

CALIFORNIA COASTAL COMMISSION

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**F16a**

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STAFF REPORT: APPEAL –DE NOVO

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: Gaines & Stacey, LLP

Appellants: Robin Rudisill, Lydia Ponce, and Sue Kaplan

Project Location: 657 E. Flower Avenue, Venice, City of Los Angeles

Project Description: Construction of 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 façade of the existing structure will remain as is. The interior layout will be modified but the perimeter walls will not. Resulting project will consist of a 2-story, 30-ft. high, 4,665.5 sq. ft. single-family residence with attached 483 sq. ft. garage on a 5,800 sq. ft. lot.

Staff Recommendation: Reject the permit exemption request and find that the proposed development requires a Local Coastal Development Permit.

SUMMARY OF STAFF RECOMMENDATION

On November 3, 2016 the Commission found that the appeal of Local Coastal Exemption No. DIR-2016-2804-CEX, issued by the City of Los Angeles, *raised a substantial issue* with respect to the grounds on which the appeal was filed. The Commission is now required to hold a de novo

hearing. Staff recommends that the Commission determine that the proposed development requires a coastal development permit from the City of Los Angeles. The City-approved development would retain 50 percent of the exterior of the existing home; however, it would also include an addition that is far larger than the existing home. Overall, the project would result in a 235 percent increase in the size of the structure – more than doubling its size – which constitutes a substantial redevelopment of the project site. This would result in the construction of what is, in practical effect, a new single-family residence ([Exhibit 4](#)), rather than an improvement to the existing home. Therefore, the proposed project does not qualify as an “improvement” to an “existing” home and is non-exempt “development” as defined in the Coastal Act. Commission staff recommends that the Commission deny the claim of exemption and find the proposed development requires a local coastal development permit from the City of Los Angeles Department of City Planning. The motion to carry out the staff recommendation is on **page 4**.

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Hearing Procedures: The Commission will take public testimony at this de novo hearing. Please visit the Commission desk outside of the hearing room, prior to the hearing on this item, for further details about providing public comment during the hearing.

APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Project Location/Vicinity Map](#)

[Exhibit 2 – Photo of Site](#)

[Exhibit 3 – Appeal](#)

[Exhibit 4 – Architectural Plans](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Claim of Exemption No. A-5-VEN-16-0081 for the development proposed by the applicant.

Staff recommends a **NO** vote. Failure of this motion will result in denial of the *claim of exemption* and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby denies the Claim of Exemption for the proposed development on the ground that the development is not exempt from the permitting requirements of the Coastal Act and adopts the findings set forth below.

II. 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.

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & LOCATION

Currently, the proposed project site is occupied by a 1,395 square foot, one-story single family residence. The Los Angeles County Tax Assessor records indicate that an 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 a 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](#)). 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 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 proposed project will result in a new 4,665.5 square foot, two-story, 30-foot high, single family residence with an attached 483 square foot garage. Overall, the proposed project will result in an approximately 235 percent increase in the square footage of the structure (269 percent increase if the non-habitable garage space is included).

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. PROJECT HISTORY

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 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. 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), which was the subject of appeal A-5-VEN-16-0024. On April 25, 2016 and May 23, 2016, the applicant and agent (at the time) 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 twenty working-day appeal period for the local CDP action ([Exhibit 3](#)). 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.

On November 3, 2016, the Commission found that a substantial issue exists with respect to the grounds on which the appeal was filed. The Commission’s finding of Substantial Issue suspended Local Coastal Exemption No. DIR-2016-2804-CEX, and the Commission is now required to hold a de novo hearing on the applicant’s request for a coastal exemption.

C. DEVELOPMENT REQUIRES A COASTAL DEVELOPMENT PERMIT

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 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.*

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. Specifically, the appeal asserts that the development does not qualify as an improvement to an existing residence, and is thus not exempt per Section 13250. The applicant is proposing to retain 50 percent of the existing structure, which in some cases would mean that the addition would be considered an improvement to an “existing” home, rather than redevelopment of the site. In this case, however, despite the fact that less than 50 percent of the existing structure will be demolished, the project cannot be considered an improvement to an existing structure because the project would increase the total habitable square footage of the single-family residence by approximately 235 percent. This large increase in the size of the structure, which would more than double its size, is not considered an improvement to an existing structure, but would in fact result in what is effectively a new residential structure, thereby requiring a coastal development permit.

