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STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal No.:	**A-4-MAL-26-0010**
Applicant:	**Peaches, LLC**
Appellant:	Matthew Mark, Trustee, The Cypress Descendants Trust
Local Decision	Approval with Conditions by the Malibu Planning Commission on December 2, 2024 (Coastal Development Permit No. 19-011)
Project Location:	33610 Pacific Coast Highway, Malibu, Los Angeles County (APN: 4473-021-012)
Project Description:	Construction of a new 3,977.5 square foot, two-story, 28-foot-high single-family residence with a basement, pool, spa, retaining walls, new onsite wastewater treatment system, and associated development.
Staff Recommendation:	No Substantial Issue Exists

IMPORTANT HEARING PROCEDURE 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 three 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, where 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) and/or with the public access policies of the Coastal Act (Pub. Res. Code §§ 30210-14). Here, the appellant contends that the approved project is not consistent with the policies of the City of Malibu's certified LCP regarding visual resource protection. Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed. The **motion** and **resolution** for "no substantial issue" findings (for which a "yes" vote is recommended) are found on page 7.

The approved project consists of the construction of a new 3,977.5 square foot, two-story, 28-foot-high single-family residence with a basement, pool, spa, retaining walls, new onsite wastewater treatment system, and associated development at 33610 Pacific Coast Highway. The project site is located adjacent to Pacific Coast Highway (PCH) near the Pacific Ocean and adjacent to existing single-family residential development.

The City's permit action was appealed by Matthew Mark (as the Trustee of The Cypress Descendants Trust, the owner of nearby property), who contends that the approved project is inconsistent with the visual resource policies and provisions of the Malibu LCP. The appellant primarily asserts that the approved project does not adequately protect private views, relying on provisions of the Malibu Municipal Code (MMC), not on the policies of the certified LCP. The Malibu Municipal Code is not the standard of review for coastal development permits. The standard of review in this case is the City of Malibu certified LCP. The LCP contains no policies or provisions that protect private views. Therefore, the assertions related to private views are not valid grounds for appeal and are not evaluated here.

The appellant also alleges that the approved project is not consistent with Malibu LUP Policies 6.3, 6.4, 6.5, 6.6, and 6.7 that require development to be sited and designed to protect public views by minimizing visual impacts through height limits, view corridors, and overall compatibility with the surrounding landscape. The appellant states that the approved project is inconsistent with LIP Section 6.5 requiring protection of ocean views from scenic public roads, claiming the City did not adequately analyze whether the proposed 28-foot two-story structure could be redesigned to reduce visual impacts. The appellant asserts that although the City focuses on the project's 16-foot-7-inch view corridor along the western property line, that only addresses part of the public blue-water view requirement. LIP Section 6.5.E requires that new development on parcels seaward of public roads protect ocean views and where the topography of a site does not permit the siting or design of a structure that is located below road grade, new development shall provide an ocean view corridor on the project site in which buildings

shall not occupy more than 80 percent of the lineal frontage of the site, and the remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor (except on lots with a width of 50 feet or less in which the corridor can be split).

PCH, an LCP-designated scenic highway, runs parallel to the coastline through many areas of Malibu, including in the area of the subject property. In order to protect public scenic views of the coast from PCH, the LCP recognizes two potential cases and provides policies and development standards for each: 1) where the topography of the site descends from the roadway; and 2) where the topography of the project site does not permit the siting or design of a structure that is located below road grade. In the first case, development is required to be sited and designed below road grade sufficiently to preserve views over the property. In the second case, the LCP requires that a view corridor be provided. The subject property is located on a coastal bluff and does not front the beach and no public access exists along the subject site. The building site area does not descend enough to site development below road grade (although there are steep slopes descending from the bluff edge towards beachfront parcels below and a canyon to the east. There are some existing ocean views across the site (and other adjacent sites) from PCH; however, due to the site being constrained by geological landslide areas, an irregular lot configuration, and the presence of coastal and canyon bluffs, the development cannot be sited in any other location on the subject site. As such, the LCP requires a view corridor to be provided in order to minimize view impacts.

