

CALIFORNIA COASTAL COMMISSION

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**W23e**

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 Hearing Date: 06/07/2017

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal Number: A-5-VEN-17-0018

Applicants: Derek Harbaugh and Nathan Court

Agent: Ray Kappe, Kappe Architects/Planners

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Lilian White, Mary Jack, Nancy Wilding, and Sue Kaplan

Project Location: 938 Amoroso Place, Venice, City of Los Angeles, Los Angeles County (APN No. 4241-030-018).

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. ZA-2014-4641 approved with conditions for the remodel of and addition to a 948 square-foot, single-story single-family residence with a detached 198 square-foot garage, resulting in a 2,482 square-foot, two-story, 28-foot high single-family residence with an attached 356 square-foot, two-car garage on a 3,589 square-foot lot fronting a walkstreet.

Staff Recommendation: No Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

The City approved a local coastal development permit (CDP) for the subject development on March 2, 2017. No local appeals were filed by the end of the City's local appeal period, March 17, 2017. The City's notice of final local action was received by the Commission's South Coast office on March 24, 2017 and the Commission's twenty working-day appeal period was established. During the Commission's appeal period, this one appeal was received on April 24, 2017.

The appellants assert that the City-approved exceptions to the side and rear yard setbacks would cause safety issues for emergency vehicles in the rear alleyway (Amoroso Court) and would also cause an “unacceptable” level of adverse impact to the visual and scenic resources, character, mass, and scale in this area.

Contrary to the appellants’ contentions, the City, in fact, required the new garage to be set back 5 feet from the rear property line (at Amoroso Court), not zero feet, as the appellants assert, and with the exception of an exterior staircase at the rear of the structure, which brushes up against the rear property line, the structure itself is set back 8 feet from the rear property line ([Exhibit 2](#)). Additionally, the City-approved side yard setbacks are 4.25 feet, which is consistent with the City’s zoning regulations and is a larger setback than what currently exists at the site.

With regard to the exterior staircase that brushes up against the rear property line at Amoroso Court (the rear alleyway), the majority of developments that abut this alleyway have structures or components that are set back zero feet from the alleyway. The project, as approved by the City, is consistent with the pattern of development that abuts the alleyway at Amoroso Court ([Exhibit 1](#)). Additionally, the certified Venice LUP does not mandate specific front, rear, or side yards setbacks for this area in Venice, and no coastal resources will be impacted with regard to the City-approved setbacks for this project.

For the reasons stated above, there are no substantial issues raised regarding the City-approved development’s consistency with the community character of the area, the development policies of the certified Venice LUP, or with the Chapter 3 policies of the Coastal Act.

Staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reason: the development, as approved by the City of Los Angeles, is consistent with the Chapter 3 policies of the Coastal Act, and therefore does not negatively impact coastal resources. Pursuant to Section 30625, the grounds of appeal are limited to whether or not a substantial issue exists as to conformity with Chapter 3 of the Coastal Act when there is an appeal pursuant to Section 30602(a).

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken **only** on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to three minutes **total** per side. Please plan your testimony accordingly. Only the applicants, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

[Exhibit 1 – Vicinity Map and Pictures](#)

[Exhibit 2 – City Coastal Development Permit and Approved Plans](#)

[Exhibit 3 – Appeal](#)

[Exhibit 4 – Applicants’ Response to the Appeal](#)

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-VEN-17-0018 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 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-17-0018 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 Chapter 3 policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

On March 24, 2017, the Commission received a notice of final local action for Local CDP No. ZA-2014-4641-CDP-ZAA-SPP-MEL, which approves the remodel of and addition to a 948 square-foot, single-story single-family residence with a detached 198 square-foot garage resulting in a 2,482 square-foot, two-story, 28-foot high single-family residence with an attached 356 square-foot, two-car garage on a 3,589 square-foot lot fronting a walkstreet.

On April 24, 2017, within twenty-working days of receipt of notice of final local decision, Lilian White, Howard Giller, Mary Jack, Nancy Wilding, and Sue Kaplan filed an appeal of the local CDP contending that the City-approved development is not consistent with the character, mass, and scale of the surrounding area and would adversely affect the character of the Venice community, and therefore the City-approved project is not consistent with Chapter 3 of the Coastal Act ([Exhibit 3](#)). On May 3, 2017, Howard Giller withdrew his appeal of the City-approved project.

