

**CALIFORNIA COASTAL COMMISSION**

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# Th11a

Appeal Filed: 2/18/2025  
Action Deadline: Waived  
Staff: Isobel Cooper - SF  
Staff Report: 4/18/2025  
Hearing Date: 5/8/2025

## STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

**Appeal Number:** A-2-HMB-25-0003

**Applicant:** RGJC South LLC

**Appellant:** David Schorr

**Local Government:** City of Half Moon Bay

**Local Decision:** City of Half Moon Bay Coastal Development Permit Number PDP-072-13, approved by the Half Moon Bay City Council on January 30, 2025.

**Project Location:** Between Highway 1 and Main Street at the southern end of the City of Half Moon Bay's downtown, and made up of a roughly 5-acre undeveloped property to the south, and a roughly 2.5-acre developed property (occupied by an automobile sales dealership) to the north and spanning Seymour Street.

**Project Description:** Lot-line adjustment between the undeveloped and developed properties to create a roughly 4.5-acre undeveloped property, and roughly 3-acre developed property; construction of a roughly 66,000 square-foot, two to three story, 102-room hotel and associated site improvements (e.g., parking, meeting rooms, bar/lounge, etc.), as well as habitat restoration and bike and pedestrian paths, on the undeveloped property; and subdivision of a roughly 1-acre portion of the developed property located north of Seymour Street into four lots.

**Staff Recommendation:** No Substantial Issue Exists

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## IMPORTANT HEARING PROCEDURAL NOTE

Please note that this is a substantial issue hearing only, and testimony will be taken only on the question of whether the appeal raises a substantial issue. Such testimony is generally limited to three minutes total per side (although the Commission's Chair has the discretion to modify these limits), so please plan your testimony accordingly. Only the Applicant, persons who opposed the application before the local government, the local government, and their proxies/representatives are allowed to testify during this phase of the hearing. Others may submit comments in writing. If the Commission determines that the appeal raises a substantial issue, then the Commission takes jurisdiction over the underlying coastal development permit (CDP) application and will then review that application at a future Commission meeting, at which time all persons are invited to testify. If the Commission finds that the appeal does not raise a substantial issue, then the local government CDP decision stands, and is thus final and effective.

## SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay approved the construction of a new roughly 66,000 square-foot, two to three story, 102-room hotel with related amenities (e.g., parking, meeting rooms, bar/lounge, etc.) on a roughly 4.5-acre undeveloped site directly adjacent and inland of Highway 1 at the south end of the City's downtown area. The hotel portion of the project would also include onsite habitat restoration and a bike/pedestrian trail nearest Highway 1, and a maintenance building and bike rental operation nearest to Main Street. The project also includes a lot line adjustment south of Seymour Street between the undeveloped hotel site and the developed automobile dealership properties, and the subdivision of the roughly 1-acre portion of the developed property located north of Seymour Street (and between Highway 1 and Main Street) into four lots.

The Appellant primarily contends that the City-approved project is too large for the site and the area, would degrade views of the City's eastern hills and ridgelines as seen from an LCP-designated Highway 1 scenic corridor (as well as degrading the scenic corridor itself), and would be larger than and out of character with nearby development, all of which the Appellant argues is inconsistent with LCP provisions that require preservation of the City's scenic resources. The Appellant also contends that the project does not adequately address traffic impacts, should not be seen as a visitor-serving benefit (because there are already adequate similar such facilities in the City), and that it inappropriately defers evaluation of potential future residential development on the 4-lot subdivision area.

**After reviewing the local record, staff recommends that the Commission find that the City's CDP action does not raise a substantial issue with respect to the City-approved project's conformance with the Half Moon Bay LCP.**

Although the City's action raises some questions regarding its consistency with certain LCP hillside and ridgeline view provisions, staff does not believe that the approved development results in significant public view problems of the type that would warrant the Commission's intervention in this project. It is true that the project would result in a large structure inland of Highway 1 that would, from certain vantage points, enter into

views of the upland slopes and the ridgeline of the foothills to the east. However, its effect on these views is also tempered by the fact that the buildings would be well set back from the highway (between 120 and 180 feet or so from the edge of the pavement), and their massing would be broken up into two main buildings. In addition, the area is not without its large structures as is, including the City's Coastside Fire Station just inland of Main Street near this location (and its four-story fire training tower) and the two-story Coastal Repertory Theatre building just north of that and opposite the hotel site. The project site is also located at the southern-most extent of the City's downtown "Town Center", where the LCP encourages commercial development to be clustered. In short, staff believes that the intent of the LCP's scenic corridor protection provisions in this regard is adequately respected by the City's action in this case, and that the development can be found visually compatible with the character of the viewshed at this location.

Thus, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP application for the project. The single motion necessary to implement this recommendation is found on **page 5** below.

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## EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – Site Photos

Exhibit 3 – City-Approved Project Plans

Exhibit 4 – City of Half Moon Bay Final Local CDP Action Notice

Exhibit 5 – Appeal of City CDP Action

Exhibit 6 – LUP Scenic and Visual Resource Areas

Exhibit 7 – Project Visual Simulations

## 1. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would mean that the Commission would not take jurisdiction over the underlying CDP application for the proposed project and would not conduct further hearings on this matter, and that the local government CDP decision stands and is thus final and effective. To implement this recommendation, staff recommends a **yes** vote on the following motion, which if passed, will result in the recommended no substantial issue finding. If the motion fails, then the Commission will have instead found a substantial issue and will take jurisdiction over the subject CDP application for future hearing and action. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:*** *I move that the Commission determine that Appeal Number A-2-HMB-25-0003 raises **no substantial issue** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a **yes** vote.*

***Resolution to Find No Substantial Issue:*** *The Commission finds that Appeal Number A-2-HMB-25-0003 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Half Moon Bay Local Coastal Program and/or the public access and recreation policies of the Coastal Act and/or the public access and recreation policies of the Coastal Act.*

## 2. FINDINGS AND DECLARATIONS

### A. Project Description and Location

The proposed project is located between Highway 1 and Main Street at the southern end of the City of Half Moon Bay's downtown, and is made up of a roughly 5-acre undeveloped property to the south (APN 065-012-030), and a roughly 2.5-acre developed property (occupied by an automobile sales dealership) to the north and spanning Seymour Street (APNs 065-012-020 and 064-352-150) (see **Exhibit 1** for a location map, and see **Exhibit 2** for site area photos).

