 2022, they made the preliminary comment that "the design of the project is compatible with desirable architectural qualities and characteristics that are distinctive of Santa Barbara and of the particular neighborhood surrounding the project. The project is appropriately establishing character of neighborhood". Contrary to the appellant's claim that the hotel is "overbuilt for its small site [and] boxy", the HLC commented that "the size, mass, bulk, height, and scale of the project are appropriate because of the large footprint of the project".

Beyond this qualitative evaluation of the project's style and appearance, staff has reviewed and concurs with the City's assessment that the project meets the 20-foot front setback and 45-foot building height limit (excluding the 51-foot elevator tower) required in the HRC-2 zone. This further supports the conclusion that the project is compatible in character and function with the surrounding neighborhood.

The appellant makes a few other contentions related to the claim that the project does not address the character and needs of the surrounding community. Specifically, they argue that the grading associated with the underground parking garage is in violation of Policy 4.3-9 of the LCP, which requires the City to "minimize alteration of natural landforms to ensure that development is subordinate to surrounding natural features, such as drainage courses, prominent slopes and hillsides, and bluffs". With the exception of the drainage area to be restored, the site's topography is relatively flat and lacks any prominent slopes, hillsides, or bluffs. As such, although the project does include excavation to develop the proposed subterranean parking garage, this grading will not result in landform alteration.

The appellant also contends that the City failed to evaluate the impacts of offsite upgrades to a sewer line serving the project. While it is true that the upgrades are necessary to meet the expanded needs associated with the project, the sewer line expansion project will be designed and undertaken by the City and go through its own permitting process. Related to this, the appellant also cites Policy 2.1-4 of the LCP, which mandates, among other things, that projects match the availability of wastewater treatment capacity. In this case, the City's findings address wastewater treatment capacity and conclude that the project is consistent with Policy 2.1-4 only as conditioned to require that the appellant contribute \$2,752,530 (50% of the expected cost) for the upgrade and that the improvement must be completed before the hotel is occupied. As such, the City did assess whether the proposed project matches with the availability of water, wastewater treatment capacity, and other key infrastructure and ensured consistency of the project with the requirements of LUP Policy 2.1-4.

In conclusion, none of the appellant's contentions raise a substantial issue with respect to the community compatibility provisions of the City's LCP.

Coastal Recreation Opportunities

The appellants also contend that the project is inconsistent with the public recreation policies of the subject LCP. They assert that the City failed to evaluate the new demand for recreation that the project would generate, that the hotel is replacing storage area for recreational boating and commercial fishing, and that the mobilization of contaminants threatens nearby coastal resources and thus the health and safety of individuals recreating within them. The last assertion, concerning the issue of contamination, is addressed in section III.C.1 of this report. The other two contentions regarding recreation are discussed below.

Policy 3.2-10 of the City's LCP requires new development to be evaluated for its potential to generate new demand on nearby coastal park and recreation facilities, and Policy 3.2-11 requires any substantial increase in that demand to be mitigated through provision of on-site recreational facilities for new users generated by the development. The appellant argues that such an analysis was never conducted. Although Policies 3.2-10 and 3.2-11 do not specify types of development that are most likely to generate new recreational user demand, staff would note that the subject development includes overnight accommodations for visitors to the Santa Barbara area, including those visiting for coastal access and recreation. As such, it can be argued that the development will accommodate recreational users, not create increased recreation demand. Rather, other types of development, particularly residential development, are more likely to generate additional demand for recreational facilities. Policies 3.2-10 and 3.2-11 should be interpreted consistent with Section 30252 of the Coastal Act which states in pertinent part that:

The location and amount of new development should maintain and enhance public access to the coast by... (6) assuring that the recreational needs of **new residents** will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development [emphasis added].

As the proposed development is primarily a hotel providing overnight accommodations for visitors with only 6 housing units contributing new residents, the additional recreational needs are not likely to be significant. Nonetheless, the potential for increased recreational demand was considered by the City. The 2011 City of Santa Barbara General Plan Update Program Environmental Impact Report anticipated the construction of a 250-unit hotel at the subject site when analyzing the demand on nearby public parks. It found the current supply of public parks to be sufficient to meet the forecasted demand, which, as mentioned, included the subject hotel. The addition of 6 affordable housing units was analyzed by the City in its Section 15138 CEQA exemption determination, and found to have only minimal additional impacts on the demand for public parks. In addition, the approved project includes a fitness center and pool for hotel guests, which constitute on-site recreational facilities that can help offset any increase in demand for public coastal

recreation. Therefore, the City sufficiently analyzed the potential impacts to coastal parks and recreation associated with the project.

