

CALIFORNIA COASTAL COMMISSION

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 Staff: W. Horn – V
 Staff Report: 8/24/2017
 Hearing Date: 9/14/2017

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal Number: A-5-VEN-17-0039

Applicant: Rob Lissner

Agent: Glaser Weil

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: 1) Deb Lemon; 2) Steve Lemon; 3) Barbara Kallir; 4) Adam Davidson; 5) Jessica Davidson; 6) Tom Shima

Project Location: 1711 Lincoln Boulevard, Venice, City of Los Angeles

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. ZA-2016-2090-CDP-CU-CUB-SPP-1A approved with conditions to include the demolition of a detached garage and workshop, and the construction of a 2-car carport, a 794 square foot addition to an existing one-story restaurant building for a total floor area of 3,326 square feet and a maximum building height of 13 feet 6 inches.

Staff Recommendation: No Substantial Issue

IMPORTANT HEARING PROCEDURE NOTE

This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit

comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

On March 8, 2017 the City of Los Angeles (City) Zoning Administrator (ZA) issued a Letter of Decision (LOD) denying Coastal Development Permit (CDP) No. ZA-2016-2090-CDP-CU-CUB-SPP consisting of demolition of a detached garage and workshop, and the construction of a 2-stall carport, a 794 square foot kitchen addition to an existing one-story commercial building for a total floor area of 3,326 square feet with a maximum building height of 13 feet 6 inches. The applicant, Rob Lissner, filed an appeal of the ZA's denial on March 23, 2017 and the appeal was heard before the West Los Angeles Area Planning Commission (Planning Commission) on May 17, 2017. At the May 17th hearing, the Planning Commission voted to approve the CDP pursuant to 38 special conditions.

The City's Notice of Final Local Action for Local CDP No. ZA-2016-2090-CDP-CU-CUB-SPP-1A was received in the Coastal Commission's Long Beach Office on June 21, 2017, and the Coastal Commission's required twenty working-day appeal period was established. On July 20, 2017, one appeal was received from the appellants ([Exhibit 3](#)). No other appeals were received prior to the end of the appeal period on July 20, 2017.

The appellants contend that the City-approved development is inconsistent with Sections 30250 and 30252 of the Coastal Act and may prejudice the City's ability to prepare a certified LCP because: 1) it is not consistent with the parking requirements of the certified LUP and the parking demand generated by this project is not sufficiently mitigated; 2) the project constitutes a change of use and is not consistent with the General Commercial land use designation of certified LUP; 3) the development totals for Service Floor Area (SFA) were not calculated correctly; and 4) part of the project includes the conversion of an existing residential use to a commercial use which is inconsistent with the requirements of the Mello Act ([Exhibit 3](#)).

The City-approved project, which covers two abutting lots, includes a change in use as the western portion of the southern lot will be redeveloped from a residential use to a commercial use. The existing 2-car garage and workshop for the single family residence on the southern lot will be removed accommodate a 794 square foot addition to the restaurant on the northern lot and a new 2-car carport for the single family residence will be constructed ([Exhibit 2](#)). In total, the project would result in an approximately 3,326 square foot commercial space for the restaurant and the SFA of the commercial building will increase from 670 square feet to 794 square feet. In addition, the City-approved project requires the applicant to provide 13 off-site parking spaces, 12 on-site bicycle parking spaces, a valet parking service for customers, and free employee parking at an off-site location. The proposed 2-car carport for the single family residence will be restricted for residential use.

Coastal Act Section 30252 requires that new development should provide adequate parking while Policy II.A.3 of the certified Venice LUP requires 1 parking space for each 50 square feet of SFA

for new development. Pursuant to Policy II.A.3, the 794 square feet of proposed SFA will require 16 parking spaces for mitigation. The commercial use onsite has 11 grandfathered parking spaces and as a result, the project is required to obtain 5 parking spaces to meet the requirements of the LUP. Condition 12 of the City's CDP requires not only the required 5 parking spaces, but an additional 8 off-site parking spaces, on-site bicycle parking, a valet service for customers and free off-site employee parking. Therefore, the project as conditioned will include parking beyond what is required and is consistent with Coastal Act Section 30252 and Policy II.A.3. Therefore, this assertion does not raise a substantial issue.