III. LOCAL GOVERNMENT ACTION

On December 1, 2016, the City Zoning Administrator held a public hearing for Local CDP ZA-2014-4641-CDP-ZAA-SPP-MEL (Derek Harbaugh and Nathan Court) for the project. On March 2, 2017, the Zoning Administrator issued a Determination Letter approving the local CDP. No appeals were filed at the local level. On March 24, 2017, the Coastal Commission's Long Beach Office received the City's Notice of Final Local Action and the Coastal Commission's required twenty working-day appeal period was established. On April 24, 2017, this one appeal was received from the appellants ([Exhibit 3](#)). No other appeals were received prior to the end of the appeal period on April 24, 2017.

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 CDPs. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued CDPs. Section 30602 of the Coastal Act allows *any* action by a local government on a CDP application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local CDP application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which 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 appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of 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 grounds for appeal.

Commission staff recommends a finding of **no substantial issue**. If the Commission decides that the appellants’ contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically continues the public hearing to a later date in order to review the CDP as a *de novo* matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that *de novo* actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

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. A *de novo* public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The Venice Land Use Plan (LUP), certified on June 14, 2001, is used as guidance. 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 Regulation, 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), 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 PERMIT JURISDICTION AREA

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local CDP also obtain a second (or “dual”) CDP from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only CDP required. The subject project site on appeal herein is located within the *Single Permit Jurisdiction Area*. The Commission's standard of review for the appeal is the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

The City-approved development is located on a walkstreet in a residential neighborhood within the Milwood subarea of Venice, City of Los Angeles. The subject lot is approximately 3,589 square feet in area and designated is Multi Family Residential (Low Medium I) by the Venice Land Use Plan and zoned RD2-1 by the Los Angeles Municipal Code. The site is located about one mile inland of the public beach and boardwalk ([Exhibit 1](#)). The Milwood neighborhood and the subject block are characterized primarily by one-story and two-story single-family homes of varying architectural styles. The blocks directly adjacent to the subject block are also primarily comprised of one-story and two-story single-family homes.

The City-approved project includes the remodel of and addition to a 948 square-foot, single-story single-family residence and the demolition of a detached 198 square-foot garage resulting in a 2,482 square-foot, two-story, 28-foot high single-family residence with an attached 356 square-foot, two-car garage on a 3,589 square-foot lot. The new garage is proposed to maintain a reduced rear yard/alley abutting setback of 5 feet as opposed to 15 feet. The rear portion of the remodeled structure is proposed to be setback 8 feet from the rear property line/alley with an attached external staircase that would be setback zero feet from the rear property line/alley. Each side yard setback is proposed to be 4.25 feet from the side property lines, which is consistent with the City's zoning regulations. Parking for the residence will be accessed through the rear alley. No vehicular access is allowed on the fronting walkstreet, Amoroso Place. The front yard/walk street facing setback is proposed to be 17 feet 4 inches from the property line, which exceeds the City's zoning regulation minimum 15-foot front yard setback and does not include the landscaped encroachment area in front of the house that comprises part of the walkstreet (part of the Amoroso Place right-of-way) ([Exhibit 2](#)).

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. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the

Commission’s regulations 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 if 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 the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the Chapter 3 policies of the Coastal Act. Any local government CDP issued prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act.

The appellants cited Sections 30116, 30105.5, and 30253(e) of the Coastal Act and Policies I.A.7, I.D.3, and I.E.5 of the certified Venice Land Use Plan. The grounds for this appeal focus primarily on the proposed project’s inconsistency with Sections 30251 and 30253 of the Coastal Act because the appellants allege that the mass and scale of the proposed structure is not consistent with the character of the Milwood subarea of Venice.

Section 30105.5 of the Coastal Act states:

“Cumulatively” or “cumulative effect” means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects or other current projects, and the effects of probable future projects.

Section 30116 of the Coastal Act states, in part:

“Sensitive coastal resource areas” means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. “Sensitive coastal areas” include the following:

(e) Special communities or neighborhoods which are significant visitor destination areas.

