CALIFORNIA COASTAL COMMISSION

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F15e

A-5-VEN-17-0009 (668 INDIANA AVE) MAY 12, 2017

CORRESPONDENCE

CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071



F15e

ADDENDUM

May 8, 2017

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: APPEAL NO. A-5-VEN-17-0009 (THOMAS) FOR THE COMMISSION

MEETING OF FRIDAY, MAY 12, 2017.

The purpose of this addendum is to attach one (1) letter from the applicant's agent, Fred Gaines, Law Offices of Gaines and Stacey, LLP, demonstrating opposition for staff's recommendation of a finding of substantial issue. Staff would note that all issues raised in the letter are addressed in the staff report. No changes to the staff report are recommended.

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May 4, 2017

VIA FEDERAL EXPRESS

California Coastal Commission c/o Commission Secretary 45 Fremont Street, Suite 2000 San Francisco, CA 94105-2219 F15e & F16a

Re:

De Novo Appeal No. A-5-VEN-16-0081 657 E. Flower Avenue, Venice, City of Los Angeles - and -

Substantial Issue and De Novo Appeal No. A-5-VEN-17-0009 668 Indiana Avenue, Venice, City of Los Angeles

Hearing Date: May 12, 2017 - Item Nos. F15e and F16a

Dear Honorable Commissioners:

This office represents FMB Development, the owner of two single-family residences located at 657 E. Flower Avenue (the "Flower Project") and 668 Indiana Avenue (the "Indiana Project") in Venice. On November 3, 2016, against the recommendation of staff, the Coastal Commission (the "Commission") found that the appeal of a Local Coastal Exemption issued by the City of Los Angeles for the Flower Project, raised a substantial issue. The de novo appeal on the Flower Project is now before the Commission. The Indiana Project, on the other hand, is scheduled for both substantial issue and de novo appeals. Both projects are addressed together in this correspondence because they involve common owners and appellants, a substantially similar set of facts, the same primary issue related to improvements to an existing single-family residence, and whether those improvements qualify for a Coastal Exemption or require a Coastal Development Permit ("CDP").

For the reasons set forth in this letter and presented at the hearing(s), neither the Coastal Act nor the Regulations limit the size of an addition when making improvements to an existing single family home. Therefore, the remodeling and improvements of both homes are exempt from the permitting requirements of the Coastal Act, and the Commission is legally obligated to approve the claim of

G&S/2211-001

¹ As noted in the corresponding Staff Reports, the underlying applicant for the Indiana Project was Ben Thomas and the applicant for the Flower Project was Kobe Marciano.

Exemption for the Flower Project and find no substantial issue for the Indiana Project. As detailed by Deputy Director Steve Hudson and Chief Legal Counsel Chris Pederson at the Commission's November 3, 2016 meeting, the Coastal Act and Regulations do not limit the size of additions to existing single family residences for the purpose of determining when development is exempt from the requirement to obtain a CDP, provided that such repairs and improvements do not result in replacement of more than 50% of the existing structure.

A.) PROJECT BACKGROUND

1.) The Flower Project

On October 29, 2015, the City of Los Angeles (the "City") issued a Coastal Exemption (DIR 2015-3961-CEX) for a "2-story addition with new attached 2-car garage to existing one-story, single-family dwelling; major alterations to existing single-family dwelling; 55% of existing wall to remain. Existing single-family dwelling = 936 sq. ft. Total addition = 5,503 sq. ft. And demo garage 10'x12'; demo by handwreck, sewer cap is not required." On October 28, 2015, the City issued a Director of Planning Sign-Off (DIR-2015-3655-VSO) for the "remodel and addition to an existing one-story single family dwelling and demolition of a detached garage. Project will result in a 2,766 SF second story, a roof deck, two RASs, and an attached two car garage. Project will remove/alter 45% of the existing exterior walls." The City forwarded a copy of the Coastal Exemption to the Coastal Commission's South Coast District Office on February 1, 2016, and the claim of Exemption was appealed (A-5-VEN-16-0024).

On April 25, 2016 and May 23, 2016, the applicant and former agent met with Commission staff to clarify what types of development qualified for a Coastal Exemption and potential options to move forward with the proposed project. During those meetings, staff explained that the Coastal Act and Regulations did not include a limitation on the size of additions to single family homes in Venice, so long as at least 50% of the existing structure remained. Thereafter, the Flower Project was revised and newly submitted to the City.

On August 3, 2016, the City issued a Coastal Exemption (DIR 2016-2804-CEX) for a project that would "Add 3,270.5 sq. ft. & new 483 sq. ft. garage to existing 1,395 sq. ft. 1-story house. The foundation, framing & front façade of existing structure will remain as is. The interior layout will be modified but the perimeter walls not." The box checked on the City's Exemption form is "Improvements to Existing Single-Family Residences." The City forwarded a copy of the Coastal Exemption to the Coastal Commission's South Coast District Office on August 8, 2016, and the claim of Exemption was appealed (A-5-VEN-16-0081).

2.) The Indiana Project

On December 10, 2015, the City issued a Coastal Exemption (DIR 2015-4493-CEX) for a "3-story addition and renovation with new attached garage on existing 1-story single-family dwelling. Less than 50% of existing wall to remain. Demo detached garage 20'2"x18'2". Demo by handwreck. Sewer cap is not required." The box checked on the City's Exemption form is "Improvements to Existing Single-Family Residences." The City forwarded a copy of the Coastal Exemption to the Coastal Commission's South Coast District Office on February 1, 2016, and the claim of Exemption was appealed (A-5-VEN-16-0025).

On April 25, 2016 and May 23, 2016, the applicant and former agent met with Commission staff to clarify what types of development qualified for a Coastal Exemption and potential options to move forward with the proposed project. During those meetings, staff explained that the Coastal Act and Regulations did not include a limitation on the size of additions to single family homes in Venice, so long as at least 50% of the existing structure remained. Thereafter, the Indiana Project was revised and newly submitted to the City.

On February 9, 2017, the City issued a Coastal Exemption (DIR-2017-522-CEX) for "Remodel (E) dwelling, add 2nd story 2,694 sq. ft. with roof deck add new attached 355 sq. ft. garage and 188 sq. ft. carport to existing 1,020 sq. ft. SFD. The foundation, framing and front façade of existing structure will remain as is. Interior of existing house will be modified but perimeter walls and roof lines will remain as is (except for the rear portion of the roof which will be slightly modified for all necessary connection to new structure) the roof modification will not exceed 20% of total sq. ft. of existing surfaces. The roof and siding of existing will be replaced to match new addition." The box checked on the City's Exemption form is "Improvements to Existing Single-Family Residences." The City forwarded a copy of the Coastal Exemption to the Coastal Commission's South Coast District Office on February 21, 2017, and the claim of Exemption was appealed (A-5-VEN-17-009).