With regards to the appellants' assertions that the project use is inconsistent with the site's General Commercial land use designation, Policy I.B.4 of the LUP provides a description of the General Commercial land use as well as prohibited uses within that land use. The proposed project is consistent with the development standards of the General Commercial land use and the proposed use (a restaurant) is not identified as a prohibited use. As such, the project is consistent with the LUP's General Commercial land use. In addition, Coastal Act Section 30250 requires new development to be located in areas able to accommodate it where it will not have significant impacts on Coastal resources. Because the project is a General Commercial land use located more than a mile from the beach in a previously designated commercial area, the project will be located in an area able to accommodate it and will not have a significant impact on the coastal resources of the Venice area consistent with Coastal Act Section 30250.

The appellants also assert that the SFA for the proposed project was not calculated correctly and allows for fewer parking spaces than should be required pursuant to the Venice LUP; however Commission staff find that consistent with previous projects approved by the City in conjunction with the requirements of the American with Disabilities Act (ADA), the SFA was determined based on the amount of area where guests can be served and included the area for ADA aisles. Therefore, Commission staff has determined that the identified 794 square feet of SFA and subsequent 16 required parking spaces are consistent with the standard set forth in the certified LUP.

Lastly, the City is the agency responsible for determining a project's consistency with the Mello Act. The City determined that the project is consistent with the Mello Act stating that "The project as revised consists of the demolition of a detached garage and the construction of a kitchen addition in [Q]C2-1CDO and C2-1 zones. The project would not convert or demolish any existing affordable unit, therefore, the project is not subject to review for compliance with the Mello Act", which is consistent with LUP Policy I.A.9. The Commission does not have jurisdiction to review the City's Mello Act determination and, as such, the appellants' contentions concerning the loss of affordable housing with regard to the Mello Act and the locally-approved project do not raise a substantial issue.

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeals have been filed because the development, as approved by the City of Los Angeles, is consistent with the Chapter 3 policies of the Coastal Act.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE	5
II. APPELLANTS’ CONTENTIONS	5
III. LOCAL GOVERNMENT ACTION.....	6
IV. APPEAL PROCEDURES	6
V. SINGLE/DUAL PERMIT JURISDICTION AREA.....	7
VI. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE	8
A. PROJECT LOCATION & DESCRIPTION	8
B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS	8
C. SUBSTANTIAL ISSUE ANALYSIS	9

APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – City of Los Angeles Notice of Final Action](#)

[Exhibit 3 – Appeal](#)

[Exhibit 4 – Project Plans](#)

[Exhibit 5 – Letter from Applicant’s Representative](#)

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-VEN-17-0039 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-17-0039 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

The City-approved local coastal development permit authorizes the demolition of a detached garage and workshop, and the construction of a 2-stall carport, a 794 square foot addition to an existing one-story restaurant building for a total floor area of 3,326 square feet and a maximum building height of 13 feet 6 inches. In addition the project includes minor modifications to the interior of the existing restaurant. Lastly, the project will also provide: 13 parking spaces at an off-site location, 12 bicycle parking spaces on-site, a valet parking service for customers during operating hours on Thursday, Friday and Saturday evenings, and free employee parking at an off-site location within 1,500 feet of the project. The appeal was filed by: 1) Deb Lemon; 2) Steve Lemon; 3) Barbara Kallir; 4) Adam Davidson; 5) Jessica Davidson; and 6) Tom Shima ([Exhibit 3](#)).

In summary, the appellants contend that the City-approved development is inconsistent with Sections 30250 and 30252 of the Coastal Act and may prejudice the City's ability to prepare a certified LCP because: 1) it is not consistent with the parking requirements of the certified LUP and the parking demand generated by this project is not sufficiently mitigated; 2) the project constitutes a change of use and is not consistent with the General Commercial land use designation of certified LUP; 3) the development totals for Service Floor Area (SFA) were not calculated correctly; and 4) part of the project includes the conversion of an existing residential use to a commercial use which is inconsistent with the requirements of the Mello Act.