The proposed project is made up of three components:

- A lot-line adjustment between the undeveloped and developed properties to create a roughly 4.5-acre undeveloped property, and roughly 3-acre developed property.
- Construction of a 66,268 square-foot, two to three story, up to 36-foot tall, 102-room hotel and associated site improvements (e.g., parking, meeting rooms, bar/lounge, etc.), as well as habitat restoration and a bike/pedestrian path, on the undeveloped property.
- Subdivision of a roughly 1-acre portion of the developed property located north of Seymour Street into four lots.

See **Exhibit 3** for project plans see **Exhibit 7** for visual simulations of the project.

The proposed hotel property is currently vacant, and is covered with ruderal vegetation, as well a seasonal wetland that essentially aligns with the roadside drainage located along the western property boundary with Highway 1. The LCP Land Use Plan (LUP) land use designation for the hotel property is Commercial-General, which allows for a variety of commercial activities (including visitor-serving facilities), and is currently zoned Planned Unit Development (PUD) in the LCP Implementation Plan (IP). However, the IP's PUD zoning designation is outdated inasmuch as the LUP was updated in 2020, and the LUP identifies that this property is supposed to be zoned Commercial-General (C-G), and the City therefore applied C-G zoning standards to the hotel property.<sup>1</sup> The IP's C-G zoning district allows for a range of retail, service, commercial, office, and residential uses, including specifically allowing for hotels and motels.

The Applicant indicates that the hotel would be a Hyatt Place Hotel, and that the Hyatt Place brand is included in the "Essentials" tier of the Hyatt product portfolio, which the Applicant indicates serves as a more budget-friendly option relative to other Hyatt hotel brands. The Applicant proposes (and the City required) that 6 of the rooms would be lower-cost,<sup>2</sup> but the Applicant further indicates that room rates for the remaining 96 rooms have not yet been identified, and that such rates would depend on market factors.<sup>3</sup> The proposed hotel itself would consist of two primary buildings, namely a

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<sup>1</sup> When the LUP was updated in 2020, it included a provision that indicates that the LUP governs in a case of conflict between the updated LUP and the yet to be updated IP (LUP Policy 1-2). LUP Appendix A ("Land Use Plan Implementation") Table A-1 ("Zoning Map Amendments") summarizes some of the necessary IP changes, where the anticipated zoning for the hotel property (formerly referred to as the "L.C. Smith Estate PD") is listed as C-G (Commercial-General). As a result, the conflict between the current IP zoning of PUD and the existing certified LUP Table A-1 designation of the site as C-G is resolved in favor of the LUP's C-G designation.

<sup>2</sup> The six rooms (or roughly 6% of the hotel rooms overall) would be standard double-occupancy hotel rooms similar to others in the hotel, and they would be offered at a rate of no more than \$148.02 per night. Per the Commission's lower cost methodology, the current rate for a lower cost hotel room based on the latest (2024) data would be no more than \$147.76, where that rate is inclusive of all service and other fees (e.g., parking, cleaning, resort, administrative, etc.) but may be exclusive of any government-mandated fees (e.g., sales tax, transient occupancy taxes, etc.), and which may be adjusted no more than once per year to reflect any increases or decreases in the peak-season statewide average daily rate (based on 75% of the peak summer (July/August) rates for standard double-occupancy (2-person) rooms at hotels with the equivalent of AAA one- and two-diamond ratings. It is not clear whether the \$148.02 per night rate applied to the six rooms in this case matches those same criteria.

<sup>3</sup> As the project had progressed through the City's process, the City and Applicant had described the hotel as a mid-range or moderate cost hotel (which, based on the latest (2024) data, would mean charging rates of between \$147.76 and \$246.26 for double occupancy hotel rooms in the manner just described, where rates above \$246.26 would be considered higher cost based on the Commission's methodology). Historically, the Commission has not generally required lower cost mitigation (i.e., in the form of required lower cost rooms and/or in-lieu fees (estimated between \$429,000 and \$465,000 per required lower cost room in recent cases (i.e., Cruz Hotel and American Tin Cannery Resort cases from last year)) for moderate cost hotels, but rather has looked to ensure that such hotels included other public amenities sufficient to accommodate free and/or lower cost public access (e.g., bike/pedestrian paths, etc.) as a means of addressing lower cost requirements. In this case the project includes those sorts of public amenities (i.e., bike/pedestrian paths, benches, interpretive signage, bike rest area, etc.). Ultimately, however, despite these moderate cost understandings over time, the Applicant has not committed to, and

three-story 36-foot tall structure with 81 guest rooms and hotel employee areas (the north building), and a two-story 34-foot tall structure with a lobby, bar/lounge area, dining area, fitness facility, and meeting rooms on the first floor and 21 guestrooms on the second floor (the south building). The hotel would also include an ancillary one-story structure along Main Street housing maintenance facilities and bike rental shop. The north building and south building would be separated by a gap of 32 feet, but would be connected in that area by a one-story and ground-floor enclosed 'breezeway' providing access between the buildings. The hotel would include a 108-space surface parking lot on the eastern side of the site facing Main Street, and a roughly 2-acre open space area with publicly accessible bike and pedestrian paths, within which habitat restoration would also take place (in and around the aforementioned seasonal wetland area), along Highway 1.

