

CALIFORNIA COASTAL COMMISSION

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W20a

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STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal No.: A-5-VEN-18-0064

Applicant: Thomas James Capital

Agent: Gavin McKiernan

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Robin Rudisill and Alix Gucovsky

Location: 2819 Grayson Avenue, Venice, Los Angeles County
(APN: 4227-022-024)

Project Description: Appeal of Local Coastal Development Permit No. DIR-2016-2088-CDP-1A for demolition of a detached garage and, at least 44 percent of a 1-story, single-family residence, and construction of additions to the residence resulting in a 2-story, 26.5-ft. high, 3,270 sq. ft. single-family residence with an attached 2-car garage and swimming pool.

Staff Recommendation: NO SUBSTANTIAL ISSUE

SUMMARY OF STAFF RECOMMENDATION

On November 16, 2015, the City of Los Angeles issued an Exemption from the Coastal Act for demolition of a single-family residence and construction of a single-family residence on Grayson Avenue in Venice, Los Angeles County, and on January 11, 2016, the City issued a separate Exemption from the Coastal Act for construction of a pool and spa on the same property. The City-issued exemptions were appealed to the Coastal Commission, which found substantial issue for both exemptions (Appeal Nos. A-5-VEN-16-0027 & A-5-VEN-16-0028) because the construction work

exceeded the proposed work described in the exemptions. As a result, the City's exemptions were no longer valid. The Commission's enforcement staff sent a notice of violation informing the applicant of its obligation to obtain a coastal development permit (CDP) from the City. The applicant continued with the unpermitted development while the City processed a local CDP, and subsequently completed construction of the house. On March 7, 2018, the City's Planning Director approved a CDP for 'after-the-fact' demolition of an existing detached garage and 44 percent of perimeter walls of an existing 832 sq. ft. single-family dwelling and construction of 2,468 sq. ft. first and second story additions to the residence including pool and spa. The local CDP was appealed by the above-mentioned appellants to the West Los Angeles Area Planning Commission (WLAAPC), who approved the project with modified conditions and findings. The WLAAPC approval is the subject of the current appeal to the Commission. Staff is recommending that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. The motion to carry out the staff recommendation is on page 4.

The primary grounds raised by the appellants are that the City erred in its process of issuing a coastal development permit because the project description was incorrect in that the City-approved project is not a remodel or addition but instead a demolition and new construction, that the floor area was not accurately portrayed, and that the project should include three on-site parking spaces. The appellants further contend that the local CDP omitted findings that the applicant violated the Coastal Act by continuing construction under the wrong permit. The appellants also argue that the local CDP does not make sufficient findings as to the project's compatibility with the neighborhood. Finally, the appellants contend that the applicant removed a tree on the property that contained nesting Cooper's hawks.

Staff has analyzed the appellants' contentions against the City's actions and agrees that the City's approval did not accurately describe the extent of demolition that previously occurred on the project site and would be authorized by the after-the-fact permit. However, the City authorized all of the development actually constructed and treated the project as new development subject to the requirements of Chapter 3 of the Coastal Act and the certified Land Use Plan (LUP) for Venice. In addition, the extent of demolition that actually occurred and is authorized by the local CDP is consistent with the certified-LUP and Chapter 3 Coastal Act policies and does not adversely affect coastal resources. In regards to parking, the City's approval requires three parking spaces, consistent with the LUP parking policy regarding construction of single-family residences on lots of this size. In regards to floor area, the scope of work that was approved under the Exemptions expanded beyond the proposed floor area of 2,597 sq. ft., which the Commission found substantial issue on. As a result, the applicant proceeded with a larger floor area during the local CDP application process. The City-approved plans include a breakdown of the proposed floor area: 832 sq. ft. from the existing first floor, 688 sq. ft. addition to the first floor, and a new 1,740 sq. ft. second floor. The resulting floor area is 3,270 sq. ft. as described in the local CDP and is compatible with the neighborhood character. Therefore, the appellants' contentions regarding floor area, parking spaces, and project description do not raise a substantial issue.

In regards to the applicant's alleged violations of the Coastal Act, unpermitted development occurred on the project site. The applicant subsequently applied for a local CDP, which the City issued on March 7, 2018. The City's characterization of potential violations of the Coastal Act in connection with this property does not raise a substantial issue of compliance with the Coastal Act.