B.) THE PROPOSED IMPROVEMENTS ARE EXEMPT FROM COASTAL PERMITTING REQUIREMENTS

1.) Staff "Flip Flops" Their Recommendation Without Legal Justification

The Flower Project and the Indiana Project are exempt "development" as defined in the Coastal Act and do not require a CDP because less than 50 percent of the existing single-family residences are proposed to be removed. "Commission Staff recommends that the Commission find that no substantial issue exists with respect to the grounds upon which the appeal has been filed because the City properly found that the proposed project does not require a local coastal development permit." (See Summary of Staff Recommendation in "Staff Report: Appeal - No Substantial Issue" for the

Flower Project, prepared for the Commission's November 3, 2016 meeting" attached hereto as Exhibit A.) In fact, the November 2016 Staff Report found in detail and elaborated that the Flower Project "...does qualify for an exemption under Coastal Act Section 30610(a). Coastal Act Section 30610(a) allows improvements to existing single-family residences without a coastal development permit. Improvements to buildings typically include additions. The Coastal Act does not put a limit on the size of an addition to an existing structure, with limited exceptions (depending on certain geographical features) of the site, as long as 50 percent of the existing structure is not removed, replaced, or demolished."

This position was corroborated at length by Steve Hudson and Chris Pederson at the Commission's November 3, 2016 hearing:

> ...Our position would be that provided that no more than 50% of the structure is demolished that if they add onto that structure while retaining the existing structure intact - the addition itself would not trigger the need for a CDP..." - Steve Hudson, 11/3/16

"...It is correct that under our Regulations, in this location, there isn't a size limitation on improvements to existing structures..." - Chris Pederson, 11/3/16

"...this interior remodel and addition to this residence would result in substantially less than 50% of demolition and would normally be development that we would consider exempt from the requirement to obtain a CDP...

- Steve Hudson, 11/3/16

....In closing, I would just note that it is staff's opinion that there is legal and factual evidence which supports exempting the proposed project from Coastal Act permitting requirements..."

- Steve Hudson. 11/3/16

"...I would note that Section 30610 of the Coastal Act and Sections 13250 and 13252 of the Public Resources Code - those are the sections governing exempt development – they provide that certain limited improvements or repair of existing residential structures are exempt from the need to obtain a CDP, provided that such repairs do not result in replacement of more than 50% of the structure. Improvements to buildings typically include additions. The Coastal Act and the Commission's Regulations do not include a specific limitation on the size of an addition to an existing structure for the purpose of determining when development is exempt from the requirement to obtain a CDP..." - Steve Hudson, 11/3/16

Despite the existing Coastal Act and Regulations, and notwithstanding Staff's recommendation and testimony, in a split vote the Commission found that the Flower Project raised a substantial issue.

Staff's position has changed a full 180° as a result of the Commission's November 3, 2016 split vote, but without legal justification or explanation. Not only has Staff fully reversed their position, but the Flower Project Staff Report - De Novo is completely silent as to why their position has changed. There is no mention of Staff's previous "No Substantial Issue" recommendation, there is no mention of Steve Hudson and Chris Pederson's defense of the November 3, 2016 Staff Report, and there is no explanation of why or how the same laws that they previously determined supported an Exemption now, somehow, support a finding that a CDP is required.

Now, Staff's reversed position is that a CDP is required due to the sheer size of the addition. "...[A]lthough the Coastal Act and its regulations do not explicitly limit the size of additions that qualify as "improvement" to "existing" homes - except if those homes are in specific locations (14 Cal. Code Regs 13250(b)(4) - it does acknowledge that there are limits to what can be considered an improvement to an existing home, rather than what is, in reality, a redeveloped home." (See Page 8 of the "Staff Report: Appeal - De Novo" for the Flower Project.") This position is legally unsupported and appears to be Staff's attempt to close - prematurely - what was described by appellants at the November 2016 hearing to be a "loophole" in the laws and Regulations as they exist today.

2.) The Size of an Addition to an Existing Single Family Residence in Venice is Not Legally Restricted as the Laws and Regulations Exist Today

Section 30600(a) of the Coastal Act requires that anyone wishing to perform or undertake any development within the coastal zone shall obtain a coastal development permit. Development is broadly defined by Section 30106 of the Coastal Act, which states:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 664l0 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted

pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

Construction, reconstruction, demolition, or alteration of the size of any structure in the coastal zone is development that requires a coastal development permit, unless the development qualifies as development that is authorized without a coastal development permit.

Coastal Act Section 30610 Developments authorized without permit, states:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

- (a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter....
- (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 13250 Improvements to Existing Single-Family Residences, states:

- (a) For purposes of Public Resources Code Section 30610(a) where there is an existing single-family residential building, the following shall be considered a part of that structure:
- (1) All fixtures and other structures directly attached to a residence;
- (2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units; and
- (3) Landscaping on the lot.

Additionally, the Commission typically requires fifty percent of the structure to be maintained in order to qualify as an existing structure.

Section 13252 Repair and Maintenance Activities That Require a Permit, states:

(b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

As previously stated by the Commission Staff, its Deputy Director, and Chief Legal Counsel, the interior remodel and addition to an existing single-family residence in Venice, resulting in less than 50 percent demolition of the existing exterior structural elements of the structure, is considered an improvement to an existing structure, and is not a new residential structure, based on the applicable provisions of the Coastal Act.

Additionally, the City of Los Angeles Certified Land Use Plan (LUP) for Venice defines "remodel" as: an improvement to an existing structure in which no more than fifty percent (50%) of the exterior walls are removed or replaced. The LUP sets forth no policies relative to interpreting remodels as being exempt development. As such, an Exemption determination is based on a reading of applicable Coastal Act provisions and the Commission's own associated implementing Regulations. In both the Flower and Indiana Projects, the amount of existing structure proposed to be removed is well under 50 percent. Therefore, no CDP is required for either the Indiana or Flower Projects.

Finally, it is worth noting that at the November 3, 2016 Commission meeting, Deputy Director Steve Hudson explained to the Commission that there was concern regarding the size of residential additions, particularly in Venice, and that in an effort to address these concerns, Los Angeles Department of City Planning Staff, along with Los Angeles City Council Member Bonin, were working with Commission Staff and Executive Director Jack Ainsworth to draft language that would regulate the size of additions. That language, he stated, would restrict additions to a certain percentage of the square footage of the existing structure and, any improvements in excess of the set percentage, would require a CDP. Mr. Hudson indicated that those discussions were ongoing. However, to date, no action has been taken to change the existing applicable rules. Until the time that any alleged new regulations are finalized and approved, the Commission is bound by the Coastal Act and applicable sections of the Public Resources Code, neither of which limit the size of additions to existing single family homes.