In terms of the proposed land division, the project also includes a subdivision of a developed 1.15-acre property (APN 064-352-150) north of Seymour Street, also owned by the Applicant, into four lots. The property itself is designated Residential-Medium Density per the LUP and zoned Two Family Residential (R-2) per the IP, but it is currently occupied by the James Ford auto dealership. According to the current R-2 zoning district standards, each of the four lots could potentially accommodate up to four residential units, but the project does not include any such development past the subdivision itself, and any such future development at this site would be subject to a separate CDP process.<sup>4</sup>

As to the lot line adjustment, 0.45 acres would be taken from the hotel site and added to the adjacent auto dealership site to the north. The intention would be to allow the dealership space to offset what would be lost were the property north of Seymour Street to be converted in the future to residential development.

Again, see **Exhibit 1** for a location map, see **Exhibit 2** for site area photos, see **Exhibit 3** for project plans, and see **Exhibit 7** for visual simulations of the project.

## **B. Half Moon Bay CDP Approval**

The City of Half Moon Bay Planning Commission held two public hearings on the proposed above-described project in October 2024, where the Planning Commission ultimately denied the proposed project by a 3-2 vote on October 22, 2024. The Applicant appealed the Planning Commission's denial to the Half Moon Bay City Council, and on January 30, 2025 the City Council reversed the Planning Commission's denial and approved local CDP PDP-72-13 authorizing the proposed above-described project subject to conditions. The City's notice of this final City action on the CDP application was received in the Coastal Commission's North Central Coast District Office on Monday, February 3, 2025 (see **Exhibit 4**), and the Coastal Commission's ten-working day appeal period for this action began the next working day on February 4,

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the City has not required, a specific fee structure for the hotel, other than requiring the provision of six lower cost rooms as previously discussed.

<sup>4</sup> The Applicant indicates that it is his intention to develop up to 16 housing units at this site in the future, and to offer a portion of such future housing as below market rate housing for employees of the auto dealership and hotel, but the project itself does not include or require any such housing.

2025, and concluded at 5 pm on February 18, 2025. One valid appeal (discussed below and shown in **Exhibit 5**) was received during the appeal period.

### **C. Appeal Procedures**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This City CDP decision is appealable because the City-approved project is located within 100 feet of a wetland.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP and/or to Coastal Act public access provisions. For appeals of a CDP denial, where allowed (i.e., such appeals are only allowed in extremely limited circumstances – see description of appealable actions, above), the grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions.

The Commission's consideration of appeals is a two-step process. The first step is determining whether the appeal raises a substantial issue that the Commission, in the exercise of its discretion, finds to be significant enough to warrant the Commission taking jurisdiction over the CDP application. This step is often referred to as the "substantial issue" phase of an appeal. The Commission is required to begin its hearing on an appeal and address at least the substantial issue question within 49 working days of the filing of the appeal unless the applicant has waived that requirement, in which case there is no deadline for Commission action. In this case, the Applicant has waived the 49 working day hearing requirement.

The Coastal Act and the Commission's implementing regulations are structured such that a substantial issue is presumed when the Commission acts on this question unless the Commission finds that an appeal does not raise a substantial issue, and the Commission generally considers a number of factors in making that determination.<sup>5</sup> At

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<sup>5</sup> The term substantial issue is not defined in the Coastal Act. The Commission's regulations indicate that the Commission will hear an appeal unless it "finds that the appeal raises no substantial issue" (California Code of Regulations, Title 14, Section 13115(b)). Section 13115(c) of the Commission regulations provides, along with past Commission practice, that the Commission may consider the following five factors when determining if a local action raises a substantial issue: (1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP; (2) the extent and scope of the development as approved by the local government; (3) the



this stage, the Commission may only consider issues brought up by the appeal. At the substantial issue hearing, staff will make a recommendation for the Commission to find either substantial issue or no substantial issue. If staff makes the former recommendation, the Commission will not take testimony at the hearing on the substantial issue recommendation unless at least three Commissioners request it, and, if no such full hearing is requested, a substantial issue is automatically found. If the Commission does take testimony, it is generally (and at the discretion of the Commission Chair) limited to three minutes total per side, and only the Applicant, Appellant, persons who opposed the application before the local government, the local government, and their proxies/representatives are allowed to testify, while others may submit comments in writing.

If, following testimony and a public hearing, the Commission determines that the appeal does not raise a substantial issue, then the first step is the only step, and the local government's CDP decision stands. However, if the Commission finds a substantial issue, the Commission takes jurisdiction over the underlying CDP application for the proposed project, and the appeal heads to the second phase of the hearing on the appeal.

In the second phase of the appeal, if applicable, the Commission must determine whether the proposed development is consistent with the applicable LCP (and in certain circumstances the Coastal Act's public access and recreation provisions). This step is often referred to as the "de novo" review phase of an appeal, and it entails reviewing the proposed project in total. There is no legal deadline for the Commission to act on the de novo phase of an appeal. Staff will make a CDP decision recommendation to the Commission, and the Commission will conduct a public hearing to decide whether to approve, approve with conditions, or deny the subject CDP. Any person may testify during the de novo phase of an appeal hearing (if applicable).