Nevertheless, the applicant's obtaining of a CDP does not absolve them of liability for violations of the Coastal Act in connection with its unpermitted development.

In regards to the City's findings of neighborhood compatibility, a streetscape analysis was conducted that compared the proposed project to thirteen properties within 400 feet of the subject site, including height, setbacks, and floor area. The local CDP further finds and supports the fact that the City-approved project is compatible with the neighborhood that is comprised of a mix of multi-story homes, including eleven (11) one-story homes and thirteen (13) two-story single-family homes. In regards to the alleged nesting Cooper's hawk, the City of Los Angeles' Bureau of Street Services issued a separate permit (not a CDP) for removal of the eucalyptus tree and planting of two magnolia trees. The removal of the tree was not authorized by the local CDP at issue in this appeal, and the appellants have not provided evidence to support their claim that the tree contained birds' nests.

Therefore, the appeal does not raise a substantial issue as to the City-approved development's consistency with the Chapter 3 policies of the Coastal Act or the certified LUP for Venice.

IMPORTANT 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 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), or those who, for good cause, were unable to oppose the application before the local government, and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

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APPENDICES – Substantive File Documents

Appendix A – Appeal Nos. A-5-VEN-16-0027 (Tardino) and A-5-VEN-16-0028 (Fry)

EXHIBITS

[Exhibit 1 - Vicinity Map](#)

[Exhibit 2 – City-approved Plans](#)

[Exhibit 3 – Appeal](#)

[Exhibit 4 – Tree Removal Permit, City of Los Angeles, Bureau of Street Services](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission determine that Appeal No. A-5-VEN-18-0064 raises **NO substantial issue** with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act.*

Staff recommends a **YES** vote. Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and finding. Passage of this motion will result in a finding of No Substantial Issue 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-18-0064** 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 October 1, 2018, the South Coast District office received an appeal by Robin Rudisill and Alix Gucovsky ([Exhibit 3](#)). The appellants contend that the local CDP's project description is incorrect in that the City-approved project is not a remodel or addition but instead a demolition and new construction. The appellants also contend that the project does not portray the accurate square footage, and is not compliant with the LUP's on-site parking requirements of three spaces. In addition, the appellants contend that the local CDP omitted the applicant's alleged violations of the Coastal Act by continuing construction even after the Coastal Commission determined that a coastal development permit was required for the development (See Case Nos. A-5-VEN-16-0028 & A-5-VEN-16-0027). The appellants argue that the local CDP does not have sufficient findings as to the project's compatibility with the neighborhood. Finally, the appellants contend that the tree which was taken down in front of the home contained nesting Cooper's hawks.

III. LOCAL GOVERNMENT ACTION

On November 16, 2015, the City's Planning Department issued a Coastal Exemption (DIR-2015-3901-CEX) involving a remodel and second story addition of a single-family dwelling at 2819 Grayson Avenue, Venice, Los Angeles. On January 11, 2016, the City's Planning Department issued a Coastal Exemption (DIR-2016-68-CEX) for construction of a new pool and spa. On March 4, 2016, Appeal No. A-5-VEN-16-0027 was submitted for the proposed pool and, on the same day, Appeal No. A-5-VEN-16-0028 was submitted for the proposed single-family home.

During the Commission hearing on April 14, 2016, the Commission found that a substantial issue existed with regards to both exemptions' scope of work, and required the applicant to obtain a local coastal development permit (Case Nos. A-5-VEN-16-0027 & A-5-VEN-16-0028).

On June 13, 2016, the City of Los Angeles Department of City Planning received a coastal development permit application for “a two-story addition to an existing 832 sq. ft. 1-story SFR with new attached 2-car garage. New structure will add 2,438 sq. ft. for total of 3,270 sq. ft. Existing garage and portions of home will be demolished”. On July 7, 2016, the City Bureau of Street Services issued a tree removal permit for one eucalyptus tree and replanting of two 24-in box southern magnolia trees. In addition, on September 21, 2016, the City determined that the proposed project was categorically exempt (ENV-2016-2089-CE) and did not require mitigation or monitoring measures pursuant to the California Environmental Quality Act (CEQA).