The proposed project does not 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. In many cases, improvements to buildings include modest additions. Although the Coastal Act and its implementing regulations do not define “improvement,” the regulations acknowledge that “improvements” generally include additions that result in an increase of at least up to 10 percent of internal floor area of an existing home. (see 14 Cal. Code Regs § 13250(b)(4).) However, provisions of the Coastal Act acknowledge that relatively large additions to existing structures really constitute new development, rather than improvements to existing structures. (See Pub. Res. Code § 30212: project constitutes “new development” if it increases the floor area, height, or bulk of a structure by more than 10 percent.) The regulations also state that the replacement of 50 percent or more of a single family residence constitutes a replacement structure, rather than repair or maintenance.

Accordingly, although the Coastal Act and its regulations do not explicitly limit the size of additions that qualify as “improvements” 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. The Commission need not decide what, exactly, the dividing line is between

additions that qualify as improvements to existing homes versus ones that constitute new development or redevelopment. Here, the proposed project is clearly not an improvement to an existing home, as it would more than double the size of the existing structure (235 percent increase of square footage) and gut the interior of the existing structure. This scope of work and size of addition constitutes substantial redevelopment of the site, resulting in what is, for all practical purposes, a new residence.

As proposed, the new addition to the single-family residence will result in an approximately 235 percent increase in the total square footage of the structure (269 percent increase if the non-habitable garage space is included); more than doubling the size of the residence ([Exhibit 4](#)). Furthermore, the footprint of the building on the 5,800 square foot lot would also more than double as a result of the addition – increasing from 1,395 square feet to 2,981 square feet (see Table 1). The proposed plans indicate that the interior of the existing single-family residence will be remodeled, and all bedrooms and full bathrooms in this area of the house will be removed. In addition, as proposed, the original 1,395 square feet of the house will only include a kitchen, a living room, a breakfast area, and a powder room. All four (4) bedrooms, including a master suite, five (5) bathrooms, a great room, a dining room, den and a wine cellar will be located in the proposed new 3,270.5 square feet. The proposed development would also include a new 483 square foot attached garage. Since the proposed project by itself will be far larger than the existing structure, this development cannot be considered an improvement to an existing home.

Table 1: Comparison of Existing Structure versus Proposed Structure

Structure Component	Existing Structure	Proposed Change	Proposed Final Project	Percentage Increase
Square footage	1,395	3,270.5*	4,665.5	234.4%
Footprint (sq. ft.)	1,395	1,586	2,981	113%
Height (ft.)	11.9	18.1	30	152%
# of Stories	1	1	2	100%

*only includes habitable space/proposed attached garage space not included

For the reasons previously stated, the proposed project also does not qualify for an exemption under Coastal Act Section 30610(d). Coastal Act Section 30610(d) allows for repair and maintenance activities on existing single family residences so long as the repair and maintenance does not result in an addition to, or enlargement or expansion of, the single family home. The proposed project is for a much larger single-family residence.

While the current project is proposing to remove less than 50 percent of the existing structure, in this case, the question of demolition is not dispositive. Because the proposed project would significantly increase the size of the structure, it constitutes a substantial redevelopment of the project site rather than an improvement to a single-family residence. In past actions, the Commission has found that substantial redevelopment of a project in the Venice coastal zone is not exempt under any section or provision of the Coastal Act or the Commission’s Regulations and requires a coastal development permit. Therefore, because the proposed project would result in the substantial redevelopment of the project site rather than an improvement to an existing home, resulting in what is effectively a new single-family residence, the project is not exempt development. As such, the applicant must obtain a coastal development permit for the proposed development.

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.*

Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has opted to issue its own coastal development permits prior to certification of a Local Coastal Program (LCP). The proposed project site is located within the *Single Permit Jurisdiction Area*. For the reasons discussed in detail above, the proposed project constitutes the redevelopment of the project site by effectively constructing a new single-family residence with a habitable square footage that would increase the size of the existing structure by approximately 235 percent, resulting in a new single-family residence, which is not exempt under any policy or provision of the Coastal Act or the Commission's Regulations. Therefore, the proposed project requires a local coastal development permit, processed by the City of Los Angeles. The local coastal development permit process is the process during which the proposed development will be reviewed for its consistency with the Coastal Act and local land use regulations, including those related to mass, scale and character with that of the surrounding community. Because the evidence does not support exempting the proposed project from Coastal Act permitting requirements, *Coastal Exemption No. A-5-VEN-16-0081* is denied.

Appendix A – Substantive File Documents

1. City of Los Angeles Certified Land Use Plan for Venice (2001)
2. California Coastal Commission Meeting Agenda 11/3/16