#### **D. Summary of Appeal Contentions**

The Appellant primarily contends that the City-approved project is too large for the site and the area, would degrade views of the City's eastern hills and ridgelines as seen from an LCP-designated Highway 1 scenic corridor (as well as degrading the scenic corridor itself), and would be larger than, and out of character with, nearby development, all of which the Appellant argues is inconsistent with LCP provisions that require preservation of the City's scenic resources. The Appellant also contends that the project does not adequately address traffic impacts, should not be seen as a visitor-serving benefit (because there are already adequate similar such facilities in the City),

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significance of the coastal resources affected by the decision; (4) the precedential value of the local government's decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues as opposed to those of regional or statewide significance. The Commission may, but need not, assign a particular weight to a factor, and may make a substantial issue determination for other reasons as well.

and that it inappropriately defers evaluation of potential future townhome development on the 4-lot subdivision area.<sup>6</sup> Please see **Exhibit 5** for the full appeal contentions.

## **E. Standard of Review**

The standard of review for considering these appeal contentions is the certified Half Moon Bay LCP (which is made up of a certified Land Use Plan (LUP) and a certified Implementation Plan (IP)).

## **F. Substantial Issue Determination**

### ***Applicable LCP Provisions***

The LCP includes several policies designed to protect and minimize impacts to the City's scenic resources, including with respect to views of the hills and ridgelines along the City's eastern boundary, as viewed from designated scenic corridors. Applicable provisions include:

***LUP Policy 9-1: Scenic and Visual Resource Areas.*** Identify and protect scenic and visual resource areas in Half Moon Bay, including but not limited to the scenic corridors, natural resource areas, and built environment resources as defined in this chapter and designated on Figure 9-1.

***LUP Policy 9-2: Scenic Resource Protection.*** New development shall be sited and designed to protect views to and along the ocean, to minimize the alteration of natural land forms, to be visually compatible with the character of its setting, and, where feasible, to restore and enhance visual quality in visually degraded areas.

***LUP Policy 9-3: Visual Quality.*** Preserve and enhance the unique visual quality that contributes to Half Moon Bay's coastal and small-town character, including its open, expansive views from the coastal terrace to the beaches, bluffs, ocean and upland slopes.

***LUP Policy 9-5: Visual Impact Evaluation.*** Where any development is proposed within a scenic and visual resource area, including as designated on Figure 9-1, a site-specific visual impact evaluation shall be required and may include visual simulations, story poles, and/or other means of visual assessment as appropriate based on the type and location of development.

***LUP Policy 9-6: Site Planning and Design for New Development.*** Require new development to be subject to design review to ensure it is sited and designed to protect public views of scenic and visual resource areas and to be visually compatible with the character of the surrounding area. Measures to be considered may include, but are not limited to the following: A. Siting development in the least visible portion of the site; B. Breaking up the mass of

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<sup>6</sup> The appeal also raises contentions related to CEQA compliance. However, such contentions are not valid appeal contentions because appeal contentions are limited to questions of Coastal Act public access and LCP consistency per the Coastal Act, and thus such contentions are not discussed or evaluated further in this report.

*new structures; C. Designing structures to blend into the surrounding natural landscape; D. Restricting building maximum size and height; E. Clustering or distributing development; F. Incorporating landscape elements and screening; and G. Conformance with any adopted design guidelines.*

**LUP Policy 9-12: Town Boulevard and Scenic Corridor.** *Require that new development in close proximity to or easily visible from the Town Boulevard scenic corridor, including Highways 1 and 92: A. Protects views of visual resource areas as seen from the Town Boulevard, including views to the ocean, upland slopes (i.e. minimizes intrusions into the ridgeline), and the historic Johnston House; B. Incorporates design standards such as screening of commercial parking areas and landscaping provisions; and C. Is visually compatible with the surrounding land and development. Update the IP with additional standards for new development along the Town Boulevard based on additional study of the scenic corridor. Assessment should, at minimum, consider views of visual resource areas from the perspective of existing and potential development along the Town Boulevard and identify scenic segments along Highway 1 and 92, including views of the ridgelines and other visual resource areas. Development standards should address, at a minimum, appropriate building heights and setbacks, longest wall lines, minimum space between buildings, and street scape design.*

**LUP Policy 9-23: Upland Slopes and Ridgelines.** *Protect broad views of upland slopes, prominent ridgelines and other intervening ridgelines as viewed from scenic corridors and the beach and shoreline through the following means: A. Prohibiting new development above the 160-foot contour line and on slopes greater than 30 percent, including grading and subdivisions but excluding public trails and critical facilities or public infrastructure that cannot be located elsewhere; B. Ensuring new development below the 160-foot contour line is sited and designed to minimize intrusions into the ridgeline through the application of appropriate height and setback restrictions; and C. Establishing standards for the Town Boulevard, other streetscapes, and large-scale landscaping projects to highlight and frame, but not block, views of visual resource areas.*

**IP Section 18.37.010: Purpose and Intent.** *The specific purpose and intent of these visual resource protection standards are to: A. Protect the scenic and visual qualities of coastal areas as a resource of public importance. B. Ensure that new development is located so as to protect views to and along the ocean and scenic coastal areas. C. Minimize the alterations of natural land forms. D. Restore and enhance visual quality in visually degraded areas. E. Allow development only when it is visually compatible with the character of the surrounding areas (1996 zoning code (part)).*

**IP Section 18.37.020: Visual Resource Areas.** *The community development director shall prepare and maintain maps of all designated visual resource areas within the city, based upon the visual resources overlay map contained in the city's local coastal program land use plan. Visual resource areas within the city are defined as follows:*