3.) Consistency with Chapter 3 Policies is Not at Issue on Appeal

Because the Flower and Indiana Projects are exempt from CDP requirements, there is no need for the Commission to review the appellants' concerns regarding either projects' consistency with Chapter 3 policies of the Coastal Act, including consistency with policies protecting the character of the community. These issues would, however, be important and relevant in evaluating an

application for a CDP. This procedure, about when it is appropriate for the Commission to consider Chapter 3 policies, including mass, character, and scale, is explained on Pages 12-13 of the November 3, 2016 Staff Report.

Although Chapter 3 policies are not relevant to the Commission's substantial issue or de novo determinations, Commission staff did consider the scale and massing of the Flower Project in comparison to surrounding residential structures and found that it is not out of character with the surrounding area and community (see Section "A. Project Description & Location" on page 8 under Findings and Declarations of the November 3, 2016 Staff Report²). In fact, the reality of Venice is that many of the older, smaller homes have, in fact, been remodeled (via Exemptions) or redeveloped (via CDPs) with larger, more modern residences. Attached as Exhibit B, please find photographs of other nearby properties showing the typical mass, scale, and character of these newer homes.

C.) THE LAW REQUIRES THE COMMISSION TO SUPPORT THE EXEMPTIONS AND DENY THE APPEALS

Staff's recommendations, if adopted by the Commission, will result in an unconstitutional governmental taking of private property. (See Palazzolo v. Rhode Island et al., 121 S.Ct. 2448 (2001) [a taking of private property may occur if a regulation limits, but does not completely eliminate, economic beneficial use of the property, even if the property was acquired after a regulation's effective date]; Lucas v. South Carolina Coastal Council, 112 S.Ct. 2886 (1992) [a property deprived of all economic beneficial use is a taking of private property]; Penn Cent. Transp. Co. v. City of New York, 98 S.Ct. 2646 (1978) [whether a taking has occurred depends on a combination of factors, including the regulation's economic effect on the landowner, the extent to which the regulation interferes with reasonable investment-backed expectations, and the character of the government action].) Vested rights are predicated upon estoppel against a government body. (See City of Long Beach v. Mansell (1970), 3 Cal.3rd 462, 496-97.) Equitable estoppel is to be applied against the government where the injustice that would result from a failure to estop the government is sufficient to justify the effect upon the public. Id. The law requires the balancing of the good faith reliance by the claimant that the activity is legal against the government's failure to act or determination to change the applicable rules. Id.

² "The Oakwood neighborhood is comprised of an amalgam of new and old one-to-two story buildings with a maximum height of 25 feet for flat roofs and 30 feet for varied rooflines; roof access structures are typically permitted to extend 10 feet above the flat roof height limit. Within the 600 block of E. Flower Avenue, the residential buildings range in size from 198 sq. ft. (653 E. Flower Avenue) to 6,596 sq. ft. (676 E. Flower Avenue), and the average residential building size is 2,268 square feet. In addition, these buildings range in number of residential units from single-family to nine (9) units on a single lot (676 E. Flower Avenue)."

Finally, to follow Staff's recommendations would result in the application of a "new" interpretation and application of Coastal Exemption laws and regulations and a failure of the Commission to proceed in the manner required by law. (See City of Marina v. Board of Trustees of the California State Univ. (2006) 39 Cal.4th 341, 355 [application of erroneous legal standard constitutes failure to proceed in manner required by law and an abuse of discretion].)

Therefore, the issue for the Commission to decide is whether, based on the Coastal Act and applicable Regulations, the proposed improvements to these single family homes are exempt from Coastal permitting requirements. In fact, the applicants made revisions to both projects in accordance with information provided to them during in-person meetings with Coastal Commission's South Coast District Office Staff for purposes of complying with the legal requirements to qualify for an Exemption. As detailed in the Staff Report for the November 3, 2016 hearing and the oral reports made at that hearing by Steve Hudson and Chris Pederson, Section 30610 of the Coastal Act and Sections 13250 and 13252 of the Public Resources Code provide the applicable guidance regarding exempt development. It is wholly improper for the Commission to evaluate conformance with Chapter 3 Policies of the Coastal Act in connection with actions on appeal.

In sum, the Commission must approve the Claim of Exemption for the Flower Project and deny the De Novo Appeal. For the Indiana Project, the Commission should find that no substantial issue exists. Both projects constitute improvements to existing structures and are exempt from CDP requirements as the law exists today.

Thank you for your consideration of this matter.

Sincerely,

GAINES & STACEY LLP

By

FRED GAINES

cc: All Commission Members

Commission Secretary (Via Email)

Jack Ainsworth (Via Email)

Steve Hudson (Via Email)

Charles Posner (Via Email)

Caitlin Oshida (Via Email)

G&S/2211-001

Exhibit A

CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071

Th13a



Filed: 49th Day: 9/6/2016 Waived

Staff:

C. Oshida – LB

Staff Report: Hearing Date: 10/13/2016 11/3/2016

STAFF REPORT: APPEAL - NO SUBSTANTIAL ISSUE

Local Government:

City of Los Angeles

Local Decision:

Claim of Exemption to Coastal Development Permit Requirement

Appeal Number:

A-5-VEN-16-0081

Applicant:

Kobe Marciano

Agent:

Steve Kaplan

Appellants:

Robin Rudisill, Lydia Ponce, and Sue Kaplan

Project Location:

657 E. Flower Avenue, Venice, City of Los Angeles

Project Description:

Appeal of City of Los Angeles Local Coastal Exemption No. DIR-2016-2804-CEX for a 3,270.5 sq. ft. addition and 483 sq. ft. attached garage to a 1,395 sq. ft., 1-story single-family dwelling. The foundation, framing and front facade of the existing structure

will remain as is. The interior layout will be modified but the

perimeter walls will not.

Staff Recommendation:

No Substantial Issue

IMPORTANT NOTE: This is a substantial issue only hearing. Testimony will be taken <u>only</u> on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), or those who, for good cause, were unable to oppose the application before the local government, and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds on which Appeal A-5-VEN-16-0081 has been filed because the locally approved development does qualify for an exemption and does not require a local coastal development permit from the City of Los Angeles. The City-approved development constitutes an "improvement" to an existing development, because less than 50 percent of the existing single-family residence will be demolished. The scope of work A-5-VEN-16-0081 (Marciano) Appeal – No Substantial Issue

includes construction of a two-story, 3,270.5 square foot addition to the rear of the existing single-family residence, while the foundation, framing and front façade of the existing structure will remain as is with a few aesthetic modifications. Also, the interior layout of the existing house will be modified but the exterior walls, as well as the roof lines, will remain as is, except for the rear portion of the existing structure which will be slightly modified to accommodate for the necessary connections between the existing and new structures (**Exhibit 4**). Overall, City-approved plans indicate that more than 50 percent of the existing structure will be retained. Therefore, the proposed project is exempt "development" as defined in the Coastal Act and does not require a coastal development permit because less than 50 percent of the existing single-family residence is proposed to be removed. Commission Staff recommends that the Commission find that no substantial issue exists with respect to the grounds upon which the appeal has been filed because the City properly found that the proposed project does not require a local coastal development permit. The motion to carry out the staff recommendation is on **page 4**.