III. LOCAL GOVERNMENT ACTION

On March 8, 2017 the City of Los Angeles (City) Zoning Administrator (ZA) issued a Letter of Decision (LOD) denying Coastal Development Permit (CDP) No. ZA-2016-2090-CDP-CU-CUB-SPP consisting of demolition of a detached garage and workshop, and the construction of a 2-car carport, a 794 square foot kitchen addition to an existing one-story commercial building for a total floor area of 3,326 square feet with a maximum building height of 13 feet 6 inches. The applicant, Rob Lissner, filed an appeal of the ZA's denial on March 23, 2017 and the appeal was heard before the West Los Angeles Area Planning Commission (Planning Commission) on May 17, 2017. At the May 17th hearing, the Planning Commission voted to approve the CDP pursuant to 38 special conditions. In addition, the Planning Commission approved a Condition Use Permit (CUP) to limit the hours of operation between 9:00 a.m. and 12:00 a.m. Sunday through Thursday and 9:00 a.m. and 2:00 a.m. Friday and Saturday; and a CUP for the sale and dispensing of a full line of alcoholic beverages for onsite consumption in conjunction with the proposed restaurant. Lastly, the Planning Commission approved a Project Permit Compliance review for the project with the Venice Coastal Zone Specific Plan.

The City's Notice of Final Local Action for Local CDP No. ZA-2016-2090-CDP-CU-CUB-SPP-1A was received in the Coastal Commission's Long Beach Office on June 21, 2017, and the Coastal Commission's required twenty working-day appeal period was established. On July 20, 2017, one appeal was received from the appellants ([Exhibit 3](#)). No other appeals were received prior to the end of the appeal period on July 20, 2017.

IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its LCP, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a 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 applicant, 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 coastal development permit 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 directly following the substantial issue finding. A *de novo* public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The certified Venice 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 applicant, 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/DUAL 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 permit 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 CDP 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 – NO SUBSTANTIAL ISSUE

A. PROJECT LOCATION & DESCRIPTION

The project is located at 1711 Lincoln Boulevard in the Milwood subarea of Venice, City of Los Angeles ([Exhibit 1](#)). The subject project area consists of two lots, the northern lot totaling 3,345 square feet and containing the existing commercial structure (a restaurant), and the southern lot totaling 3,400 square feet and containing an existing 682 square foot single family residence and its detached garage. Both lots are designated General Commercial by the certified Venice Land Use Plan (LUP) and zoned C2-1 by the Los Angeles Municipal Code. The site is located approximately 1 mile inland of the public beach and boardwalk. The vicinity in which the site is located is designated General Commercial and is bordered by a residential neighborhood.

The City-approved project includes a change in use as the western portion of the southern lot will be redeveloped from a residential use to a commercial use. The existing 2-car garage and workshop for the single family residence on the southern lot will be removed accommodate a 794 square foot addition for the restaurant on the northern lot and a new 2-stall carport for the single family residence will be constructed ([Exhibit 4](#)). In total, the project would result in an approximately 3,326 square foot commercial space for the restaurant and the SFA of the building will increase from 670 square feet to 794 square feet. In addition, the City-approved project requires the applicant to provide 13 off-site parking spaces, 12 on-site bicycle parking spaces, a valet parking service for customers, and free employee parking at an off-site location. The proposed 2-stall carport for the single family residence will be restricted for residential use.

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 regulation simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations 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 project’s conformity with 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.

Section II of this staff report outlines the appellants’ contentions regarding the project. Concerns raised by the appellants include: parking, consistency with land use designations, calculation of development totals, and the conversion of a residential use to a commercial use with regards to the Mellow Act ([Exhibit 3](#)).

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. In the appeal, appellants cited Sections 30250 and 30252 of the Coastal Act. Additional applicable policies include Policies I.A.9, I.B.4, II.A.1, II.A.3 of the certified LUP. The Commission’s decision will be guided by the factors listed in the previous section of this report.

Section 30250 of the Coastal Act states, in relevant 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.

Policy I.A.9 of the Venice LUP states:

Per the provisions of Section 65590 of the 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 the replacement of those dwelling units which result in no net loss of affordable housing in the Venice Community in accordance with Section 65590 of the State Government Code (Mello Act).

