

CALIFORNIA COASTAL COMMISSION

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



W13f

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STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal Number: A-5-VEN-17-0028

Applicant: Michael Chait, Chait Company

Agents: Tom Stennock, Planning Associates Inc.

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Robin Rudisill, Lydia Ponce, Celia Williams, Bill Przylucki, Jill Howe-Vercos, Janet Lally, Michael Vercos, Edward Levey, David Ewing, Gabriel Ruspini, Jed Pauker, Judy Esposito, and Noel Gould

Project Location: 2100-2106 Narcissus Court, Venice, City of Los Angeles, Los Angeles County (APN No. 4237-003-030)

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. ZA-2014-3186 approved with conditions for the demolition of single family residence & construction of 2-story, 3,491 sq.ft. industrial building with height of 29.5-ft. with 11 parking stalls, including 3 mechanically stacked spaces, 10 short-term bicycle parking stalls, and 2 long-term bicycle parking stalls on 5,405 sq. ft. lot, zoned for manufacturing.

Staff Recommendation: No Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

The City approved a local coastal development permit (CDP) for the subject development on September 28, 2016. An appeal of the local CDP was filed by Bill Przylucki for People Organized for Westside Renewal (POWER) to the West Los Angeles Area Planning Commission (WLAAPC). On March 15, 2017, the WLAAPC denied the appeal and approved the local CDP effective April 17, 2017. The City's Notice of Final Local Action was received by the Commission's South Coast office on April 19, 2017 and the Commission's twenty working-day appeal period was established. During the Commission's appeal period, this one appeal was received on May 17, 2017. The City listed Michael Chait as the applicant for the project, although the property owner is MBL Sperry, LLC whose managers include Louis S. Wolff and Linda Wolff.

The primary assertions made by the appellants as they relate to the Coastal Act are that the City-approved development will have a negative impact on public access to the coast, that the project will prejudice the City's ability to certify a Local Coastal Program (LCP), and that the project will result in a loss of affordable housing in the coastal zone.

The appellants contend that the parking requirements imposed by the City, which include 11 on-site parking spaces, including three mechanized car lifts, tandem parking spaces, and bicycle racks with the capacity to hold 12 bicycles, is "an issue" because "it is general practice for office workers to avoid using [car] lifts and tandem parking [stalls]..." and there is no way to enforce that the future employees of the site will use the on-site parking stalls instead of parking on the public street, which "will result in a material access issue and a material detriment in [the] quality of life [for those who live in the neighborhood.]"

The parking table set forth in the certified Venice Land Use Plan (LUP) requires 13 vehicle parking spaces for the City-approved project. The LUP does not contain a policy for substituting vehicle parking spaces for bicycle stalls. Although the City's requirement of 11 parking spaces is not wholly consistent with the certified LUP which is not the standard of review for this project but may be used for guidance the applicant is providing the majority (~85%) of required vehicle parking spaces on the site and is only substituting two vehicle parking spaces for 12 bicycle stalls. Additionally, the project site is located in an industrial area of Venice more than three-quarters of a mile from the beach. In this particular case, staff does not believe that the City-approved parking supply raises a substantial issue regarding consistency with the Chapter 3 policies of the Coastal Act.

The appellants assert that the City-approved project will prejudice the City's ability to prepare a certified LCP because the local CDP allows the residential structure at the site to be demolished and for new industrial uses to be built on the site. The appellants contend that "the case could be made for residential uses to be by right uses in industrially zoned areas ...and [that] allowing this conversion [of the use on the lot from residential to industrial] will likely result in the loss of all of the residential uses in industrial zones before the community even has a chance to make this change in its LCP..." The appellants further contend that the project will result in a loss of affordable housing in the Venice coastal zone and that this project is an Environmental Justice (EJ) issue because it will negatively affect coastal access for "lower income residents, [including] people of color.... [because they] are being displaced from the Venice coastal zone."