Section 30251 of the Coastal Act states:

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

Section 30253(e) of the Coastal Act states, in part:

*New development shall...
(e) where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Sections 30251 and 30253 of the Coastal Act state that such scenic areas and special communities shall be protected. These sections of the Coastal Act require permitted development to be visually compatible with the character of the surrounding area and require protection of communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. The Venice community – including the beach, the boardwalk, the canals, and the eclectic architectural styles of the neighborhoods – is one of the most popular visitor destinations in California. According to the Venice Chamber of Commerce, 16 million people visit annually, drawn by the unique characteristics of the area.¹

When the Commission certified the Venice LUP in 2001, it considered the potential impacts that development could have on community character and adopted policies and specific residential building standards to ensure development was designed with pedestrian scale and compatibility with surrounding development. Given the specific conditions surrounding the subject site and the diverse development pattern of Venice, it is appropriate to use the certified LUP policies as guidance in determining whether or not the project is consistent with sections 30251 and 30253 of the Coastal Act.

In this case, the certified Venice LUP echoes the priority expressed in Coastal Act for preservation of the nature and character of unique residential communities and neighborhoods:

Certified Venice LUP Policy I.A.1 Development Standards states, in part:

The maximum densities, building heights and bulks for residential development in the Venice Coastal Zone shall be defined by the Land Use Plan Maps and Height Exhibits (Exhibits 9 through 16), and the corresponding land use categories and the development standards as described in this LUP...

¹ Venice Chamber of Commerce website. <<http://venicechamber.net/visitors/about-venice/>>

a. Roof Access Structures. Building heights and bulks shall be controlled to preserve the nature and character of existing residential neighborhoods. Residential structures may have an enclosed stairway (roof access structure) to provide access to a roof provided that:

i. The roof access structure shall not exceed the specified flat roof height limit by more than 10 feet;

ii. The roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas:

iii. The area within the outside walls of the roof access structure shall be minimized and shall not exceed 100 square feet in area as measured from the outside walls; ...

Certified Venice LUP Policy I.A.7.c states, in part:

Yards: Yards shall be required in order to accommodate the need for fire safety, open space, permeable land area for on-site percolation of stormwater, and onsite recreation consistent with the existing scale and character of the neighborhood.

*Height: Oakwood, Milwood, and Southeast Venice: Not to exceed 25 feet for buildings with flat roofs; or 30 feet for buildings utilizing a stepped back or varied roofline. The portion that exceeds 25 feet in height shall be set back from the required front yard one foot for every foot in height above 25 feet. **Structures located along walk streets are limited to a maximum of 28 feet.** (See LUP Policy I.A.1 and LUP Height Exhibits 13-16). [Emphasis added]*

Certified Venice LUP Policy II.C.7 states:

Designated walk streets shall be preserved and maintained at their present widths for public pedestrian access to the shoreline and other areas of interest and to preserve views along and from the public right-of-way. Vehicular access on walk streets shall be restricted to emergency vehicles. The minimum width of the pedestrian path shall be 10-12 feet in the North Venice and Peninsula areas and 4½ feet in the Milwood area. The remaining public right-of-way shall be limited to grade level uses including landscaping, patios, gardens and decks.

Certified Venice LUP Policy I. D. 3, states:

The scale of development shall comply with height limits, setbacks and standards for building massing specified in Policy Groups I.A and I.B, Residential and Commercial Land Use and Development Standards of this LUP, in order to protect public views of highly scenic coastal areas and vista points, including, but not limited to, the canals, lagoon, jetty, pier, Ocean Front Walk, walk streets and pedestrian oriented special communities.

Certified Venice LUP Policy I. E.1 General, states

Venice's unique social and architectural diversity should be protected as a Special Coastal Community pursuant to Chapter 3 of the California Coastal Act of 1976.

Certified Venice LUP Policy I. E.2 Scale, states.

New development within the Venice Coastal Zone shall respect the scale and character of the community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods.

Certified Venice LUP Policy I. E.3 Architecture, states.

Varied styles of architecture are encouraged with building facades which incorporate varied planes and textures while maintaining the neighborhood scale and massing.

Certified Venice LUP Policy I.E.5, states:

Where extensive renovation of and/or major addition to a structure is proposed and the affected structure is nonconforming or there is another nonconforming structure on the site, or a project is proposed that would greatly extend the life of a nonconforming structure or that eliminates the need for the nonconformity, the following shall apply:

Unless the City finds that it is not feasible to do so, the project must result in bringing the nonconforming structure into compliance with the current standards of the certified LCP, unless in its nonconformity it achieves a goal associated with community character (i.e. the reuse and renovation of a historic structure) or affordable housing that could not be achieved if the structure conforms to the current standards of the certified LCP.