Policy I.B.4 of the Venice LUP states:

This (General Commercial) land use designation is intended to maintain the uses, density and character of existing low intensity commercial areas. Neighborhood commercial facilities shall also be encouraged within designated General Commercial corridors which are adjacent to residential neighborhoods. This designation primarily occurs at the intersections of major and secondary streets, or as low rise, low density linear “strip” development along major and secondary streets, and includes areas identified as “Mixed-Use Boulevards”. Land Designated for General Commercial in the Venice Coastal Zone is shown on Exhibits 9 through 12.

Additional restrictions for General Commercial designated properties along both sides of Washington Boulevard.

Prohibited Uses: The following uses shall be prohibited: adult entertainment, automobile repair and testing, fraternity/sorority houses, rescue missions, car wash, drive-thru restaurants, dance halls, motels or hotels, nightclubs or bars, convenience stores, gas stations, recyclable materials collection, freestanding commercial sales or establishments dispensing alcoholic beverages for consumption off-site, grocery stores, billboards, and video arcades.

Policy II.A.1 of the Venice LUP states:

It is the policy of the City to provide increased parking opportunities for both beach visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control.

Policy II.A.3 of the Venice LUP states:

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 missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.

Restaurant, Night Club, Bar, and similar establishments and for the sale or consumption of food and beverages on the premises.	1 space for each 50 square feet of service floor area (including outdoor service areas).
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In order to conform to the requirements of Sections 30250 and 30252 of the Coastal Act, new development is required to be located in areas able to accommodate it and to maintain and enhance access to the coast by providing adequate parking facilities or public transportation.

This appeal raises no substantial issue as to conformity with Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5). The Notice of Coastal Development Permit Issuance on Local Coastal Development Permit No. ZA-2016-2090-CDP-CU-CUB-SPP-1A and the accompanying revised findings issued by the City of Los Angeles states that the City applied the policies of Chapter 3 of the Coastal Act and concluded that the development, as proposed would be consistent with Section 30250 and 30252 of the Coastal Act ([Exhibit 2](#)).

With regards to Section 30250, Policy I.B.4 of the LUP provides a description of the General Commercial land use designation and identifies the uses that are prohibited within General Commercial areas. Specifically, the General Commercial land use is intended to maintain the character of existing low intensity commercial areas while also encouraging neighborhood commercial facilities adjacent to residential neighborhoods. As previously discussed, the two parcels included in the subject project are both designated General Commercial and consist of an existing commercial use (restaurant) on the northern lot and an existing single family residence on the southern lot. Because restaurants and single family residences are not identified in the list of prohibited uses under the General Commercial land use designation, they can be considered an allowed use.

The proposed project includes a 794 square foot expansion of the existing commercial use on the northern parcel into the southern residential parcel. To accommodate this expansion, an existing workshop and two-car garage for the single family residence will be demolished, and a new two-stall carport will be built at the southwestern most end of the residential parcel. When the Commission certified the Venice LUP, it also certified the City's Land Use Maps that designated

specific areas appropriate for General Commercial uses, which include the area of the proposed project. As such, allowing for the proposed 794 foot commercial expansion and 2-stall carport is consistent with Section 30250 because the two subject parcels are designated General Commercial and in an existing developed area able to accommodate such development.

The appellants cite Section 30252 of the Coastal Act stating that impacts to parking will not be sufficiently mitigated by the parking requirements included in Special Condition 12 of the City's CDP. The appellants also assert the Service Floor Area (SFA) for the project, the total that establishes the amount of parking required, was not calculated correctly and that omitting area for American with Disabilities Act (ADA) from the SFA should not be allowed.

Pursuant to the findings made by the Commission in previous appeals of projects in the Venice area, approximately seven years ago, the City began excluding ADA aisles when calculating service floor area (SFA) for parking requirements. City planning states that, approximately seven years ago, the City was threatened with litigation by the Federal Government over the City's response to the ADA. One of the agreements reached was to require property owners/tenants to restripe their parking lots for the required van disabled access space if there was a tenant improvement or minor interior remodel. Before this agreement, the City only required the restriping as part of a change of use or major remodel. Additionally, the Los Angeles Municipal Code was changed to allow a reduction in the number of existing required parking if the new van accessible space displaced existing parking.