In the City's action on the subject CDP, the City determined that the proposed project would not have significant adverse impacts on scenic views to the ocean from PCH and other public viewing areas. This determination was based on a site visit in November 2024, visual impact analysis, and evaluating the project for conformance with City codes. The City determined that the approved two-story residence at a maximum height of 28 feet with a pitched roof will not significantly impact public ocean views from PCH and nearby public beaches. The applicant proposed a 16-foot-7-inch view corridor, which is more than double the LCP-required width of at least 20 percent of lineal frontage and the City conditioned the CDP to ensure the view corridor is provided.

Based on Commission staff review of the City's findings and the record, the City properly identified and interpreted the applicable visual resource policies of the Malibu LCP. The proposed two-story residence at a maximum height of 28 feet with a pitched roof will not significantly impact public ocean views from PCH and nearby public beaches. There are no feasible siting or design alternatives that can avoid public view impacts. The provision of a view corridor will maintain a view through the site and avoid the appearance of a solid wall of development, minimizing view impacts as required by the LCP. For these reasons, the City accurately demonstrated that the approved development would not cause or contribute to adverse scenic public view impacts, would be visually compatible with the character of surrounding area, and is proposing the required view corridor as required by the LCP.

In conclusion, the project, as approved by the City of Malibu, conforms with the relevant policies and provisions of the Malibu LCP related to visual and scenic resources. The

City's record includes extensive factual evidence and legal support for their findings that the project is consistent with the relevant policies of the certified LCP. The extent and scope of the development is relatively small, and significant coastal resources would not be affected by this decision. 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 CDP decisions. As such, staff recommends that the Commission find that the appellant's contentions raise no substantial issue with regard to consistency with the policies and provisions of the certified LCP. The motion and resolution can be found on **Page 7.**

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I. APPEAL JURISDICTION AND PROCEDURES

A. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs, a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. A Local government must provide notice to the Commission of its coastal permit actions. During a period of 10 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.

Appeal Areas

Under Section 30603 of the Coastal Act, development approved by a local government may be appealed to the Commission if it is located within an appealable area, such as a site located between the sea and the first public road paralleling the sea; within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is greater; on state tidelands; or along or within 100 feet of any wetland, estuary, or stream and lands within 300 feet of the top of the seaward face of a coastal bluff. Finally, development that constitutes major public works or major energy facilities may also be appealed to the Commission.

In this case, the City's CDP approval is appealable to the Coastal Commission because the permitted development is located between the sea and the first public road paralleling the sea, which in the subject case is Pacific Coast Highway.

Grounds for Appeal

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

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 coastal development permit de novo. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

De Novo Permit Review

If a substantial issue is found to exist, the Commission will evaluate the project under a de novo permit review. The de novo permit may be considered by the Commission at the same time as the substantial issue hearing or at a later time. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On March 4, 2019, the City of Malibu Planning Commission received the subject Coastal Development Permit No. 19-011, Site Plan Review No. 24-022, and Minor Modification No. 24-006. On December 2, 2024, the Planning Commission approved the proposed project. The Planning Commission decision was appealed to the Malibu City Council which held a hearing to consider the appeal on March 18, 2026. The City Council denied the appeal and approved Coastal Development Permit (No. 19-011) for the project described above subject to 96 special conditions. Commission staff received the notice of final local action of the Malibu City Council's approval (Coastal Development Permit No. 19-011; Site Plan Review (No. 24-022); and Minor Modification (No. 24-006) on March 19, 2026, and the Commission's 10-working day appeal period began and extended to April 3, 2026. A valid appeal by Matthew Mark was filed on March 30, 2026, during the Commission's appeal period. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal and requested that the City provide its administrative record for the permit. The administrative record was received on April 16, 2026. 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 is June 9, 2026.

II. STAFF RECOMMENDATION FOR NO SUBSTANTIAL ISSUE

Motion:

> I move that the Commission determine that Appeal No. A-4-MAL-26-0010 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation to Find 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 (i.e., a tied vote results in a finding that a "substantial issue" is raised).

Resolution to Find No Substantial Issue:

> The Commission hereby finds that Appeal No. A-4-MAL-26-0010 does not raise 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 Program 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 Malibu City Council approved the subject coastal development permit (CDP) for the construction of a new 3,977.5 square foot, 28 foot high two-story single-family home with basement, pool, spa, retaining walls, new onsite wastewater treatment system (OWTS), and associated development located on a 0.45-acre parcel in Western Malibu, at 33610 Pacific Coast Highway (APN 4473-021-012) (**Exhibits 1 and 2**).