- A. *Scenic Corridors. Visual resource areas along the Highway One corridor and scenic beach access routes, defined as following: a. Highway One Corridor. Located on both sides of Highway One, for a distance of two hundred yards in those areas where Highway One is designated as a scenic highway by the state of California and in those areas shown on the visual resources overlay map in the city's local coastal program land use plan. ...*
- B. *Upland Slopes. Scenic hillsides which are visible from Highway One and Highway 92, as indicated on the visual resources overlay map. These areas occur include hillside areas above the one hundred sixty foot elevation contour line which are located: a. East of the proposed Foothill Boulevard, comprising portions of Carter Hill and Dykstra Ranch properties. b. Southeast Pilarcitos Creek and east of Arroyo Leon, comprising a portion of land designated as open space reserve in the land use plan. c. East of the Sea Haven Subdivision, being a portion of the Gravance property designated urban reserve in the land use plan. d. East of the Nurseryman's Exchange properties and lower Hester-Miguel lands, comprising all of the upper Hester-Miguel lands designated as open space reserve in the land use plan. ...*

**IP Section 18.37.030: Scenic Corridor Standards.** *Public views within and from scenic corridors shall be protected and enhanced, according to the following standards: ...*

- B. *Development within the Highway One corridor and scenic corridors along all designated shoreline access routes as indicated on the visual resources overlay map where existing permits or development does not exist. In general, structures shall be: a. Situated and designed to protect any views of the ocean and scenic coastal areas. Where appropriate and feasible, the site plan shall restore and enhance the scenic quality of visually degraded areas. b. Located where least visible from the public view. Development shall not block views of the shoreline from scenic road turnouts, rest stops or vista points. c. Designed to be compatible with the environment, in order to maintain the natural features such as streams, major drainage, mature trees, and dominant vegetative communities. d. Set back as an appropriate distance from Highway One right-of-way and from scenic beach access routes in accordance with the intent of this chapter. e. Designed to maintain a low height above natural grade, unless a greater height would not obstruct public views.*
- C. *Access Roads and Vegetation. a. Removal of existing vegetation within roadway right-of-ways is prohibited, except where permitted for new landscaping or fire protection and in those areas required for road and shoulder alignment or as required for reasons of safety. b. The number of access roads to a scenic corridor shall be minimized wherever possible. Access roads serving new development shall be combined with the intent of minimizing intersections with scenic roads, prior to junction with a scenic corridor unless severely constrained by topography. Traffic loops shall be used to the maximum extent possible so that dead-end roads may be*

*minimized. c. Curved approaches to scenic corridors shall be used in conjunction with native planting to screen access roads from view wherever practical. Additional planting may be required where existing planting is considered insufficient. Planting shall be placed so that it does not constitute a safety hazard. d. Screening as required under this section should not consist of solid fencing, rather it should be of natural materials of the area, preferably natural vegetation in conjunction with low earth berms. e. Selective clearing of vegetation which allows the display of important public views may be permitted. f. Landscaping and screening suitable to the site and compatible with the surrounding area shall be used to soften the visual effect of development within a scenic corridor. g. Landscaping which established scenic gateways and corridors is encouraged to enhance the scenic quality of scenic corridors*

*D. Signs. No off-premises outdoor advertising shall be permitted. Other permitted signs shall be carefully designed and reviewed so that any negative visual impacts are minimized.*

*E. Parking Lots. All commercial or public parking lots shall be landscaped and screened with berms, if necessary, to minimize visual intrusion within scenic corridors (1996 zoning code (part))*

The LUP also requires that any development that would contribute significant traffic to weekend peak travel times along Highway 1 north of Highway 92 be limited as feasible and provide other multi-modal options such as bike and pedestrian connections.

***LUP Policy 3-36: New High-Trip Generating Development.*** To the extent feasible, limit the approval of new higher-trip generating development, especially development that would contribute significant traffic to the weekend peak period, north of Highway 92 where the roadway system is most impacted. Require new higher-trip generating development to provide multi-modal options such as bicycle and pedestrian trail connections, airport shuttles, or bicycle rentals.

It is important to note that all of the cited LCP policies derive from the authority of Chapter 3 of the Coastal Act, which is the guiding policy document that dictates the LUP provisions. The Coastal Act includes scenic and visual resource provisions, including Section 30251 which states, in relevant part:

***Section 30251.*** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of*

*Parks and Recreation and by local government shall be subordinate to the character of its setting.*

### **Analysis**

The LUP identifies the scenic views of the upland slopes of the Santa Cruz Mountain Range foothills inland of the City as an important feature of the City's visual character, where the City's IP defines upland slopes as scenic hillsides above the 160-foot elevation contour line that are visible from Highway 1 and 92. These upland slope areas are also identified in LUP Figure 9-1 (Scenic and Visual Resource Areas, see **Exhibit 6**). The LCP contains several provisions, as detailed above, clearly intended to protect the scenic and visual qualities of coastal areas, including the foothills and ridgelines. The LCP also recognizes the need to accommodate growth, including visitor-serving uses, while maintaining the City's unique characteristics. As described earlier, the Appellant contends that the proposed hotel is too large; is out of character with the surrounding development; and was approved by the City without adequate protection of public views consistent with the LCP, including specifically that the length and height of the proposed hotel would block and degrade views of the eastern hills as seen from Highway 1.

Though no portion of Highway 1 running through the City limits is designated as a State Scenic Highway, the site is within the LCP-designated Town Boulevard Scenic Corridor, (which encompasses Highway 1 and Highway 92 within the City limits), and the Highway 1 Scenic Corridor (which extends 200 yards on either side of Highway 1). LUP Policies 9-1 and 9-12 call for the protection of scenic and visual resource areas seen from such scenic corridors including, in part, by minimizing intrusions into the ridgeline. Then, IP Section 18.37.030 identifies a series of more specific standards that apply within such scenic corridors, where these standards require that development within the Highway 1 Scenic Corridor be designed and situated so as to protect scenic views, to be the least visible from public view, to be set back appropriately from Highway 1, and to maintain a low enough height above natural grade so as not to obstruct public views. Thus, the LCP's public view protections that apply to the proposed development site are a mix of broadly applicable requirements in terms of views more generally, but also more specific requirements applicable to views of inland slopes and ridgelines. In terms of the latter, the IP is quite specific that these views must be protected, are not allowed to be obstructed, and allowable development must be located where least visible from the public view (see IP Section 18.37.030(B)).