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EXHIBITS

Exhibit 1 – Vicinity Map Exhibit 2 – Photo of Site

Exhibit 3 – Commission Notification of Appeal and Appeal Exhibit 4 – Architectural Plans

I. MOTION AND RESOLUTION

MOTION: I move that the Commission determine that Appeal No. A-5-VEN-16-0081 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under

§ 30602 of the Coastal Act.

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 of the majority of the Commissioners present.

RESOLUTION:

The Commission hereby finds that Appeal No. A-5-VEN-16-0081 presents NO SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations, and therefore Chapter 3 of the Coastal Act.

II. APPELLANTS' CONTENTIONS

On September 3, 2016, the Commission received an appeal of Local Coastal Exemption DIR-2016-2804-CEX from Robin Rudisill, Lydia Ponce, and Sue Kaplan (Exhibit 3). The City's Coastal Exemption approved the following: "Add 3,270.5 sq. ft. & new 483 sq. ft. garage to existing 1,395 sq. ft. 1-story house. The foundation, framing & front façade of existing structure will remain as is. The interior layout will be modified but the perimeter walls not." The appeal contends that more than 50 percent of the structure will be demolished resulting in a new residential structure, and that the mass and scale of the locally-exempted project is inconsistent with the community character of the area and therefore is inconsistent with the Venice certified Land Use Plan (LUP) and the Chapter 3 policies of the Coastal Act. For the reasons stated above, the appeal contends that the City-approved project does not qualify for an exemption and requires the review afforded through the coastal development permit process.

III. LOCAL GOVERNMENT ACTION

On October 29, 2015, the City of Los Angeles, Department of City Planning issued a Coastal Exemption (DIR 2015-3961-CEX) for a "2-story addition with new attached 2-car garage to existing one-story, single-family dwelling; major alterations to existing single-family dwelling; 55% of existing wall to remain. Existing single-family dwelling = 936 sq. ft. Total addition = 5,503 sq. ft. And demo garage 10'x12'; demo by handwreck, sewer cap is not required." On October 28, 2015, the City of Los Angeles, Department of City Planning issued a Director of Planning Sign-Off (DIR-2015-3655-VSO) for "remodel and addition to an existing one-story single family dwelling and demolition of a detached garage. Project will result in a 2,766 SF second story, a roof deck, two RASs, and an attached two car garage. Project will remove/alter 45% of the existing exterior walls."

The City forwarded a copy of the Coastal Exemption to the Coastal Commission's South Coast District Office on February 1, 2016. On March 1, 2016, the claim of exemption was appealed to the Commission's South Coast District Office (A-5-VEN-16-0024). On March 18, 2016, the applicant waived the 49-day rule for hearing an appeal. On May 10, 2016, the applicant withdrew their claim of exemption (DIR-2015-3961-CEX), that was the subject of appeal A-5-VEN-16-0024. On May 23, 2016, the applicant and agent met with Commission staff to clarify what types of development qualified for a Coastal Exemption and potential options as they moved forward with the proposed project.

On July 6, 2016, the City Department of Building and Safety issued Building Permit No. 16014-20000-02860 for an "addition to (E) one story SFD, (N) second story & (N) att. 2 car garage. All work per engineering," prior to receiving a coastal exemption or coastal developments permit. However, no work has commenced at the project site. On August 3, 2016, the City of Los Angeles, Department of City Planning issued a Coastal Exemption (DIR 2016-2804-CEX) (Exhibit 3) for a project that would "Add 3,270.5 sq. ft. & new 483 sq. ft. garage to existing 1,395 sq. ft. 1-story house. The foundation, framing & front façade of existing structure will remain as is. The interior layout will be modified but the perimeter walls not." The applicant name listed on the City's exemption is Kobe Marciano. The box checked on the City's exemption form is "Improvements to Existing Single-Family Residences."

The City forwarded a copy of the Coastal Exemption to the Coastal Commission's South Coast District Office on August 8, 2016, and, at that time, Coastal Commission staff established the 20 working-day appeal period for the local CDP action. On August 31, 2016, the City Department of Building and Safety issued Building Permit No. 16016-20000-19974 for a building alteration/repair for the replacement drywall, insulation, and roof re-sheathing. On September 6, 2016, the appellants submitted the appeal to the Commission's South Coast District Office. The appeal of the City's action was determined to be valid because it was received prior to the expiration of the twenty working-day period in which any action by the City of Los Angeles can be appealed to the Commission. On September 7, 2016, a Notification of Appeal was sent to the Los Angeles Department of City Planning and the applicant, notifying each party of the appeal of DIR-2016-2804-CEX, and the decision was stayed pending Commission action on the appeal. On September 21, 2016, the applicant waived the 49-day rule for hearing an appeal.

IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission, and Section 30625 makes clear that claims of exemption are among the appealable actions.

After a final local action on a local coastal development permit application or a coastal exemption, the Coastal Commission must be noticed within five days of the decision. After

A-5-VEN-16-0081 (Marciano) Appeal – No Substantial Issue

receipt of a notice that contains all the required information, a twenty working-day appeal period begins during which any person, including the applicants, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appealant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including stating the specific grounds for appeal and summarizing the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the approved project's conformity with Chapter 3 of the Coastal Act. However, the Chapter 3 policies of the Coastal Act do not apply if the project is exempt from permitting requirements pursuant to Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations. Accordingly, for appeals of coastal exemption determinations such as this, the Commission's role is to determine whether there is factual and legal support for the local government's exemption determination. If there is no substantial issue with regard to the propriety of the exemption determination, then there is also no substantial issue with regard to Chapter 3 conformity because those policies do not apply to exempt development. If the Commission decides that there is no substantial issue with the exemption determination—and thus Chapter 3—the action of the local government becomes final.

If, however, the Commission finds that a substantial issue exists with respect to the locally-approved project's conformity with Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations, then the local coastal development permit decision is voided and the Commission typically continues the public hearing to a later date in order to review the claim of exemption as a <u>de novo</u> matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] The standard of review for the de novo portion of an appeal is the same as described above—consistency with Chapter 3, as determined by analyzing consistency with Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations. Should the Commission deny the claim of exemption and determine that a coastal development permit is required, then the Chapter 3 policies of the Coastal Act are the standard of review if the applicant applies for, and the local jurisdiction considers, the permit. [Cal. Pub. Res. Code § 30625.]

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission hearing. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulations, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), or those who, for good cause, were unable to oppose the application before the local government, and the local government.

Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

V. SINGLE/DUAL PERMIT JURISDICTION AREAS

Section 30601 of the Coastal Act provides details regarding the geographic areas where applicants must also obtain a coastal development permit from the Commission in addition to obtaining a local coastal development permit from the City. These areas are considered Dual Permit Jurisdiction areas. Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City's actions are appealable to the Commission. The proposed project site is located within the Single Permit Jurisdiction Area.

VI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & LOCATION

The Los Angeles County Tax Assessor records indicate that the existing one-story 936 square foot home at 657 E. Flower Avenue was constructed in 1922, and Los Angeles Building and Safety records indicate that an approximately 378 square foot, one-story addition was added to the rear of the existing house in 1955 (per City of Los Angeles Building and Safety Permit No. 1955-12762; pre-Coastal Act). The scope of work provided by the applicant on the City's Coastal Exemption form is "Add 3,270.5 sq. ft. & new 483 sq. ft. garage to existing 1,395 sq. ft. 1-story house. The foundation, framing & front façade of existing structure will remain as is. The interior layout will be modified but the perimeter walls not."

The City of Los Angeles did retain copies of plans for this project when it was deemed exempt from permit requirements, and submitted the project plans along with the coastal exemption to the Commission's South Coast Office on August 8, 2016 (Exhibit 4). According to the plans submitted by the City, the scope of work includes: (1) the construction of a two-story (maximum height of 30 feet), 3,270.5 square foot addition to the rear of the existing single-family residence; (2) "the foundation, framing and front façade of the existing structure will remain as is"; and (3) the interior layout of the existing house will be modified but the exterior walls as well as the roof lines will remain as is, except for the rear portion of the existing structure which will be slightly modified to accommodate for the necessary connections between the existing and new structures (Exhibit 4). However, the scope of work on the City-approved plans, adds that "this modification will not exceed 20% of the total square footage of the existing surfaces" (Exhibit 4). The new second-floor addition will cover the new first-floor footprint and only extend approximately 16 feet over the existing structure (portion of the 1955 addition). New foundational elements and load bearing walls are proposed on portions of the lot where none exist currently, while the existing foundation and perimeter walls will remain intact. Two on-site parking spaces will be maintained on-site in a new attached garage.

The plans also state that the roofing material (i.e. shingles) and siding material will be replaced so that the proposed addition and the existing structure match aesthetically. However, the applicant maintains that all underlying material, such as studs, framing, and most of the drywall, will not be

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removed during this process. In addition, additional structural support (beams) that may be added when the existing interior walls are removed will not result in the demolition of any of the existing structural elements (except some drywall). Flooring in the existing 1955 addition area that is lower than the original finished flooring will be cosmetically raised to level it, using a technique that will not damage or remove the existing foundation.

The project site is located in the Oakwood subarea at 657 E. Flower Avenue within the City of Los Angeles Single Permit Jurisdiction Area, about 0.7-mile inland of the beach (Exhibit 1 and Exhibit 2). The lot area is 5,800 square feet and is designated as for multi-family residential use according to the Venice certified LUP. The Oakwood neighborhood is comprised of an amalgam of new and old one-to-two story buildings with a maximum height of 25 feet for flat roofs and 30 feet for varied rooflines; roof access structures are typically permitted to extend 10 feet above the flat roof height limit. Within the 600 block of E. Flower Avenue, the residential buildings range in size from 198 sq. ft. (653 E. Flower Avenue) to 6,596 sq. ft. (676 E. Flower Avenue), and the average residential building size is 2,268 square feet. In addition, these buildings range in number of residential units from single-family to nine (9) units on a single lot (676 E. Flower Avenue).

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. As described above, in the case of appeals of coastal exemptions (Section 30625(a) of the Coastal Act), this standard requires the Commission to determine if there is factual and legal support for the local government's decision that the development can be authorized without a coastal development permit pursuant to Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulation simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission had been guided by the following factors:

- 1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
- 2. The extent and scope of the development as approved or denied by the local government;
- 3. The significance of the coastal resources affected by the decision;
- 4. The precedential value of the local government's decision for future interpretations of its LCP; and,
- 5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **no substantial issue exists** with respect to whether the local government action conforms to Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

The grounds for this appeal are that the project is not an improvement to an existing structure and is therefore non-exempt "development" as defined in the Coastal Act. The appellants claim that a coastal development permit should therefore have been required.

Section 30600(a) of the Coastal Act requires that anyone wishing to perform or undertake any development within the coastal zone shall obtain a coastal development permit. Development is broadly defined by Section 30106 of the Coastal Act, which states:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 451l).

Construction, reconstruction, demolition, or alteration of the size of any structure in the coastal zone is development that requires a coastal development permit, unless the development qualifies as development that is authorized without a coastal development permit.

Coastal Act Section 30610 Developments authorized without permit, states:

Notwithstanding any other provision of this division, **no coastal development permit shall be required** pursuant to this chapter for the following types of development and in the following areas:

- (a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter....
- (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

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Section 13250 Improvements to Existing Single-Family Residences, states:

- (a) For purposes of Public Resources Code Section 30610(a) where there is an existing single-family residential building, the following shall be considered a part of that structure:
- (1) All fixtures and other structures directly attached to a residence;
- (2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units; and
- (3) Landscaping on the lot.

Additionally, the Commission typically requires fifty percent of the structure to be maintained in order to qualify as *an existing structure*.

Section 13252 Repair and Maintenance Activities That Require a Permit, states:

(b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

The grounds for this appeal are that the project is not exempt development as defined in the Coastal Act and, as such, the applicant must obtain a coastal development permit for the proposed development. The description and proposed plans of the project, which includes the interior remodel and addition to the existing single-family residence resulting in less than 50 percent demolition of the existing exterior structural elements of the structure, is considered an improvement to an existing structure, and is not a new residential structure, based on the applicable provisions of the Coastal Act.

Additionally, the City of Los Angeles Certified Land Use Plan (LUP) for Venice defines "remodel" as: an improvement to an existing structure in which no more than fifty percent (50%) of the exterior walls are removed or replaced. In past actions, the Commission found that when a "remaining wall" is used as a measure to determine whether a development is a remodel or a new structure, the wall must remain intact as part of the structure, and for purposes of calculating the fifty-percent guideline should retain its siding, framing (studs), drywall/plaster, windows, and doorways. Furthermore, the Commission found that demolition, reconstruction, or substantial redevelopment of a project in the Venice coastal zone are not exempt under any section or provision of the Coastal Act, or the Commission's Regulations and require a coastal development permit. In some cases, even if a development is a remodel under the LUP, it does not mean that it is exempt from the coastal development permitting requirements. The LUP sets forth no policies relative to interpreting remodels as being exempt development. As such, an exemption determination is based on a reading of applicable Coastal Act provisions and associated implementing regulations in the Commission's regulations. In this case, the amount of existing structure proposed to be removed does not exceed 50 percent. Therefore, a coastal development permit is not required.