On March 7, 2018, the City of Los Angeles Director of Planning approved local Coastal Development Permit No. DIR-2016-2088-CDP allowing “‘after-the-fact’ demolition of an existing two-car garage and 44 percent of the perimeter walls of an existing 832 sq. ft., one-story SFD and construction of an 2,438 sq. ft. addition including a 698 sq. ft. first floor addition, new 1,740 sq. ft. second floor addition, an 352 sq. ft. attached garage, a 208 sq. ft. pool, a 48 sq. ft. spa and related pool equipment”. The Planning Director’s determination was appealed by Robin Rudisill and Alix Guvocsky to the West Los Angeles Area Planning Commission (WLAAPC) on the same grounds on which the current appeal was filed. The WLAAPC held a public hearing on August 1, 2018, and issued a letter of determination on August 31, 2018, granting the appeal in part and sustaining the Planning Director’s determination in part with modified conditions of approval and adopted findings. The project was modified by the applicant to provide three parking spaces on the site.

The Commission’s South Coast District Office received the City’s Notice of Final Action on September 4, 2018, and the Commission’s twenty working-day appeal period was established. On October 1, 2018, the appeal was filed within the Commission’s twenty working-day period and is valid. On October 2, 2018, the Commission staff notified the City and the applicant of the appeal.

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 coastal development permit 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 notified 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 appellant’s 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 at a future Commission meeting. A *de novo* public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The certified Venice LUP 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, are typically given 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 PERMIT JURISDICTION AREA

Section 30601 of the Coastal Act provides details regarding the geographic areas where applicants must also obtain a coastal development permit from the Commission in addition to obtaining a local coastal development permit from the City (e.g., within three hundred feet of the beach or sea, or within one hundred feet of a stream). These areas are considered Dual Permit Jurisdiction areas.

Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City’s actions are appealable to the Commission. The proposed project site is located within the *Single Permit Jurisdiction Area*.

VI. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The subject site is located approximately 0.3 miles from the beach and 480 feet southeast of the Venice Canals ([Exhibit 1](#)) in the Southeast subarea of the Venice community. The site is zoned R1-1-O and designated Low Density – Single Family Residential in the certified Venice LUP, which allows one unit per lot. A mix of one to two-story single-family dwellings with varied/flat rooflines characterizes the neighborhood on Grayson Avenue. The 5,096.8 sq. ft. lot previously contained a one-story, 14.5-ft. high, 832 sq. ft. single-family residence with a detached garage accessed from the alley. The previous structure was built in 1948; however, according to City findings, no historic resources or potentially historic structures have been identified on site.

The City-approved project ([Exhibit 2](#)) included the demolition of 44 percent of an existing single-story single-family residence and construction of additions to the existing structure, which resulted in a new two-story, 28-ft. high, 3,270 sq. ft. single-family residence with three parking spaces (two covered and one uncovered) and a swimming pool. The parking spaces will be accessed through the rear alley with no proposed curb cuts. The front yard setback is 15.7 feet, the rear yard setback is 15 feet, and the side yard setbacks are 5.9 feet from the property lines. The City-approved project observes appropriate setback, height, and yard requirements in the City’s Municipal Code and the certified Venice LUP.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUES 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 of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

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

Staff is recommending that the Commission find that **no substantial issue exists** with respect to the grounds on which an appeal has been filed pursuant to Section 30602 of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUES ANALYSIS

Coastal Act Section 30250 Location; existing developed area states, in part:

New residential... 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... on coastal resources.

Coastal Act Section 30251 Scenic and visual qualities states, in part:

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.

Coastal Act Section 30253(e) Minimization of Adverse Impacts, states:

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

Venice Certified Land Use Plan Policy I. A. 2. Preserve Stable Single-Family Residential Neighborhoods, states:

Ensure that the character and scale of existing single- family neighborhoods is maintained and allow for infill development provided that it is compatible with and maintains the density, character and scale of the existing development. A second residential unit or an accessory living quarter may be permitted on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea, or 10,000 square feet in the Silver Strand, Southeast Venice, or Oxford Triangle subareas, and all units conform to the height limit, parking requirements, and other development standards applicable to the site.