In its analysis the City considered visual simulations of the proposed hotel from four different perspectives: looking west from the northeast corner of the project site on Main Street (Viewpoint 1);<sup>7</sup> looking northeast from Highway 1, just south of the intersection of Higgins Canyon Rd, Main Street, and Highway 1 (Viewpoint 2); looking northeast from Highway 1, approximately 270 feet north of Viewpoint 2 (Viewpoint 3); and looking east from the Naomi Partridge Trail across Highway 1 from the project site, at the approximate mid-point of the project site (Viewpoint 4) (see **Exhibit 7** for a map of these viewpoints and the associated simulations). The visual simulations all show different

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<sup>7</sup> Viewpoint 1 is outside of the Town Boulevard and Highway 1 scenic corridors and does not include views of the hills to the east. Therefore, it is not discussed further in this report.

portions of the public views of inland slopes and hillsides to be blocked, and it is clear from the Viewpoint 4 simulation that the hotel also extends above the ridgeline along essentially its entire frontage as seen from the west. Nevertheless, in its approval the City concluded that the proposed project is consistent with the LCP's visual resource provisions because though the project will intrude into the ridgeline as viewed from certain portions of Highway 1 (both northbound and southbound), it has been designed and oriented in such a manner as to minimize these intrusions. According to the City, public view intrusions are minimized by the hotel being set back from Highway 1 as far as is feasible (between 120 and 180 feet or so from the edge of the pavement) while still being able to accommodate on-site parking, breaking up the massing of the hotel between the two main buildings (providing a roughly 30 foot gap between them above the first story), limiting the hotel to a maximum of 36 feet in height,<sup>8</sup> and the providing pitched roofing and articulation. The City also notes that earlier iterations of the project design featured a significantly larger (by roughly 50%, when the proposed hotel was over 90,000 square feet) hotel project consisting of 5 buildings, where the building frontage extended across 60% of the project site (as compared to 53% with the existing project proposal), and where that version of the proposed project imposed greater impacts to views of the eastern hills and ridgeline. In addition, the City found that the project's proposed installation of bike and pedestrian paths across the length of the project site along Highway 1 would help to offset the view towards the ocean from Main Street that would effectively be blocked by the project (see **Exhibit 2**). Finally, the City also referenced approvals of other developments visible from the Scenic Corridor that resulted in impacts to views of the eastern slopes and ridgelines.<sup>9</sup> In each prior instance, the City concluded that visual obstructions and intrusions into the slopes and ridgelines were limited, and only fleetingly perceptible by drivers on Highway 1 where the posted speed limit is 50 miles per hour and most views toward development are fleeting by nature, and applied the same reasoning here.

The Appellant asserts, however, that the City-approved project does not meet LCP requirements, including suggesting that it is based on visual simulations from viewpoints that do not capture the full impacts of the project, including because the City did not consider visual simulations of the project as viewed from the southbound lane of Highway 1. Thus, the Appellant produced visual simulations based on the story-poles erected at the site<sup>10</sup> to provide additional perspectives of the project's visual impacts from both the north- and southbound lanes of Highway 1. Similar to the visual simulations provided by the City, the Appellant provided visual simulations that appear to show large swaths of the upland slopes and ridgeline obstructed as travelers along Highway 1 approach and pass the hotel. The Appellant also emphasizes that the City's dismissal of the project's visual impacts as "fleeting" is inaccurate given the broad

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<sup>8</sup> Where a 36-foot height is the maximum allowed in the LCP's C-G zoning district.

<sup>9</sup> This includes a residential development at 555 Poplar Street, a residential development at 453 Filbert Street, and the Coastside Fire Protection District training tower located at 1191 Main Street.

<sup>10</sup> The City required the Applicant to install 'story poles' with netting to approximate the mass and bulk of the proposed hotel so that interested parties could observe it in situ as opposed to only relying on the simulations provided.

length of the proposed hotel, and notes that the LCP does not have standards of “time frame” (i.e., how long a view is obstructed when passing by) for visual impacts.

Ultimately, however, the City concluded that the public view impacts associated with the project, while present, are in this case a degree of impact that can be considered consistent with the LCP’s scenic and visual resource policies and standards, and where the project may be technically inconsistent with one or more of these provisions, such inconsistency does not rise to the level of a significant inconsistency. The proposed hotel property is currently vacant and undeveloped, offering largely unobstructed views of the hills and ridgeline to the east, save for slight obstructions from the existing fire training tower and fire station roof from certain perspectives from both the north and south bound lanes of Highway 1. In other words, the City reasoned that if development is to be allowed on this property, some amount of incursion into these protected views would be required. That is the case here, where it is readily apparent in the visual simulations presented by both the Appellant and the Applicant that the proposed hotel development would block views of the upland slopes and ridgelines to the east, as viewed from certain portions of Highway 1. The City’s argument is that it is unreasonable to strictly interpret the LCP as prohibiting development that has any impact on these protected views. Siting development on a previously undeveloped site will, of course, fundamentally change the aesthetics of that site and its surroundings. Therefore, the City concluded that the proposed development was sited and designed to protect the views for which preservation is required by the LCP as much as feasible when development is allowed on this undeveloped site, including via the required setbacks from Highway 1 as far as feasible, requiring the massing of the hotel be broken up to provide view gaps, requiring the hotel be at/below the maximum height allowance for the zone, and through a required pitched roof design to assure the visual massing of the roofline is sufficiently broken up.