In determining whether the project constitutes the replacement of 50 percent or more of the existing structure, Commission staff analyzes what percentage of which components and how

much of each component of the house is being replaced. A single family residence consists of many components that can be measured, such as: the foundation, plumbing, electrical, walls, floor, and/or roof of the structure. The project plans must indicate the amount of demolition and augmentation that is necessary to build the proposed remodel. If 50 percent or more of the total of these components are being replaced, then the project would not qualify as exempt development, and must obtain a coastal development permit pursuant to Section 30600(a) of the Coastal Act. Typically, the addition of a complete second story above a one-story structure would not qualify for an exemption because the amount of construction required to support the additional weight of a new level would often require reinforcement of the first-floor load bearing walls, often with steel framing, and/or a new foundation which would exceed the amount of change allowable under an exemption. However, the project description and plans show that the second floor of the addition will primarily be located above the proposed first-floor addition at the rear of the structure; and only extend about 16 feet above the existing structure. This approximately 350 square foot area that is proposed to extend over the existing residence is located above the 1955 addition of the existing structure, and contains slightly newer building material than the original house which dates to 1922. The applicant is proposing the replacement of most of the material in this area and has accounted for that on the City-approved project demolition plans.

The proposed project does qualify for an exemption under Coastal Act Section 30610(a). Coastal Act Section 30610(a) allows *improvements* to existing single-family residences without a coastal development permit. Improvements to buildings typically include additions. The Coastal Act does not put a limit on the size of an addition to an existing structure, with limited exceptions (depending on certain geographical features) of the site, as long as 50 percent of the existing structure is not removed, replaced, or demolished.

In this case, the amount of the existing structure proposed to be removed is less than 50 percent and therefore can be considered an improvement to an existing single-family residence that is exempt from coastal development permit requirements. According to the plans (Exhibit 4), the scope of work includes: (1) the construction of a two-story (maximum height of 30 feet), 3,270.5 square foot addition to the rear of the existing single-family residence; (2) "the foundation, framing and front façade of the existing structure will remain as is"; and (3) the interior layout of the existing house will be modified but the exterior walls as well as the roof lines will remain as is, except for the rear portion of the existing structure which will be slightly modified to accommodate for the necessary connections between the existing and new structures (Exhibit 4). However, the scope of work on the City-approved plans, adds that "this modification will not exceed 20% of the total square footage of the existing surfaces" (Exhibit 4). New foundational elements and load bearing walls are proposed on portions of the lot where none exist currently, however, the existing foundation and exterior walls will remain.

While the roofing material (i.e. shingles) and siding material will be replaced so that the proposed addition and the existing structure match aesthetically, the applicant maintains that all underlying material, such as studs, framing, and most of the drywall, will not be removed during this process. In addition, any additional structural support (beams) that may be added when the existing interior walls are removed will not result in the demolition of any of the existing structural elements (except some drywall). Areas in the existing house where the floors are lower than the original finished flooring will be cosmetically raised to level it, using a technique that will not damage or remove the existing foundation.

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Coastal Act Section 30600 Coastal Development Permit; Procedures Prior to Certification of Local Coastal Program, states:

- (a) Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit.
- (b) (1) Prior to certification of its local coastal program, a local government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620, and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Those procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government.
 - (2) A coastal development permit from a local government shall not be required by this subdivision for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required.
- (c) If prior to certification of its local coastal program, a local government does not exercise the option provided in subdivision (b), or a development is not subject to the requirements of subdivision (b), a coastal development permit shall be obtained from the commission or from a local government as provided in subdivision (d).
- (d) After certification of its local coastal program or pursuant to the provisions of Section 30600.5, a coastal development permit shall be obtained from the local government as provided for in Section 30519 or Section 30600.5.

The City of Los Angeles has the authority to issue coastal development permits, as well as coastal exemptions. The proposed project site is located within the *Single Permit Jurisdiction Area*. For the reasons discussed in detail above, the proposed project constitutes an improvement to an existing one-story approximately 1,395 square foot structure and construction of a new 3,270.5 square foot, two-story addition with attached, 483 square foot garage, resulting in the removal of less than 50 percent of the existing material, which is exempt under the Coastal Act and the Commission's Regulations. Therefore, the proposed project does not require a local coastal development permit from the City of Los Angeles.

Because the proposed development is exempt from coastal development permit requirements, there is no need for the Commission to review the appellants' concerns regarding the project's consistency with Chapter 3 policies of the Coastal Act, including its consistency with policies protecting the character of the community. These issues would, however, be important and relevant in a situation where the Commission found that an exemption determination raises a substantial issue and denies the exemption in a de novo action. In such cases, the local jurisdiction will have to review a project's consistency with Chapter 3 policies (and/or any relevant local coastal plan policies) if the applicant applies for a coastal development permit. Although Chapter policies are not relevant to the Commission's substantial issue determination, Commission staff did consider the scale and massing of the proposed project in comparison to surrounding residential structures and found that it is not out of character with the surrounding

area and community (see section "A. Project Description & Location" on page 8 under Findings and Declarations).

Substantial Issue Factors:

Applying the five factors listed in the prior section clarifies that the appeal raises "no substantial issue", and therefore, does meet the substantiality standard of Section 30625(a).

The first factor is the <u>degree of factual and legal support for the local government's decision</u> that the development is exempt from CDP requirements. The City used detailed plans in its determination to issue a coastal exemption for a project with the scope of work. According to the plans approved by the City, the scope of work includes the construction of a two-story, 3,270.5 square foot addition to the rear of the existing single-family residence with an interior remodel. The scope of work and accompanying demolition plans also show less than 50 percent of the existing house being demolished, removed, or modified. Therefore, the proposed development is considered an "improvement" to an existing residential unit. Any deviation from the approved scope of work and approved plans may void the City-issued coastal exemption and require a coastal development permit.

The locally approved development would not result in more than 50 percent demolition of the existing structure and is an improvement to an existing structure, which qualifies for a coastal development permit exemption under section 30610 of the Coastal Act and the Commission's regulations, as noted above. Additionally, City staff did retain copies of the plans for the proposed development and provided them to Commission staff to review in order to determine whether the City properly determined that the proposed development was exempt. Therefore, the Coastal Commission finds that the City does have an adequate degree of factual or legal support for its exemption determination.

The second factor is the <u>extent and scope of the development</u> as approved or denied by the local government. The extent and scope of the locally approved development is clear because there are City-approved plans available to determine the scope (**Exhibit 4**). Based on the project description and plans, the City was able to determine that less than 50 percent of the existing single-family residence would be removed during this project, which does not exceed the limitation to be eligible for a coastal exemption. Therefore, the full extent and scope of the City-approved project was reviewed by the City and determined to qualify for a coastal exemption.