Taking a proactive approach in response to concerns from applicants and Los Angeles Building and Safety over how SFA within the Venice Specific Plan was being calculated, City planning staff researched the origins of the SFA calculation. They sought to determine if including the aisle area required for disabled access to restaurant restrooms and exits that was mandated by the ADA and the State of California Title 24, could lead to potential violations of ADA requirements.

Venice planning staff discovered that the parking requirements came from the Regional Interpretive Guidelines, South Coast Region, Los Angeles County, adopted on October 14, 1980, ten years before the ADA was enacted. The Guidelines state that the parking requirement for restaurants is "*1 space for each 50 sq. ft. of service area*". SFA is not defined in the Guidelines. The certified Venice LUP and the Venice Specific Plan both define SFA as "*all areas where the customer can be served, except the bathroom, including the indoor and outdoor dining area, bar, waiting room and tavern*". Neither the Regional Interpretive Guidelines, the certified LUP nor the Venice Specific Plan mentions the ADA requirement or how it should be considered.

The ADA was enacted on July 26, 1990. It described specific design mandates to accommodate disabled persons. Restaurants are considered public accommodations and as such, they must comply with the ADA Accessibility Guidelines set forth in the Code of Federal Regulations (CFR).

Part 36, Appendix A.4.2.1(1)(2) of the CFR states:

(1) Space Requirements for Wheelchairs. Many persons who use wheelchairs need a 30 in (760 mm) clear opening width for doorways, gates, and the like, when the latter are entered head-on. If the person is unfamiliar with a building, if competing traffic is heavy, if sudden or frequent movements are needed, or if the wheelchair must be turned at an opening, then greater clear widths are needed. For most situations, the addition of an inch of leeway on either side is sufficient. Thus, a minimum clear width of 32 in (815 mm) will provide adequate clearance. However, when an opening or a restriction in a passageway is more than 24 in (610 mm) long, it is essentially a passageway and must be at least 36 in (915 mm) wide.

(2) Space Requirements for Use of Walking Aids. Although people who use walking aids can maneuver through clear width openings of 32 in (815 mm), they need 36 in (915 mm) wide passageways and walks for comfortable gaits. Crutch tips, often extending down at a wide angle, are a hazard in narrow passageways where they might not be seen by other pedestrians. Thus, the 36 in (915 mm) width provides a safety allowance both for the person with a disability and for others.

The certified Venice LUP and Specific Plan define SFA as all areas where the customer can be served. The City and the Coastal Commission interpret this to mean any area where the customer can be *legally* served. In past actions, the Coastal Commission has included service aisles and paths of travel when calculating the total SFA for purposes of establishing required parking for a restaurant project. For this project the City included the entire area where the customer can be legally served, including the ADA aisles, for a total of 794 square feet of SFA ([Exhibit 4](#)). Pursuant to Policy II.A.3 of the Venice LUP, new development of a restaurant is required to provide 1 space for each 50 square feet of service floor area. Applying the formula of that policy to the proposed project will require the applicant to provide 16 parking spaces. The City identified that there are 11 parking spaces grandfathered for the commercial use on the northern lot. Because the property has 11 grandfathered parking spaces, the required new parking for the proposed project will consist of 5 parking spaces, see Table 1 below.

Table 1. Parking Requirements for Proposed Restaurant

Use	LUP Parking Requirement	Proposed Development	Parking Spaces Required	Grandfathered Spaces	Total Spaces Required
Restaurant	1 space/50 square-feet of SFA	794 square-feet	16 Spaces	11 Spaces	16-11 = 5 Spaces

Pursuant to Condition 12 of the City’s CDP the applicant will provide five off-site parking spaces consistent with Policy II.A.3; however the City’s condition also requires: a minimum of eight additional off-site parking spaces, a minimum of 12 on-site bicycle parking spaces, a valet parking service for customers during operating hours on Thursday, Friday and Saturday evenings, free employee parking at an off-site location within 1,500 feet of the project, and requires that the two on-site parking spaces in the 2-car carport are to be used only by the existing single family residence. Because the City’s CDP requires the project to meet the parking requirements of Policy II.A.3 and also includes additional measures to mitigate impacts to parking as a result of the project, the Commission finds that the project provides adequate parking facilities consistent with Coastal Act Section 30252 and the Venice LUP, and the project does not raise a substantial issue.