The City's LCP prioritizes coastal-dependent developments over other forms of development and protects commercial fishing and recreational boating facilities. On this basis, the appellant claims that the project is inconsistent with the LCP because it replaces storage area for recreational boating and commercial fishing. Based on staff's review of aerial and project site photos, much of the storage area on the project site appears to be general storage and construction storage including storage containers, trucks and other vehicles, and open storage of construction and other materials but not storage specifically intended for commercial fishing or recreational boating.

Additionally, where there is a certified LCP, the priority(ies) of use on individual properties are generally established by the local government through the land use and zoning designations of the LCP, consistent with the priorities required by Chapter 3 of the Coastal Act. In this case, the LCP does provide for areas where priority is given to coastal oriented or coastal dependent land uses. In fact, the LCP designates areas to the east of the subject site (including directly across Garden Street, and east of the El Estero Water Treatment Facility) for Coastal Dependent Industrial, which includes commercial fishing or recreational boating support facilities. The LUP describes the designation in this way:

This designation strives to provide for appropriate coastal dependent and related industrial uses in close proximity to the Harbor and Stearns Wharf. Allowed uses include, but are not limited to, boat sales, storage, construction, and/or repair; public parking lots; and seafood processing and wholesaling. Residential uses are prohibited. Existing non-coastal-oriented industrial uses are allowed to be maintained, but coastal dependent and coastal-related industrial uses are encouraged.

In this case, the subject site is designated Hotel & Related Commerce II/Medium High Residential which is described by the LUP as:

This designation allows hotels, motels, and auxiliary uses as well as visitor-serving and commercial recreational uses. Based on the historical presence of residential development, limited portions of this designation allow multiple-unit development at a density of 12-27 units per acre.

The proposed project is a hotel with auxiliary uses which is a priority use and consistent with the LCP. Thus, the City's approval of the removal of existing uses on the site and the construction of a hotel is in accordance with the coastal recreation priorities laid out by the City's LCP.

In conclusion, the Commission finds that the appeal does not raise a substantial issue with respect to the public access and recreation policies of the City of Santa Barbara's LCP.

Moderate Income Accommodations

As part of the appellants' claims that the project impairs public recreation, they cite Policy 3.2-12 of the City's LCP, stating that "as delineated in the local coastal plan, the city prioritizes public recreational opportunities over lower cost visitor serving facilities". However, this policy should not be interpreted in the way suggested by the appeal. The relevant portion of the policy (which is a restatement of Coastal Act Policy 30213) states "lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred".

The correct interpretation of this policy is not that public recreation uses are unilaterally preferred over lower cost visitor serving facilities (including overnight accommodations), but that low-cost visitor and recreational facilities which include public recreational opportunities are preferred to those which do not. The City's coastal development priorities are also expressed in Policy 2.1-13 (a restatement of Coastal Act Policy 30222), which states that "the use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry". As discussed previously, the approved hotel qualifies as a visitor-serving commercial facility, and while privately owned, will be available to the public at large, in that it does not limit who may stay there or require membership in a club or any other requirement other than payment for services. As such, a hotel use is prioritized by the policies and land use/zoning designations of the LCP. Furthermore, it is encouraged by Policy 3.2-12 because it qualifies as a moderate cost visitor serving accommodation and offers additional cost-saving amenities, as the following paragraphs will show.

The Commission's preferred approach for analyzing the cost of accommodations is to examine how the proposed average daily rate (ADR) of the facility in question compares to the statewide ADR during the peak season (July and August). In 2023, the applicant provided the Coastal Commission with a moderate cost study, which included the room price data shown in [Exhibit 8](#) Table A, in response to a public comment letter from staff stating that the City staff's recommended conclusion for the decision maker was not based on sufficient evidence or analysis of the issue. From this data, staff estimates that the ADRs of the various 4-person room types fall between \$224 and \$260; the ADRs of the 6-person room types are between \$240 and \$300.