The certified LUP requires all non-conforming features of a site to comply with the standards set forth in the LUP when the site is proposed for extensive renovation, etc. The lot is currently zoned as M1-1 by the City Zoning Code and has a land use designation of Limited Industrial by

the certified LUP. The applicant is proposing to demolish the existing single family residence on the lot and to construct a new building intended for “manufacturing and related uses.” Changing the use of the site so the proposed use is consistent with the land use designation in the certified LUP will not prejudice the City’s ability to prepare a certified LUP. Although it appears that the project will result in the loss of 1 residential unit in Venice, the City as is the lead agency for Mello Act consistency determined that the project is consistent with the Mello Act stating that “no affordable [residential] units [will be] removed” as a result of this project. Therefore, the appellants’ contention that the project is an EJ issue has no merit, and no evidence has been put forth to support this assertion.

The appellants have made several other assertions including that: the WLAAPC denied the local appeal and approved the local CDP in error; the City mischaracterized the Venice Neighborhood Council’s (VNC) opinion of the project; the City used non-certified documents to make the CDP findings; the City violated the Brown Act; the applicant lied at the local hearing; and that the project will result in fewer opportunities for visitor-serving commercial uses.

None of the additional issues raised by the appellants are relevant to the Chapter 3 policies of the Coastal Act. Nevertheless, each issue raised by the appellants is addressed in this report.

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. 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 because: the development, as approved by the City of Los Angeles, is consistent with the Chapter 3 policies of the Coastal Act.

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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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – City Coastal Development Permits \(Department of City Planning & West Los Angeles
Area Planning Commission\)](#)

[Exhibit 4 – Appeal](#)

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-VEN-17-0028 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-17-0028 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 April 19, 2017, the Commission received a Notice of Final Local Action for Local CDP No. ZA-2014-3186-CDP-MEL-SPP, which approves the demolition of a single family residence and construction of two-story, 3,491 sq. ft. industrial building with height of 29.5-ft. with 11 parking stalls, including 3 mechanically stacked spaces, 10 short-term bicycle parking stalls, and 2 long-term bicycle parking stalls on 5,405 sq. ft. parcel, zoned for manufacturing.

On May 17, 2017, within twenty-working days of receipt of notice of final local decision, Robin Rudisill, Lydia Ponce, Celia Williams, Bill Przylucki, Jill Howe-Vercos, Janet Lally, Michael Vercos, Edward Levey, David Ewing, Gabriel Ruspini, Jed Pauker, Judy Esposito, and Noel Gould filed an appeal of the local CDP contending that the City-approved development will have a negative impact on public access to the coast, that the project will prejudice the City's ability to certify an LCP, and that the project will result in a loss of affordable housing in the coastal zone. The appellants also asserted that the WLAAPC denied the local appeal and approved the local CDP in error; the City mischaracterized the Venice Neighborhood Council's (VNC) determination of the project by stating that the VNC supported the project, when in fact the VNC did not support the project; the City used non-certified documents to make the CDP findings, which invalidates the local CDP; the Brown Act was violated because the most recent project plans were not made available to the public prior to the local hearing; that the applicant lied at the local hearing stating that the community supported the project, when several members of the community, in fact, opposed the project; and that the project will result in fewer opportunities for visitor-serving commercial uses ([Exhibit 4](#)).

III. LOCAL GOVERNMENT ACTION

On September 28, 2016, the City Zoning Administrator held a public hearing for Local CDP ZA-2014-3186-CDP-SPP-MEL (Chait) for the project. A local appeal was filed by Bill Przylucki for POWER to the WLAAPC. On March 15, 2017, the WLAAPC denied the appeal and approved the local CDP effective April 17, 2017, as well as the Specific Plan Project Permit Compliance, Mello Act Compliance Determination, and CEQA Exemption. The City states that the WLAAPC action

was final and not further appealable at the local level. On April 19, 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 May 17, 2017, this one appeal was received from the appellants. No other appeals were received prior to the end of the appeal period on May 17, 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 at 2100-2106 Narcissus Court in the Southeast subarea of Venice, City of Los Angeles. The subject property consists of two lots on one parcel that is 5,405 sq. ft. in area. The lots are designated Limited Industry by the certified Venice Land Use Plan and zoned M1-1 by the Los Angeles Municipal Code. The site is located about three quarters of a mile inland of the public beach and boardwalk ([Exhibit 1](#)). The vicinity in which the site is located is designated as Limited Industry and is bordered by a residential neighborhood.