Venice Certified Land Use Plan Policy I. A. 3. Single-Family Dwelling - Low Density, states:
Accommodate the development of single-family dwelling units in areas designated as “Single-family Residential” and “Low Density” on the Venice Coastal Land Use Plan. (Exhibits 9 through 12). Such development shall comply with the density and development standards set forth in this LUP.

Southeast Venice and the Oxford Triangle. Use: Single-family dwelling / one unit per lot

Density: One unit per 5,000 square feet of lot area

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 on-site recreation consistent with the existing scale and character of the neighborhood.

Height: Not to exceed 25 feet for buildings with flat roofs or 30 feet for buildings with a varied or stepped back roof line. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

The appellants contend that the local CDP’s project description is incorrect in that the local-approved project is not a remodel or addition but instead a demolition and new construction. The appellants also contend that the project does not portray the accurate square footage, and does not include three parking spaces, as required by the LUP. In addition, appellants contend that the local CDP omitted the applicant’s alleged violations of the Coastal Act by continuing construction without a CDP. The appellants argue that the local CDP does not make sufficient findings as to the project’s compatibility with the neighborhood. Finally, the appellants contend that the applicant removed a tree that contained nesting Cooper’s hawks.

The WLAAPC’s letter of determination describes the project as a “demolition of an existing garage and 44% of the perimeter walls” with additions to the existing single-family dwelling. The project description is inconsistent with the Coastal Commission’s finding of substantial issue on April 14, 2016 (Appeal Nos. A-5-VEN-16-0027 & A-5-VEN-16-0028), which described that “*more than fifty percent of the existing family residence has been demolished*”. The appellants are correct, therefore, that the project is new development. However, although the City’s approval did not describe the full extent of demolition, it nevertheless treated the project as new development subject to the requirements of Chapter 3 and the certified LUP for Venice. The City did not find the project to be exempt “improvements” to a single-family residence (see Section 30610(a)), nor did it allow the continuation of non-conforming uses.

In addition, an inadequate description of the scope of a project might warrant a finding of substantial issue for an appeal if, for example, it alters the project in a way that could adversely impact coastal resources¹ However, in this case, the extent of the demolition described by the City, while incorrect, is a fairly minor discrepancy and does not adversely impact coastal resources

¹ However, if the project description affects only the tax element of a property or minor details in construction, it may not be substantial evidence to consider overruling the local action.

because the City-approved project is consistent with development policies set forth in the LUP. Furthermore, the effect of the project on coastal resources has been considered in the local CDP and is compatible with the neighborhood.

In regards to the square footage, the City-approved plans include a breakdown of the proposed floor area: 832 sq. ft. from the existing first floor, 688 sq. ft. addition to the first floor, and a new 1,740 sq. ft. second floor which total 3,270 sq. ft. The floor area does not typically include garage floor areas since the room is non-habitable. The local CDP does portray an accurate representation of the floor area that was approved by the City, and provides findings which describe the scope of work that occurred on site. It is true that the project description considered by the Commission when it reviewed the applicant's exemption requests reflected a smaller square footage for the single-family residence; however, the Commission denied the exemption requests and the applicant was free to seek approval for a larger residence through the City's CDP process. Therefore, the appellants' contentions regarding the square footage of the City-approved development does not raise a substantial issue.

In regards to parking, the LUP requires that single-family residences on lots with widths greater than 40 feet, adjacent to an alley, must provide three parking spaces (Policy II.A.3). The provision of adequate onsite parking for residential development is important to public access because sufficient on-site parking can minimize access conflicts between residents and members of the public for street parking in popular coastal areas, such as Venice. The lot here is 44 feet wide and 115 feet long. According to a Venice Specific Plan Sign-Off issued for the project in 2015, the City initially only required two parking spaces because the project was described as a remodel and addition, allowing the applicant to retain the non-conforming parking requirements. However, on April 14, 2016, the Commission found substantial issue with respect to the appeals of the City's exemption decisions for the project, and the applicant was required to obtain a CDP. The City's CDP approving the demolition and construction of a new single-family home (Case No. DIR-2016-2088-CDP) was subsequently appealed to the WLAAPC in 2018, and the WLAAPC found that the proposed project was new development and required the provision of three parking spaces pursuant to LUP policy II.A.3. Thus, the local CDP was revised during the WLAAPC appeal process to incorporate a third on-site parking space to comply with the LUP and, according to the City-approved plans, the proposed third parking space is tandem-style and is located on the driveway in the rear yard. Therefore, the appeal does not raise a substantial issue regarding public access and the provision of adequate on-site parking.