The subject parcel is zoned Rural Residential, Two-Acre (RR-2) by the Malibu Local Coastal Program (LCP) and is located adjacent to Pacific Coast Highway (PCH) near the Pacific Ocean. The parcel is bordered by residentially developed lots to the north and west, as well as to the south and east. The site's topography is determined to be a coastal bluff on the south and the steep slope to the east is a canyon bluff. The project site does not contain mapped trails on or adjacent to the site., The property is not located in a designated Environmentally Sensitive Habitat Area (ESHA) or ESHA buffer as shown in the LCP.

B. Summary of Appeal Contentions

The City's final action on the subject coastal development permit was appealed by Matthew Mark on March 30, 2026. The full text of the appeal is included as **Exhibit 5** and summarized below**.** The exhibits attached to the submitted appeal are included as **Exhibit 6**.

<u>Private View Assertions</u>

The appellant primarily asserts that the approved project does not adequately protect private views, relying in part on section 17.45.030 of the Malibu Municipal Code (MMC). The appellant states in the appeal "Malibu Municipal Code section 17.45.030 expressly defines a "Primary View" to include visually impressive scenes of the Pacific Ocean, offshore islands, the Santa Monica Mountains, canyons, valleys, or ravines within a

primary view corridor. It also defines a “Primary View Corridor” as a 180-degree view measured from a fixed viewing point selected by the affected property owner and the City. Here, the approved 28-foot house at 33610 Pacific Coast Highway, which is less than 1,000 feet away from our property, would substantially obstruct the Santa Monica Mountains portion of our established primary view corridor.” The appellant further alleges that the City staff report findings are in error in stating that: “No nearby property owners have requested a primary view determination in response to the courtesy notice or story pole installation” because they did request and the City carried out such a primary view determination. Finally, the appellant asserts that: “… because Malibu LIP requires findings supported by substantial evidence based on accurate visual analysis, reliance on a demonstrably flawed visual record (“View 5” in PVD 24-31), means the City could not make the required findings”.

These assertions are related to the Malibu Municipal Code, not to the policies or provisions of the certified LCP. The Malibu Municipal Code is not the standard of review for coastal development permits. The appellant has not identified any specific policy or provision in the LCP that addresses private views. The Malibu LUP includes policies that require protection of public views and visual resources, consistent with Chapter 3 of the Coastal Act. Further, the Malibu LIP includes provisions to protect public views consistent with the LUP. The LCP contains no policies or provisions that protect private views. Even though the appeal includes an assertion that attempts to relate Malibu LIP requirements to the primary view determination process, the LCP does not include a primary view determination requirement. The standard of review in this case is the City of Malibu certified LCP. Therefore, the assertions related to private views are not valid grounds for appeal and will not be analyzed further in these findings.

Public View Assertions

The appeal by Matthew Mark contends that the approved project is not consistent with the provisions of the certified LCP that relate to the scenic and visual resource policies. Specifically, the appellant asserts that the approved residential development is inconsistent with Land Use Plan Policies 6.3, 6.4, 6.5, 6.6, and 6.7 because the proposed project is located on Pacific Coast Highway. The appellant further asserts that the City did not adequately demonstrate whether the proposed project could be redesigned through an alternatives analysis to reduce visual impacts. The appellant contends that the approved project does not conform with the above provisions of the Malibu LCP and the City failed to accurately interpret those provisions.

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 Local Coastal Program (LCP) and/or the public access policies of the Coastal Act. In this case, the appeal contends that there are issues with regard to scenic view protection which are relevant to policies in the City’s certified LCP.

The appeal does not contend that the project is inconsistent with any of the 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 raised a substantial 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 with the public access policies 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 LCP; and

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.

For the reasons discussed below, the Commission determines that the subject appeal raises no substantial issue with regard to the grounds on which the appeal has been filed.

1. Scenic Public Views

The appellant contends that the project, as approved by the City, fails to conform with the following LCP provisions relating to protection of scenic public views. Specifically, the appellant asserts that the approved project's scenic and visual findings are directly contradicted by the administrative record and are not supported by substantial evidence. The appellant writes "the current record does not demonstrate that the City adequately analyzed whether the proposed 28-foot two-story structure could be redesigned to reduce visual impacts while still allowing reasonable development of the site."