The third factor is the <u>significance of the coastal resources affected</u> by the decision. However, this factor is directly tied to the Chapter 3 policies of the Coastal Act, which, as stated in previous sections, are not relevant when considering appeals of coastal exemptions. Rather, in the case of appeals of coastal exemptions, the Commission must determine if there is factual and legal support for the local government's decision that the development can be authorized without a coastal development permit pursuant to Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations. If the Commission determines that the City erred in their review of the coastal exemption and a coastal development permit is required, the project will be subject to review with consistency with Chapter 3 policies (and/or any relevant local coastal plan policies).

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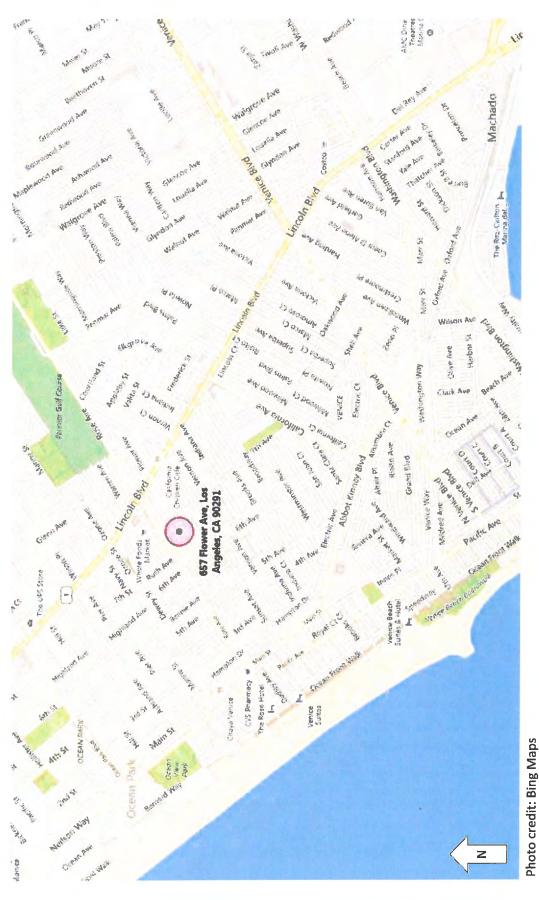
The fourth factor is the <u>precedential value of the local government's decision</u> for future interpretations of its LCP. The City does not currently have a certified LCP, but it does have a certified Land Use Plan (LUP). The proposed development is consistent with Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations for coastal exemption projects. This project, as proposed, will not prejudice the ability of the City to prepare a Local Coastal Program that is in conformity with Chapter 3 of the Coastal Act.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Exempting projects from the coastal development permitting process could have negative, cumulative impacts to the coast if the City and other local governments in the coastal zone apply their exemption authority in an improper manner. However, the City properly reviewed this project prior to issuing a coastal exemption and properly applied the relevant exemptions. Therefore, even though the City properly utilized an exemption in this case, the City's approval does raise potential issues of statewide significance because the interpretation and application of Coastal Act exemptions is of statewide importance.

In conclusion, the central issue for the appeal is whether the development constitutes the replacement of the existing residential structure with a new structure, and therefore requires a local CDP. Because the evidence supports exempting the proposed project from Coastal Act permitting requirements, the Commission finds that appeal A-5-VEN-16-0081 raises no substantial issue relative to Section 30610 of the Coastal Act and Sections 13250 and 13252 of the California Code of Regulations. Accordingly, Coastal Exemption No. A-5-VEN-16-0081 will become final upon the Commission's approval of the motion that the appeal raises no substantial issue.

Location Map: 657 Flower Avenue, Venice





Vicinity Map: 657 Flower Avenue, Venice



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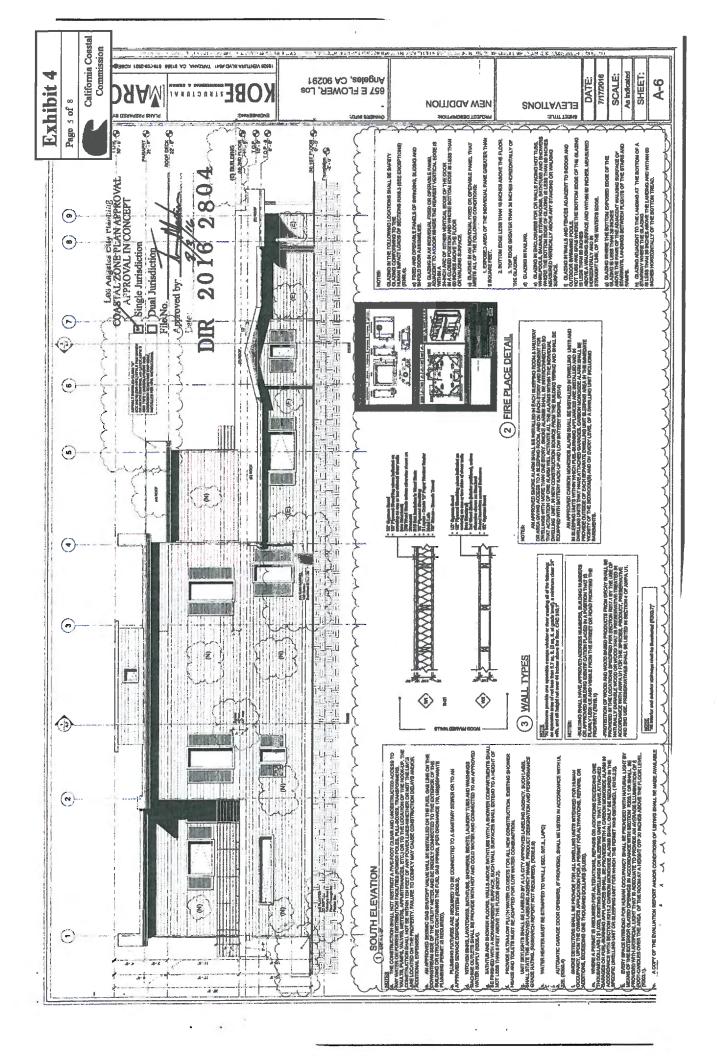