Lastly, 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 “The project as revised consists of the demolition of a detached garage and the construction of a kitchen addition in [Q]C2-1CDO and C2-1 zones. The project would not convert or demolish any existing affordable unit, therefore, the project is not subject to review for compliance with the Mello Act”, which is consistent with LUP Policy I.A.9. The Commission does not have jurisdiction to review the City’s Mello Act determination and, as such, the appellants’ contentions concerning the loss of affordable housing with regard to the Mello Act and the locally-approved project do not raise a substantial issue.

Applying the five factors listed in the prior section 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 30265(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.

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 conditions of approval of the City’s CDP explicitly mandate the mechanism by which the applicant will fulfill the parking requirement of the proposed addition and change in use by requiring that the applicant provide proof of the required offsite parking spaces prior to issuance of a building permit or certificate of occupancy. In addition, Condition 13 requires the applicant to submit copies of valid lease agreements obtained to secure any parking annually to the Planning Department. Therefore, the Commission finds that the City provided an adequate degree of factual and legal support for its decision that the project is consistent with Coastal Act Sections 30250 and 30252.

The second factor is the extent and scope of the development as approved or denied by the local government. The City-approved project includes a change in use as the western portion of the southern lot will be redeveloped from a residential use to a commercial use. The existing 2-car garage and workshop for the single family residence on the southern lot will be removed to accommodate a 794 square foot addition to the restaurant on the northern lot and a new 2-stall carport for the single family residence will be constructed ([Exhibit 4](#)). In total, the project would result in an approximately 3,326 square foot commercial space for the restaurant. In addition, the City-approved project requires the applicant to provide 13 off-site parking spaces, 12 on-site bicycle parking spaces, a valet parking service for customers, and free employee parking at an off-site location. The proposed 2-stall carport for the single family residence will be restricted for residential use.

Because the total development is only within two parcels located over a mile inland from the public beach and boardwalk; and the City's CDP requires the project to meet the parking requirements of Policy II.A.3, including additional measures to mitigate impacts to parking as a result of the project, the extent of the development is minimal and the project as approved by the City 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. Public parking is explicitly identified in Section 30252 of Chapter 3 of the Coastal Act and in the Shoreline Access section of the certified Venice LUP. Many people who visit the coast, and especially Venice Beach, travel long distances and it is not practical for them to walk, ride bikes, or take public transit. It is because of this reason that protecting the public parking supply to the coast is of significant importance. The project is located approximately 1 mile inland from the coast in a general commercial area surrounded by residential development, and public transit is available on Lincoln Boulevard. Visitors to the Venice Beach area are not expected to prioritize this area for parking as there is publicly available parking in closer proximity to the beach. As such, the proposed project, will not have the potential to negatively and cumulatively impact the public beach parking supply. Furthermore, the project as conditioned requires an amount of parking and additional mitigation measures that exceed the parking requirements of the LUP. Therefore, the proposed development will not significantly or adversely affect coastal resources and does not raise a substantial issue.

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 project is consistent with the policies and guidelines established in the certified LUP, specifically the General Commercial land use designation and parking requirements of Policy II.A.3. Therefore, the project does not raise a substantial issue with regards to the precedential value of the local government's decision.

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.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. City of Los Angeles Notice of Final Action Case No. ZA-2016-2090-CDP-CU-CUB-SPP-1A
2. City of Los Angeles Revised Findings and Conditions of Approval No. ZA-2016-2090-CU-CUB-CDP-SPP-1A
3. City of Los Angeles Appeal of Zoning Administrator’s Determination No. ZA-2016-2090-CU-CUB-CDP-SPP-1A
4. City of Los Angeles Determination No. APCD-2008-295-SPE-CUB-CDP-SPP