The appellants allege that the City's approval contained an inadequate discussion of the history of Coastal Act violations on the project site. Appellants are correct that unpermitted development occurred on the project site. On April 2016, the Commission found, as part of Appeal Nos. A-5-VEN-16-0027 (Tardino) and A-5-VEN-16-0028 (Fry), that the applicant exceeded the scope of work authorized by a City-approved Coastal Act exemption. After Commission enforcement staff sent a notice of violation to the applicant in August 2016, the applicant thereafter sought a CDP from the City, but continued with the unpermitted development while the local CDP was being processed and completed construction of the house. However, the City approved an after-the-fact permit for the proposed project on March 7, 2018. The standard of review for the local CDP, even when the development has already taken place, is Chapter 3 of the Coastal Act, while the City's certified LUP for Venice may provide additional guidance; the City applied the proper standard of review when analyzing the proposed project. The City's approval of the CDP, however, does not

constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

Appellants contend that the City record does not contain an adequate analysis of visual resources and community character. Coastal Act Sections 30251 and 30253(e) require the protection of scenic and visual qualities of coastal areas with Section 30253(e) specifically requiring the protection of special communities and neighborhoods that, because of their unique characteristics, are popular visitor serving destination points for recreational uses. The Commission has previously found that Venice's unique social and architectural diversity should be protected as a Special Coastal Community. The certified Venice LUP also sets forth policies to preserve the community character, scale, and architectural diversity of Venice as a Special Coastal Community. The certified Venice LUP states that the character and scale of single-family neighborhoods should be maintained and that infill development should be allowed provided that it is compatible with and maintains the density, character, and scale of the existing development (Policy I.A.2). The LUP requires that building façades shall be articulated and varied to provide a pedestrian scale, compatible with neighboring structures (Policy I.A.1.b). While the LUP is not the standard of review for finding substantial issue, the policies provide guidance from which the Commission can evaluate a project's impacts.

According to the materials provided in the City record, a community compatibility study was performed through a streetscape analysis. The local CDP finds and supports the fact that the neighborhood is comprised of a mix of multi-story homes, including eleven (11) one-story homes and thirteen (13) two-story single-family homes. The analysis compared the proposed project to thirteen properties within 400 feet of the subject site, including height and floor area. Within the block, homes range from 869 sq. ft. (2918 Grayson Ave) to 3,596 sq. ft. (2908 Grayson Ave). Heights range from approximately 17 feet (2800 Grayson Ave) to 30 feet (3000 Grayson Ave). The surrounding area beyond the block is characterized by one to three-story homes with floor areas that range from 800 sq. ft. (located southwest of the subject site directly across the alley) to 3,596 sq. ft. (located 182 feet southeast of the subject site) and portrays varied architectural features and façades. The City-approved project is for a two-story, 28-ft. high, 3,270 sq. ft. single-family dwelling and is consistent with the density, height, setback, and floor area requirements of the LUP. The City-approved project incorporates a varied roofline with an articulated façade and, thus, is compatible with the residential character of the surrounding neighborhood. Therefore, the appellants' contentions regarding community character raise no substantial issue.

The appellants also contend that the applicant removed a tree, which was taken down on the sidewalk strip adjacent to Grayson Avenue, containing nesting Cooper's hawks. The removal of trees on this property is not part of the project approved by the City's CDP. However, City staff informed Commission staff that the applicant received a tree removal permit ([Exhibit 4](#)) from the Urban Forestry Division, City of Los Angeles Department of Public Works. The permit did not include details of the tree that was proposed to be removed relating to its diameter, height, and presence of bird nests. Accordingly, when contractors remove trees, they must follow federal and state regulations which protect nesting bird species, specifically the United States Fish and Game Code 3503.5, which states that it is unlawful to take, possess or destroy any birds of prey or the nest or eggs of such birds. The Coastal Act (Section 30240) also protects nesting birds, if the trees in which they are located are identified as environmentally sensitive habitat areas, against disturbance

from development. It is unclear whether the eucalyptus tree was evaluated and inspected for nesting birds; however, appellants have not submitted evidence to support their claim that the tree contained birds' nests or that the tree would have been considered ESHA. In addition, this appeal does not include authorization of the removal of the tree. Thus, the appellants' claim regarding removal of the tree does not raise a substantial issue.