According to the City's record, the site is currently developed with a single family residence that was built circa 1920. The City-approved project includes a change of use of the site from residential to industrial, which is consistent with the land use designation of the lots in the certified LUP. The City-approved project includes the demolition of the single family residence and construction of a two-story, 29.5 ft. high, 3,491 sq. ft. industrial building with 11 on-site parking spaces, including three car lifts, and 12 on-site bicycle stalls, including two long-term stalls and 10 short-term stalls ([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.

In the appeal, appellants cited Section 30001(d) of the Coastal Act. Additional applicable policies include Sections 30250(a) and 30252 of the Coastal Act and Policies I.A.9, I.C.1, I.E.5, and II.A.3 of the certified LUP. The relevant grounds for this appeal focus on public access, the ability of the City to certify an LCP, and affordable housing.

Section 30001(d) of the Coastal Act states:

That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

Section 30250 (a) of the Coastal Act states, in part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The appellants cited section 30001(d) of the Coastal Act, although they did not specifically reference it in any of their contentions. Although this is not a Chapter 3 policy of the Coastal Act, and therefore is not relevant to the standard of review here, the project is nevertheless consistent with this provision, as described below. Sections 30250 and 30252 of the Coastal Act require new development in the coastal zone to be located in appropriate areas and to maintain and enhance public access to the coast. When the Commission certified the Venice LUP in 2001, it also certified the City's Land Use Map that set aside a limited amount of primarily industrially developed land to carefully plan for the continuation of industrial uses in the coastal zone. The surrounding developed residential and commercial areas were designated by the LUP as residential and commercial respectively in order to maintain the existing character of the area and to provide an appropriate balance between residential uses and sites for commerce and employment, consistent with sections 30001(d) and 30250 of the Coastal Act.

In this case, the site is designated by the LUP as Limited Industry and it is located within the industrial area of Venice. The City-approved change of use of the site from residential to industrial is consistent with the LUP and sections 30001(d) and 30250 of the Coastal Act. The new structure will provide employment opportunities for working people within the coastal zone, and will contribute to the economic and social well-being of the people of this state, consistent with section 30001(d) of the Coastal Act.

Section 30252 of the Coastal Act requires new development to maintain or enhance public access to the coast. The City-approved project will provide 11 on-site vehicle parking spaces and 12 on-site bicycle parking spaces and is located more than three quarters of a mile from the beach. Although the project is short three vehicle parking spaces, as required by the certified LUP (described below), the 12 bicycle parking stalls that the City is requiring provide a reasonable alternative to vehicles for employees to travel to the site. Additionally, there are several public bus stops within one-quarter of a mile from the site. The options for transportation available to

future employees of the site are consistent with section 30252 of the Coastal Act and the development will not interfere with the public's ability to access the coast.

When the Commission certified the Venice LUP in 2001, it considered the potential impacts that development could have on the Venice community, including impacts to affordable housing, industrial land uses, nonconforming structures, and public access to the coast. Although not mandatory, it is appropriate to use the certified LUP policies as guidance to determine whether or not the project is consistent with sections 30001(d), 30250, and 30252 of the Coastal Act.

Certified Venice LUP Policy I.A.9, Replacement Affordable Housing, states:

Per the provisions of Section 65590 of the State Government Code, referred to as the "Mello Act," the conversion or demolition of existing residential units occupied by persons and families of low or moderate income shall not be permitted unless provisions have been made for replacement of those dwelling units which will result in no net loss of affordable housing in the Venice Community in accordance with Section 65590 of the State Government Code (Mello Act).

Certified Venice LUP Policy I.C.1, Industrial Land Use, states:

The Land Use Plan designates approximately 53 acres of land for Limited Industry land uses. It is the policy of the City to preserve this valuable land resource from the intrusion of other uses, and to ensure its development with high quality industrial uses. Commercial use of industrially designated land shall be restricted. Artist studios with residences may be permitted in the Limited Industry land use category. Adequate off-street parking shall be required for all new or expanded industrial land uses consistent with the Policies of II.A.3 and II.A.4. The design, scale and height of structures in areas designated for industrial land uses shall be compatible with adjacent uses and the neighboring community.

Certified Venice LUP Policy I.E.5, Nonconforming Structures, 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.

Certified Venice LUP Policy II.A.3, Parking, states, in part:

The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide the missing numbers of parking spaces...