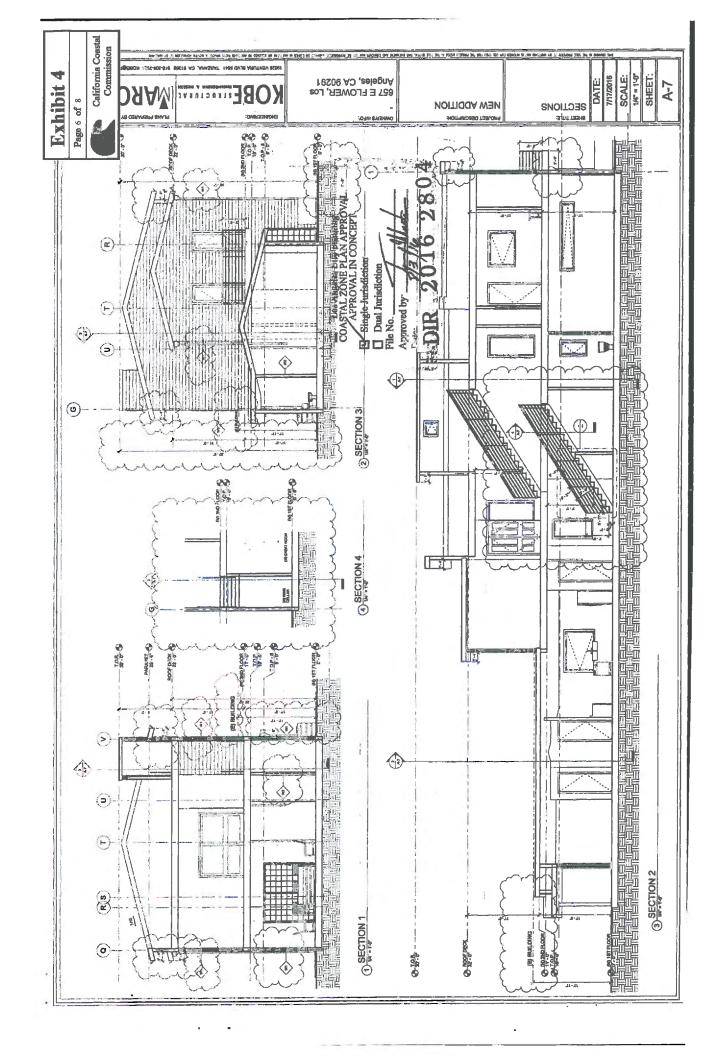
Photo credit: Bing Maps

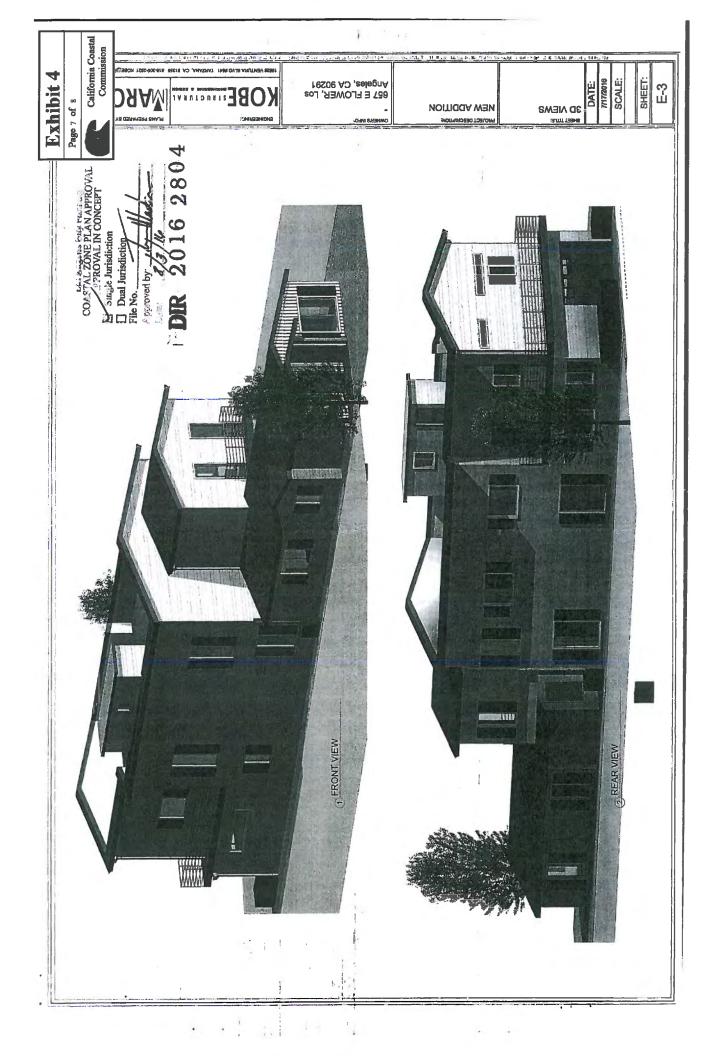
Photo of 657 Flower Avenue, Venice, 3-10-2016



California Coastal Commission







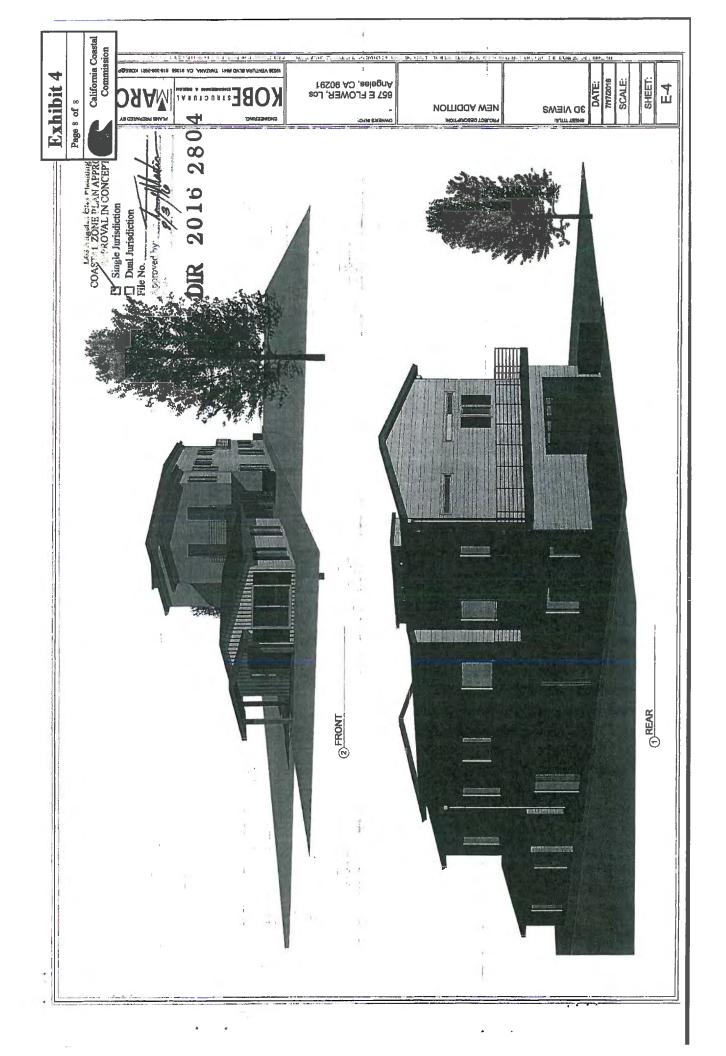


Exhibit B