The City makes a reasoned argument here, including as viewshed determinations are often notoriously fairly subjective, and different parties with different impact tolerances will see public view impacts differently. In making that argument, the City even notes that to the degree there are LCP inconsistencies, these are less than significant, as the broader LCP provisions for overall viewshed protection are adequately addressed. However, the standard for CDP applications is not whether proposed development is mostly consistent with LCPs, or whether it is consistent with overall objectives, rather it is whether proposed development is consistent with the LCP.<sup>11</sup> In this case, and as described above, the LCP requires that public views of the eastern hillsides and ridgelines be protected and are not allowed to be obstructed, and only allows development that is located where it is least visible in such views (see IP Section 18.37.030(B)). These LCP provisions would suggest that LCP consistent development can’t be sited and designed in a way that blocks such existing public views, where meeting such criteria would mean that only a very limited amount of low-profile development would be allowed. That said, it’s also true that the site’s Commercial-General LCP designation envisions commercial development, such as hotels and other

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<sup>11</sup> The Appellant notes that the City, by approving the CDP, fails to comply with LUP policies 1-2, 1-3, 2-2; and IP sections 18.01.020, 18.20.025, 18.26.040, which requires development to be consistent with the policies and standards of the LCP as a prerequisite to CDP approval.



visitor-serving uses, and such an alternative would appear to frustrate that objective. Thus, while the Commission does not agree that the City can make CDP application decisions based on 'lighter' versions of LCP consistency, the Commission does agree that the visual issues raised in this case do not rise to the level of a substantial issue that necessitates the Commission's involvement with this project. Therefore, the City-approved project does not raise a substantial scenic corridor issue.

As to other visual contentions, IP Section 18.37.010 requires development to be visually compatible with the character of the surrounding area.<sup>12</sup> Similarly, LUP Policy 9-2 requires new development to be visually compatible with the surrounding setting. The Appellant contends that the City incorrectly dismisses LUP Policy 9-2 as not applicable to the proposed project, and also that the project is inconsistent with this policy because it is not visually compatible with the surroundings. Specifically, the Appellant asserts that the proposed hotel is outsized as compared to adjacent development to the east and north, and undeveloped open space to the south and west.

In any case, although the Appellant may disagree with the City's conclusion, the City did in fact address the proposed project's consistency with LUP Policy 9-2 in the City Council's approval, stating that the proposed hotel would not block ocean views, would not alter landforms, and would be visually compatible with existing development in the area. Specifically, the City noted that the siting, massing and architectural treatments of the project are comparable with newer development in the South Downtown portion of the Town Center, which features residential (including multi-family residential), public service, and commercial development. The proposed hotel is described by the City as applying a "modern farmhouse" style, taking design cues from the community's historical agricultural characteristics, but updated in a more contemporary way. Furthermore, approximately 40% of the project site (about 2 acres) would be retained as open space with public access amenities such as bike and pedestrian trails, which can serve as transition from the undeveloped areas to the west and south to the City's more densely developed Town Center area. Areas directly east and north of the project site are also within the Town Center, and feature existing development that, while perhaps not as large as the proposed hotel, present a similar developed scheme in the immediate area, such as the Coastside Fire Protection District Station, the Coastal Repertory Theater, the James Ford Auto Dealership, and residential development. In addition, an existing, large crescent-shaped monument sign directly adjacent to the southern end of the project site marks the southern gateway to the City's downtown, marking a transition from a more rural undeveloped scheme as you travel northward, into the Town Center, which is defined by the LCP as a more densely developed, clustered downtown area that prioritizes infill of residential, commercial, public services, and other types of development. Therefore, the City-approved project does not raise a substantial issue regarding consistency with the LCP's requirements around visual compatibility.

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<sup>12</sup> The Appellant also asserts that the project is inconsistent with Half Moon Bay Municipal Code Title 14, Section 14.37.035. However, Section 14.37.035 is not part of the LCP, and thus appeal contentions thereto are not a valid grounds for appeal, and are not further discussed in this report.

LUP Policy 9-5 requires proposed development in scenic and visual resource areas to complete site-specific visual impact evaluations, including visual simulations. While the hotel component of the proposed project did indeed complete the necessary visual impact evaluations, as discussed above, the Appellant contends that the proposed project as a whole is inconsistent with this policy because a visual impact evaluation was not completed for the subdivision. However, as described earlier, the City-approved subdivision of the property north of Seymour Street doesn't include any sort of additional development past that. Because of that, there is no physical development for which to do a visual impact evaluation because any such future potential development is entirely speculative. In fact, any proposed future development of those lots would require its own CDP, and it is at that point that any LCP prescribed, site-specific visual impact evaluation would be required. However, it is not required for this project, because this project does not include that development. Therefore, the lack of these analyses for a speculative project component does not rise to the level of a substantial issue.