In July and August of 2023, the statewide ADR for a double occupancy room was \$200.52. In past analyses, the Commission has adjusted the rate upwards by adding 10% for every additional person the room can accommodate, and considered rooms priced within 75% to 125% of this occupancy-adjusted rate to qualify as moderately priced. Using this approach, the 2023 statewide moderate cost range for 4-person rooms is between \$180.47 and \$300.78 per day, and that the range for 6-person rooms is between \$210.55 and \$350.91. Based on these criteria, all of the guest rooms in the approved hotel constitute moderately priced overnight accommodations, as shown in [Exhibit 8](#) Table B.

The hotel's design and operation scheme further add to its affordability. A condition of the City's CDP approval prohibits the applicant from adding any amenities that are typically associated with a luxury hotel, such as valet parking or multiple full-service restaurants. Such changes would likely result in higher operating costs and justify higher room rates, making the hotel less affordable. Instead, the amenities provided are aimed at making stays more affordable. For instance, the hotel includes a complimentary breakfast buffet and 119 of the 250 guest rooms contain a kitchen, giving guests lower-cost alternatives to dining at restaurants. This increase in affordability is not reflected in the nightly room rates, but is nonetheless a reduction in the financial barrier to visiting Santa Barbara's coast.

Based on the nightly room rates supplied by the applicant, the City's condition of approval, and the project's list of cost-saving, non-luxury amenities, staff concludes that the City's decision to find the project consistent with the low-income visitor serving policies of the LCP does not raise a substantial issue.

4. 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 developments conformity to the policies contained in the certified LCP and/or the public access policies of the Coastal Act. In this case, the appellant alleges several inconsistencies between the City's approval and the certified policies of the LCP and 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, 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. As discussed in detail above, the Commission finds that the City made the required findings for the approved CDP and had substantial factual support for its conclusion that the proposed project would not adversely impact public access or coastal resources. Additionally, the City's records include extensive factual and legal support for the City's findings that the project is consistent with all of the applicable policies of the certified LCP.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development as approved. The approved project is fairly extensive. It includes the merging of six lots, demolition of existing structures, further testing and remediation of contamination in the soil and groundwater,

construction of a 250-unit hotel with six additional housing units, restoration of the onsite drainage and wetland areas, and, as part of a separate permit, necessary upgrades to the sewer line that will serve the development. Therefore, the extent and scope of development is significant and so this factor may support a finding of substantial issue. Nonetheless, as discussed in detail above, the project is consistent with LCP requirements and all other factors point strongly towards a finding of no substantial issue. The size of the development is commensurate to the quantity of evidence gathered in reviewing it.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of coastal resources affected by the decision. The approved hotel will be a moderate-cost, visitor-serving accommodation and replace the site's current use as a storage yard, which is not a coastal-related use. In addition, the onsite wetland is located in the center of an anthropogenic drainage feature vegetated predominantly by non-native plants, which the project's restoration component will replace with native species. Finally, the project will remediate much of the onsite soil contamination that might otherwise end up in the marine environment. Therefore, the coastal resources impacted by the decision are not of great significance and are likely to be impacted positively; this factor supports a conclusion of no substantial issue.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue 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 its LCP policies correctly in evaluating whether to approve the subject CDP. The appellant's contentions were mostly disputes over technical conclusions rather than policy interpretations. Finding a substantial issue with the City's decision would have little precedential value to inform how LCP policies were applied in the future. Thus, this factor supports a finding that no substantial issue exists.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises issues of regional or statewide significance. While many of the issues raised, including moderate-cost visitor-serving accommodations, biological productivity and water quality of marine resources, and mitigation of flood and coastal hazards, are of statewide significance, the approved project is consistent with the LCP policies relevant to each. Thus, the project does not present issues of regional or statewide significance and so this factor supports a finding of no substantial issue.

In conclusion, the Commission finds that only one of the factors listed above favors finding that a substantial issue exists. For the reasons 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. Applying the five factors identified above, the Commission finds the City's record adequately supports its position that the proposed project is consistent with the applicable Coastal Act and LCP policies. Though the development is relatively large in scope, it would not have a negative effect on significant coastal resources, would not set an adverse precedent for future CDPs, and doesn't raise issues of regional or

statewide significance. Therefore, the Commission finds that the appeal does not raise a substantial issue with respect to the grounds on which it was filed.

APPENDIX A

Substantive File Documents

City of Santa Barbara Administrative Record for Project No. PLN2019-00052, received January 10, 2025.