Coastal Act Section 30251 (which is incorporated as a policy of the Malibu LCP) states:

> 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.

City of Malibu Land Use Plan Policy 6.3 states:

Roadways traversing or providing views of areas of outstanding scenic quality, containing striking views of natural vegetation, geology, and other unique natural features, including the ocean shall be considered Scenic Roads. The following roads within the City are considered Scenic Roads:

a. Pacific Coast Highway

b. Decker Canyon Road

c. Encinal Canyon Road

d. Kanan Dume Road

e. Latigo Canyon Road

f. Corral Canyon Road

g. Malibu Canyon Road

h. Tuna Canyon Road (Resolution No. 07-04)

City of Malibu Land Use Plan Policy 6.4 states:

Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.

City of Malibu Land Use Plan Policy 6.5 states:

New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum

feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

City of Malibu Land Use Plan Policy 6.6 states:

Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including re-siting or reducing the height or bulk of structures.

City of Malibu Land Use Plan Policy 6.7 states:

The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure

City of Malibu Local Implementation Plan Section 13.27.5 (A) states:

A. The Planning Manager may approve or conditionally approve a site plan review application only if the Planning Manager affirmatively finds that the proposal meets all of the following:

    1. That the project is consistent with policies and provisions of the Malibu LCP.

    2. That the project does not adversely affect neighborhood character.

    3. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

City of Malibu Local Implementation Plan Section 6.5(E) states, in part:

Ocean Views. New development on parcels located on the ocean side of public roads, including but not limited to, Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, Cliffside Drive shall protect public ocean views.

…

2. Where the topography of the project site does not permit the siting or design of a structure that is located below road grade, new development shall provide an ocean view corridor on the project site by incorporating the following measures.
    a. Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.

    b. The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor, except on lots with a width of 50 feet or less. Lots with a lineal frontage of 50 feet or less shall provide 20% of the lot width as view corridor; however, the view corridor may be split to provide a contiguous view corridor of not less than 10% of the lot width on each side. For lots greater than 50 feet in width, the view corridor may be split to provide a contiguous view corridor of not less than 10 percent of the lot width on each side, provided that each foot of lot width greater than 50 feet is added to the view corridor. On irregularly shaped lots, the Planning Manager shall determine which side yards shall constitute the view corridor in order to maximize public views. Sites shall not be designed so as to provide for parking within these designated view corridors.

    c. No portion of any structure shall extend into the view corridor above the elevation of the adjacent street.

    d. Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.

    …

Malibu Land Use Plan Section 6.3 provides that any roadways traversing or providing views of areas of outstanding scenic quality, containing striking views of natural vegetation, geology, and other unique natural features including the ocean shall be considered Scenic Roads. Pacific Coast Highway is listed as one of these Scenic Roads. Malibu Land Use Plan Section 6.4 states that places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Malibu Land Use Plan Section 6.5 states that new development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum extent feasible. Malibu Land Use Plan Section 6.6 requires avoidance of impacts to visual resources through site selection and states that design alternatives are the preferred method over landscape screening. It also states that landscape screening, as mitigation of visual impacts, shall not substitute for project alternatives including re-siting, or reducing the height or bulk of structures. Malibu Land Use Plan Section 6.7 requires the height of

structures to be limited to minimize impacts to visual resources. Lastly, Coastal Act Section 30251 states that 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.

The approved development in this case is located on Pacific Coast Highway, a public road (designated as an LCP Scenic Road) that runs parallel to the coastline. The subject property is situated on a blufftop, with the landward side of the parcel at approximately the same elevation as the adjacent segment of PCH. From the bluff edge, a steep slope descends to the south as a coastal bluff, and a steep slope to the east as a canyon bluff. As shown on Exhibit 2, the eastern/southeastern boundary of the parcel is formed by the slope between the bluff and an existing road that descends from PCH towards the beach below. The City's findings state that the subject site is constrained by geological landslide areas, an irregular lot configuration, and the presence of coastal and canyon bluffs.