<i>Manufacturing and Industrial Establishment, including Offices and other than incidental operations.</i>	<i>3 spaces; plus 1 space for each 350 square feet of floor area</i>
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The appellants contend that the City-approved development will have a negative impact on public access to the coast and will result in a loss of affordable housing in the coastal zone because the loss of “commercial and residential [uses in the coastal zone]...impacts coastal access for lower income residents, mainly people of color and is also an [EJ] issue [because] these residents are being displaced from the coastal zone.”

LUP Policy I.C.1 explicitly restricts Commercial uses on lots zoned for Limited Industry. The policy also only allows residential uses on lots zoned for Limited Industry when they are accompanied with an artist studio. Thus the City’s action is consistent with LUP policy I.C.1, and the appellants’ contention that the City-approved development will result in a loss of commercial and residential uses not a substantial issue. The Land Use Map in the certified LUP designates sufficient surrounding lands for residential and commercial uses.

As previously stated, the City is the lead agency for determining a project’s consistency with the Mello Act. The City determined that the project is consistent with the Mello Act stating that “no affordable [residential] units [will be] removed” as a result of this project, which is consistent with LUP policy I.A.9. This fact undermines the appellants’ contention that the project is an EJ issue because it will result in a loss of affordable housing in the coastal zone. As such the appellants’ contentions concerning public access and the loss of affordable housing with regard to the locally-approved project does not raise a substantial issue.

The appellants do not claim that the City-approved development does not have adequate parking to support the use; however, they do assert that parking for this development is an “issue” because “it is general practice for office workers to avoid using lifts and tandem parking [spaces]...[and that] there appears to be no good way to assure that [the employees of the site will use the on-site parking]...[t]hus additional cars parking in the [surrounding] neighborhoods will result in a material access issue and a material detriment in [the] quality of life to the adjoining lots and the immediate neighborhood, as there will be little or no street parking available for those residents.”

The certified LUP would require the City-approved project to provide 13 on-site vehicle parking spaces. The LUP does not contain a policy for substituting vehicle parking spaces for bicycle stalls. Although the City’s requirement of 11 parking spaces is not consistent with the certified LUP which is not the standard of review for this project but may be used for guidance the applicant is providing the majority (~85%) of required vehicle parking spaces on the site and is only substituting three vehicle parking spaces with 12 bicycle stalls. Additionally, there are several public bus stops within one-quarter of a mile from the subject site and the site, itself, is located

more than three quarters of a mile from the beach. Furthermore, the appellants do not claim that the action of employees parking on the street will disrupt public parking for beach access, but that it will encumber residential parking in the neighborhood. This claim by the appellants does not raise a conflict with the public access policies of the Coastal Act. Therefore, in this particular case, staff does not believe that the City-approved project, with the provision of on-site vehicular and bicycle parking, will have any significant adverse impact on public access to the coast. Thus, the appellant's contention regarding public access does not raise a substantial issue regarding consistency with the public access policies of the Coastal Act.

The appellants also assert that the project will prejudice the City's ability to certify an LCP because "...the case could be made for residential uses to be by right uses in industrially zones areas..." The appellants did not define "by right uses" in their appeal. However, LUP policy I.C.1 is categorically unambiguous regarding the types of residential uses allowed on lots that are zoned Limited Industry as previously explained. The City's action is consistent with LUP policy I.C.1 and, contrary to the appellants' assertion, the City-approved development will not prejudice the City's ability to certify an LCP. Thus, the appellant's contention regarding the City's ability to prepare a certified LCP does not raise a substantial issue.

The appellants also assert that the WLAAPC denied the local appeal and approved the local CDP in error because "[the WLAAPC was] under the assumption that they had to accept the LADBS decision to revoke [the] non-conforming [residential] rights [on the site]...and that this was the deciding factor in the case [for the local appeal.]" The findings in the CDP approved by the WLAAPC acknowledge:

"Technical factors [of the project] are supported by a letter from the Department of Building and Safety from February 11, 2016 that states the existing building can no longer [maintain] non-conforming rights as a residential building which use is not permitted in the M1 zone, per Section 12.23, B-9 of the Code. Further, the Interim Procedures for Comply[ing] with the Mello Act states that the proposed removal of residential may be argued for if the existing underlying zone or any other applicable regulation prohibits all residential uses."