The height limit, as set forth in the certified LUP, is 28 feet for structures located on walkstreets for the Milwood subarea of Venice. The proposed structure has a flat roofline that reaches a height of 28 feet. This project does not include a roof access structure that exceeds the 28-foot height limit. The rear of the structure is lower than 28 feet and contains many open areas to create a natural indoor/outdoor feel. The structure itself is setback a total of 32 feet 4 inches from the public walkway in the middle of the walkstreet (Amoroso Place), which includes 15 feet of the City's right-of-way that is incorporated as a part of the applicants' front yard, and an additional 17 feet 4 inches, which is the distance from the walkstreet facing property line to the residence ([Exhibit 2](#)). The new structure is a modern style and designed to articulate around existing landscaping. A new grade-level deck and stairs are proposed to extend into the front yard setback with consideration for existing landscaping.

The proposed project is consistent with the scale, mass, and landscape of the existing residential neighborhood. The applicants' lot has a width of 40 feet and a depth of 90 feet, and has an area of approximately 3,600 square feet. The proposed project will increase the square footage of the existing structure to 2,838 square feet, which includes a new attached 356 square foot garage. The surrounding neighborhood consists of one- and two-story single-family residences that vary in height between 13 and 28 feet. The proposed residence does not maximize the allowable size and scale allowed by the City's Zoning Code or the certified Venice LUP and is consistent with the height of neighboring developments.

As previously stated, the proposed project includes a legal non-conforming rear yard setback of zero feet for the exterior staircase, 5 feet for the garage, and 8 feet for the remodeled structure, in lieu of 15 feet. The appellants contend that the City Zoning Administrator's approval of reduced rear and side yard setbacks will create a "detrimental cumulative impact for the neighborhood" that will prevent the "free and safe flow of traffic [for] both personal vehicles and emergency vehicles...[which will set] a dangerous precedent for future projects." The City's rationale for approving the non-conforming setbacks are discussed in the "Zoning Administrator's Findings" section of the City's report, which states that

"...a zero-foot rear yard setback in lieu of the 15-foot rear yard required by Section 12.09-C...is needed in order to accommodate an access stairway for the rear of the dwelling. Additionally, the new construction preserves the existing 17-foot front yard setback that fronts Amoroso Place, a dedicated Walk Street, which is characterized by dwellings set far back from the right-of-way. Further locating the addition towards the rear also reduces the amount of new construction that is visible from the [walk]street. The proposed access stairway also allows direct access between the second floor and street level. Because the zone is R2, the project cannot utilize the half width of the alley portion of the rear yard, per Code Section 12.22-C, 10. Thus, the instant request is to allow a zero-foot rear yard. The intent of setbacks is to create a minimal distance between buildings in order for emergency access, fire safety, aesthetics, landscaping, circulation, and to allow air and light to reach spaces between buildings. Though the proposed zero-foot rear yard is less than the 15 feet required...no adverse impacts [are] expected as the rear property line fronts an alley that serves as circulation for vehicles primarily, and not as an access way for pedestrians. Amoroso Place, which runs along the front property line, is a designated Walk Street that allows for pedestrian circulation but does not allow for any motorized vehicles. Thus, the front yard setback is the most critical setback regarding neighborhood aesthetics and the provision of landscaping, while the rear yard setback is less critical...Finally, other existing garages currently observe minimal setbacks, further establishing the alley as a vehicle-focused means of access."

The City approved a project with a 5-foot setback for the garage and an 8-foot setback for the residence at the alley-facing rear property line. The only approved structure with a zero-foot setback at the alley facing property line is an exterior staircase attached to the residence. The City found no adverse impacts to vehicular circulation in the alley in conjunction with its approval of the non-conforming rear yard setback. The City further found that by allowing a reduced rear yard setback, the new structure would maintain a larger front yard setback, which will help to maintain the unique character of the subject walkstreet. As approved by the City, the project is consistent with the pattern of development and the character for this alleyway. Furthermore, the appellants did not provide specific examples by which the City-approved rear yard setbacks will hinder the flow of personal and emergency vehicles. It should be noted that the only vehicle access available to the subject site (and all lots along this side of Amoroso Place on this specific block) is the 36-foot wide alleyway at Amoroso Court. As such, it is presumed that vehicles, including emergency vehicles, have been able to maneuver through this alleyway in a safe and effective manner regardless of the zero-foot setbacks at many of the developments along both sides of the alleyway. A larger alley facing property line setback would undoubtedly be more convenient for vehicles passing through the alley, however, that is not required or necessary in this case.