City staff conducted a site visit in November 2024 and determined that the proposed Total Development Square Footage (TDSF) of the subject house is significantly smaller than the adjacent property to the west, and surrounding properties beyond, and would not negatively impact the character of the neighborhood. The City analyzed the project's visibility from PCH. Given the topography of the site, the development cannot be sited completely below road grade to ensure maximum protection of ocean views. In such cases, the LCP requires that new development provide a vertical view corridor equal to 20% or more of the parcel width along the side of the property to maintain ocean views and to avoid the visual resource impact of solid walls of development. In this case, the development includes a proposal by the applicant to provide a view corridor double the size required by LIP Section 6.5(E)(2). The view corridor will provide public visibility through the site as seen from PCH, a designated scenic roadway. The City analyzed the project's visibility from PCH based on story-poles and site visit and determined that the proposed project (single-family residence up to 28 feet in height) would not adversely impact significant public views of the mountains or scenic areas from PCH. The City also analyzed a reduced project alternative with a reduced footprint and concluded that while a smaller project may reduce the development area of the proposed project, a development area reduction is not expected to offer any environmental advantages. The proposed development is sited at a similar distance to PCH as neighboring properties.

While there are existing ocean views across the site from PCH, the proposed development grading will result in a lower finished grade which will decrease the building profile when viewed from PCH. In addition, the City's staff report states that the site is constrained by geological landslide areas, an irregular lot configuration, and the presence of coastal and canyon bluffs, and as such, there are no other feasible alternative locations on the project site to develop the proposed residence. Although the applicant is proposing a development to the LCP maximum height of 28 feet (subject to Site Plan Review), reducing the height would not significantly reduce impacts to public

scenic views from PCH. Because the site is constrained by the above conditions, the applicant is proposing a 16-foot-7-inch view corridor (twice the required size) required by LIP Section 6.5(E)(2) to provide public visibility through the site as seen from PCH, a designated scenic roadway. Scenic roads are defined in the LCP as "those public roads within the City that traverse or provide views of areas with outstanding scenic qualities, that contain striking view of natural vegetation, geology, and other unique natural features, including the mountains, canyons, ridgelines, beach and ocean." The LCP requires protection of public ocean views on parcels located on the ocean side of public roads. In this case, the applicant is providing a view corridor to maintain ocean views across a portion of the site and minimize impacts to visual resources, while allowing development of the parcel, consistent with the requirements of the LCP.

For these reasons, the City accurately demonstrated that the approved development would not cause or contribute to adverse scenic public view impacts, would be visually compatible with the character of surrounding area, and is proposing the required view corridor as required by the LCP.

Therefore, for the above reasons, the Commission finds that no substantial issue is raised regarding the approved development's consistency with the scenic public view policies and provisions of the certified LCP.

2. Factors Considered in Substantial Issue Analysis

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 certified LCP. As explained above, the City's action demonstrates that the approved project complies with the provisions of the City's LCP related to visual resource protection and the City has provided an adequate degree of factual and legal support for its decision. For these reasons, this factor weighs heavily in support of finding no substantial issue.

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 involves the construction of a new residential development on a 0.45-acre lot that is a development type and size that is consistent with the surrounding residential neighborhood. The scope and extent of development approved here is not significant enough to warrant finding substantial issue.

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. In this case, the approved development site is at the top of a coastal bluff that parallels PCH. The City accurately demonstrated that the approved development would not cause or contribute to adverse scenic public view impacts, would be visually compatible with the character of surrounding area, and is providing a view corridor, twice the required width, to minimize impacts to significant scenic ocean views given the configuration of the parcel in relation to the coast. The approved project is consistent with the LCP and impacts to

significant coastal views will be minimized as a result of this decision. Therefore, this factor weighs heavily in support of finding no substantial issue.

The fourth factor in evaluating whether the appeal raises a substantial issue is the precedential value of the local government's decision for future interpretation of its LCP. In this case, the Commission finds that the City applied the LCP policies correctly in finding that the project will not adversely impact coastal resources and is consistent with the policies of the LCP with respect to the grounds of the appeal. As such, the City's decision will have no adverse precedential value for future CDP decisions and this factor supports finding no substantial issue.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is whether the appeal raises only local issues or those of regional or statewide significance. In this case, the appeal raises local issues and does not raise significant regional or statewide issues. Thus, this factor supports finding no substantial issue.

In conclusion, the Commission finds that none of the factors listed above, used to evaluate the question of substantial issue, favor a 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.