While the LUP does not prohibit all residential uses in industrial areas, per se, the CDP approved by the WLAAPC includes findings that state:

"[n]o outstanding issues have emerged which would indicate any conflict between this decision and any other decision of the Coastal Commission regarding the proposed demolition of a duplex and the new construction of an industrial building in the M-1 Zone. Therefore, the decision of the permit granting authority has been guided by applicable decisions of the California Coastal Commission."

The standard of review for the subject project for CDP purposes is the Coastal Act and the certified LUP should be used as guidance. It is not within the Commission's purview to determine whether or not a project is consistent with a local government's laws and regulations. Nevertheless, the WLAAPC may have used the letters from LADBS to inform its decision to grant a CDP for the project. That, however, does not raise a substantial issue

with regard to the project's consistency with the Coastal Act. The WLAAPC made findings in the approved local CDP that the project is consistent with the Coastal Act and the certified LUP. Thus, the appellants' assertion that the WLAAPC approved the local CDP in error does not raise a substantial issue with regard to the project's consistency with the Coastal Act.

The appellants further assert that the City used non-certified documents to make the CDP findings, which invalidates the local CDP. The appellants did not identify the non-certified documents to which they were referring when making this charge. However, the local CDP references the Coastal Act and the certified LUP in the findings that are necessary to determine a project's consistency with the Coastal Act for CDP purposes. Thus, the appellant's contention regarding the validity of the locally-approved project does not raise a substantial issue.

The appellants assert that the City violated the Brown Act because the most recent project plans were not made available to the public prior to the local hearing. This charge should be taken up with the City Attorney's office. In this case, in order to approve a CDP, a project must be consistent with the Coastal Act not the Brown Act. Thus, the appellant's claim that the City violated the Brown Act does not raise a substantial issue.

Lastly, the appellants assert that the applicant lied at the local hearing by stating that the community supported the project, when several members of the community, in fact, opposed the project. This assertion is not relevant to the project's consistency with the Coastal Act. As such, the appellant's assertion that the applicant lied about community support for the project does not raise a substantial issue.

None of the assertions made by the appellants raise a substantial issue regarding whether or not the City's action is consistent with the Coastal Act. The appellants have not identified any coastal resources that will be negatively affected by the City-approved CDP. For the reasons stated above, the appeal raises no substantial issue as to conformity with the Chapter 3 policies of the Coastal Act.

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 approved a project with an industrial use in an industrial area on Venice on a lot that is zoned for Limited Industry, which is consistent with section 30250 of the Coastal Act. The City found that the project is within an existing developed area, and that the project is consistent with the land use designation of the certified LUP.

The City-approved project includes adequate parking and options for alternative modes of transportation for employees and is located three-quarters of a mile from the beach and will not have a significant adverse impact on the public beach parking supply, which is consistent with

Section 30252 of the Coastal Act. The City found that because the project site is located inland, away from the beach, that the project would not impact public access to the coast.

The City determined that the project is consistent with the Mello Act and therefore no affordable housing units will be lost. The findings from the staff report state that the Housing and Community Investment Department found no affordable units existing on the site. The City found that continued use of the site as residential is no longer feasible due to a variety of factors, including zoning. Additionally, the City approved a project that will presumably provide jobs and contribute to the economic and social well-being of the people of the State of California, which is consistent with section 30001(d) of the Coastal Act. Therefore, the City's approval is consistent with Coastal Act Sections 30001(d), 30250, and 30252 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 includes the change of use of a site from Residential to Limited Industry on a parcel that is zoned for Limited Industry. The scope of the project is consistent with that of the land use designation and the surrounding area, which is an industrial area of Venice. The locally approved project would have no adverse impacts on coastal resources. 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. The City-approved project will result in bringing a site into conformance with its intended land use designation. For the reasons discussed above, the project also will not negatively impact public coastal access. 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 land use designation set forth in the certified LUP. Although it is not consistent with parking requirements of the LUP, this inconsistency does not raise substantial issues regarding public access, for the reasons described above. Because the project, as approved with conditions, is mostly consistent with the LUP, but partly inconsistent, this factor neither weighs in favor of nor weighs against a finding of substantial issue.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Impacts to coastal resources are important statewide issues. However, the City-approved development is consistent 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.