The issues currently raised by the appellants have been addressed at the local level for new development. Therefore, the grounds on which the appellants' assertions are made raise no substantial issue because the City has analyzed the issues in the local CDP. The CDP findings support the project's compatibility with the character of the surrounding area utilizing certified Venice LUP policies and are consistent with Chapter 3 of the Coastal Act.

Applying the five factors listed in the prior section clarifies that the appeal does not raise "a substantial issue" with respect to Chapter 3 of the Coastal Act, and therefore, does meet the substantiality standard of Section 30625(b)(1), because the nature of the proposed project and the local government action are consistent with the 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 with the relevant provisions of the Coastal Act. As discussed above, the project complies with applicable height, land use, and density limits and setbacks and is comparable to houses in the area, as well as to other Venice projects recently approved by the Commission. As explained in the City's approval of the project, the relevant legal requirements, including Coastal Act Sections 30250, 30251, and 30253(e), the Venice certified-LUP, and the Venice Specific Plan, were all met in this case, providing ample support for the City's decision. The City's decision is supported by evidence reviewed by the City, including City-approved plans and records of past Commission and City actions supporting the City's findings as to the project's visual compatibility with the surrounding area. In short, there is factual and legal support for the City's determination that the project complies with the Chapter 3 policies of the Coastal Act, and this factor weighs in favor of finding No Substantial Issue.

The second factor is the extent and scope of the development as approved by the local government. As explained above, the extent and scope of the City-approved project—construction of a two-story single family home—is moderate and commensurate with surrounding development. The proposed development is consistent with all relevant legal limits on size, height and land use, is on par with residential developments in the area and, thus, preserves community character as required by the Coastal Act. The second factor weighs in favor of finding No Substantial Issue.

The third factor is the significance of the coastal resources affected by the decisions. The mass, scale, and character of the community are significant coastal resources to be protected. However, the proposed project's mass and scale is compatible with the character of the surrounding community within the Southeast Venice subarea, as explained above, and therefore causes no significant impacts to coastal resources. In addition, while the applicant removed a tree on the property that is not authorized by the CDP, a tree removal permit was subsequently issued by the Bureau of Street Services. Appellants have presented no countervailing evidence. Thus, it is unlikely that removal of the tree harmed nesting birds or other coastal resources. The third factor weighs in favor of finding No Substantial Issue.

The fourth factor is the precedential value of the local government's decisions for future interpretations of its LCP. The City does not currently have a certified LCP, but it does have a certified Land Use Plan (LUP) and is in the process of being updated. The approval of the proposed two-story single-family residence will not set a new precedent, since there have been several City and Coastal Commission actions approving similar-sized development that precede this decision. This project, as proposed, will not prejudice the ability of the City to prepare a Local Coastal Program that is in conformity with Chapter 3 of the Coastal Act. The fourth factor, thus, weighs in favor of finding No Substantial Issue.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Because Venice is a popular visitor destination, the character of the community is a matter of statewide significance. However, this appeal does not raise any significant local, regional or statewide issues because the project is visually compatible with the surrounding community whose eclectic and diverse architecture makes Venice a popular coastal destination. This project complies with all local requirements and state policies in which the City properly reviewed this project prior to issuing the coastal development permit and properly applied the relevant policies. In this case, the City properly issued a local CDP, and the City's approval does not raise issues of statewide significance because the interpretation and application of Coastal Act policies were properly utilized.

On balance, and for the reasons stated above, the five factors weigh in favor of finding No Substantial Issue with respect to Appeal No. A-5-VEN-18-0064. The City-approved project is consistent with all applicable requirements for height, size, and land use, and is on par with other residential developments in the area. The appeal, therefore, raises no substantial issues as to the project's compliance with Sections 30250, 30251 and 30253(e) of the Coastal Act and the development policies in the Venice certified-LUP.