The appellants contend that the City approved a 4-foot side yard setback “instead of the required 5-foot side yard setback” and that such an action “should have received a Zoning Administrator Adjustment” but the City did not require one. The City actually approved side yard setbacks of 4.25 feet, not 4 feet as stated by the appellants. Also, for lots less than 50 feet wide, the City’s Zoning Code requires side yard setbacks to be 10 percent of the width of the lot, with a minimum of three feet. In this case, each side yard setback would need to be a minimum of 4 feet from the side property lines, not 5 feet, as stated by the appellants. As such, the City’s action is consistent with their Zoning Code. There are no coastal resources that will be negatively affected by the City-approved side yards setbacks, and therefore, the City’s action is consistent with the certified Venice LUP and the Chapter 3 policies of the Coastal Act.

Additionally, the certified Venice LUP does not establish specific property line setbacks for front, rear, and side yards in this area, but does require yards “in order to accommodate the need for fire safety, open space, permeable land area of on-site percolation of storm water, and on-site recreation consistent with the existing scale and character of the neighborhood.” In this case, the appellants contend that the City-approved rear yard setback will not allow for the “free and safe flow of traffic [of] personal...and emergency vehicles.” However, the appellants assert the City approved a zero-foot rear yard setback, which, as discussed above, is not the case. The pattern of development for the subject alleyway (Amoroso Court) consists of many fences, garages, and buildings that abut the alleyway with a, presumably, zero-foot setback from the alley facing property line ([Exhibit 1](#)). There are some lots that do provide a setback from the alley facing property line for a portion of the lot; however, those are noticeably outnumbered by lots with a zero-foot setback at the alley facing property line.

For the reasons stated above, the appeal raises no substantial issue as to conformity with the Chapter 3 policies of the Coastal Act or with the policies of the certified LUP and the new development is consistent with the scale and massing of the existing residential neighborhood.

The Commission’s standard of review for determining whether to hear the appeal is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act. Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission’s decision will be guided by the factors listed in the previous section of this report (B. Factors to be Considered in Substantial Issue Analysis).

The first factor is 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. The City included the majority of its findings within the “Mandated Findings” section of their report, which reference Coastal Act Sections 30250, 30251, 30252, 30253, 30254, 30255 and 30256, and found the development to be consistent with the Chapter 3 policies of the Coastal Act related to visual resources and community character. The City referenced the Venice LUP, which is a Commission-certified document and may be used as guidance to determine consistency with the Chapter 3 policies of the Coastal Act, including Policy I.A.2., regarding character and scale of existing single-family neighborhoods, and found the proposed project to be in conformity because the proposed project seeks only to continue existing legal but non-conforming yards for the garage portion only, in order to allow an addition to the existing single-family home which preserves the front façade and maintains a majority of the garage walls, and locates the addition to the rear in order to preserve the façade. Therefore, the City’s approval is consistent with

Coastal Act Sections 30231, 30251, and 30253 and includes adequate factual and legal support to justify its decision.

The second factor is the extent and scope of the development as approved or denied by the local government. The City-approved development is redevelopment of a single-family residence. The scope is consistent with that of the surrounding development, which is comprised primarily of one-story and two-story single-family homes. The locally approved project would have no adverse impacts to visual resources and is consistent with the community character of the neighborhood. Therefore, the Commission finds that the extent and scope of the City-approved development is consistent with the Chapter 3 policies of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. Mass, scale, and character are significant coastal resources. However, the City-approved development is consistent with the mass, scale, and character described in the certified LUP and with that of the surrounding area. Therefore, the Commission finds that the City-approved development will not have a significant impact on coastal resources.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The City does not currently have a certified LCP but it does have a certified LUP. The City-approved development is consistent with the residential building standards related to scale, mass, and architectural diversity set forth in the certified LUP. Thus, the project, as approved with conditions, does not raise a substantial issue with regard to the project's conformity with the certified LUP. Therefore, the Commission finds that the City-approved development will not prejudice the City's ability to certify an LCP.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Impacts to coastal resources, including community character, are important statewide issues. However, the City-approved development is consistent with the development standards of the certified LUP and with Chapter 3 of the Coastal Act. Therefore, the Commission finds that the City-approved CDP does not raise any issues of statewide significance.

Conclusion

Applying the five factors listed above clarifies that the appeal raises “no substantial issue” with respect to Chapter 3 of the Coastal Act, and therefore, does not meet the substantiality standard of Section 30625(b)(1), because the nature of the proposed project and the local government action are consistent with policies of Chapter 3 of the Coastal Act.