The Appellant also contends that the proposed hotel constitutes a “higher trip generating development” and thus it is inconsistent with LUP Policy 3-36 which calls for limiting such development, and requires that any development that would contribute significant traffic to weekend peak travel times along Highway 1 north of Highway 92 be limited as feasible and provide other multi-modal options such as bike and pedestrian connections. However, this limitation applies to development that would generate such traffic in the areas north of Highway 92, and the proposed project is nearly 1 mile south of Highway 92. Furthermore, LUP Policy 3-36 requires new higher-trip generating development to provide multi-modal options such as bicycle and pedestrian trails and bicycle rentals, which this project provides. Regardless, the Appellant asserts that a smaller hotel development could still meet the stated project objectives with a reduced traffic impact. On this point the project included a Traffic Impact Study, which, as noted by the Applicant, analyzed a larger 129-room hotel, and determined that impacts to vehicle miles traveled would be less than significant with the implementation of recommended Transportation Demand Management measures (e.g., employee rideshares, transit passes, etc.). The City ultimately determined that the smaller 102-room hotel would be estimated to generate no more than the number of trips per day attributable to the larger hotel project analyzed in the Traffic Impact Study (572 daily trips).<sup>13</sup> As a condition of approval, the project is required to implement the recommended measures detailed in the traffic study. Thus, the proposed project does not pose a substantial issue as related to traffic and circulation.

Finally, the Appellant asserts the proposed development's visitor serving benefits should not be considered as a project benefit to the City that would justify the adverse impacts the project would have on visual resources because there are already adequate overnight facilities in the proposed price range and type as proposed, as evidenced by what the Appellant asserts is a 50% occupancy rate for such facilities. Though the City did not explicitly address reported occupancy rates

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<sup>13</sup> In coming to this conclusion, the City also included the traffic that would be associated with up to 16 residential units that could be accommodated by the proposed subdivision, even though those units are not part of the City approval.

for existing hotels, the project's visual impacts were not justified on the back of visitor serving benefits, rather the City determined that the visual impacts were acceptable to the City under the LCP. This appeal contention does not raise a substantial issue either.

### **Substantial Issue Conclusion**

When considering a project that has been appealed to it, the Commission must first determine whether the local government's decision on the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over the CDP application 'de novo' (i.e., completely reviewing the project for LCP and Coastal Act consistency) for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP conformance. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue: the degree of factual and legal support for the City's decision; the extent and scope of the development as approved or denied by the City; the significance of the coastal resources affected by the decision; the precedential value of the City's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. The Commission may, but need not, assign a particular weight to a factor, and may make a substantial issue determination for other reasons as well. In this case, the five factors considered together, support a conclusion that the City's approval of a CDP for the proposed project does not raise a substantial issue of LCP conformance.

In terms of the degree of factual and legal support for the City's decision, the City's decision was based, for the most part, on visual simulations of the proposed hotel development. Further, the City relied on the LCP's characterization of this area as a "Town Center" where the LCP explicitly calls for the clustering of commercial development within the area. Finally, the City also added requirements to the CDP that required setbacks from Highway 1 as far as feasible, required the massing of the hotel be broken up to provide view gaps, required the hotel to be at/below the maximum height allowance for the zone, and required a pitched roof design to help ensure that the roofline is sufficiently broken up. Thus, this factor does not weigh in favor of finding substantial issue.

Second, with respect to extent and scope of the City-approved development, the proposed development is fairly significant, and occupies a fairly significant site adjacent to Highway 1. The second factor tends to weigh in favor of a finding of substantial issue.

With respect to the significance of affected coastal resources, the project affects views of scenic hills and ridgelines, which are highlighted as significant visual resources in the City's LCP. The development would alter views of the upland slopes and ridgeline as seen from portions of Highway 1 when traveling past the site. At the same time, and while somewhat subjective, those visual impacts, while not insignificant, do not rise to the level of requiring the Commission's intervention in this project. Thus, this factor somewhat does and somewhat does not weigh in favor of finding substantial issue.

Further, with regard to the fourth factor, the potential to set an adverse precedent for future interpretations of the LCP, it should first be noted that any one case, like this one, is decided on its specific facts and its specific merits and is not dispositive as to how subsequent CDP decisions will be made. In that context, the consideration of visual resources, and determining what level of impact to these resources is acceptable, is by its very nature a subjective exercise and there is always the potential that the City and/or other parties interested in the issues raised here might see the City (and the Commission) action here as precedential in making these kinds of subjective determinations, despite each case being considered based on its own facts and context. In this case, the City's approval was based on the visual impacts specific to this site and the surrounding, immediate development setting. While the Commission does not agree that the City can make CDP application decisions based on 'lighter' versions of LCP consistency, the Commission does agree that the visual issues raised in this case do not rise to the level of a substantial issue that necessitates the Commission's involvement with this project. As such, this factor weighs in favor of finding no substantial issue.

Finally, as to the fifth factor, the City-approved project does not raise issues of regional and statewide significance associated with development in scenic resource areas or which impact scenic resources, and how best to address such development while also protecting coastal resources. Rather, it is a specific proposal for a quite localized set of public view issues. Therefore, this factor supports a finding of no substantial issue as well.

In this case, these five factors, considered together, support the conclusion that the City's approval of a CDP for this project does not raise a substantial issue of LCP conformance. In addition, and to be clear, the Commission is not tasked in a substantial issue determination with ensuring that a project approved by a local government is 100% LCP consistent, but rather with determining whether the approval raises substantial enough coastal resource concerns under the LCP that require the Commission to become involved. Here, and for the substantive reasons discussed in the findings above, the Commission's involvement is not necessary in that way for this case. Thus, and for all the reasons stated herein, the Commission finds that Appeal Number A-2-HMB-25-0003 does not raise a substantial issue of conformance with the certified Half Moon Bay LCP, and the Commission declines to take jurisdiction over the CDP application for the proposed project.

### 3. APPENDICES

#### **A. Substantive File Documents<sup>14</sup>**

- City of Half Moon Bay CDP File PDP-072-13

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<sup>14</sup> These documents are available for review from the Commission's North Central Coast District office.

**B. Staff Contacts with Agencies and Groups**

- Half Moon Bay Planning Division
- Keep HMB Scenic