

CALIFORNIA COASTAL COMMISSION

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



Th14c-e

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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal No.: A-5-VEN-18-0039/A-5-VEN-18-0042/A-5-VEN-18-0043

Applicant: Shula and Ron Harel

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Sue Kaplan, Shephard Stern, Mary Jack, et al.

Project Location: 925-927 Marco Place, Venice, Los Angeles County

Project Description:

A-5-VEN-18-0039: Demolition of a one-story, 688 sq. ft. single-family residence on Lot No. 24 (927 Marco Place), and relocation of a one-story, 1,256 sq.ft. single-family residence on Lot Nos. 22 and 23 (925 Marco Place) to Lot 24, where the house will be preserved and enlarged to a two-story, 23-foot high, 2,335 sq. ft. single-family residence with an attached two-car garage.

A-5-VEN-18-0042: Construction of a 2-story, 28-ft. high, 2,104 sq. ft., single-family residence with an attached 2-car garage on Lot No. 23 (927 Marco Place).

A-5-VEN-18-0043: Construction of a 2-story, 28-ft. high, 2,337 sq. ft., single-family residence with an attached 2-car garage on Lot No. 22 (925 Marco Place)

Staff Recommendation: No Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

Local Coastal Development Permit (CDP) Nos. DIR 2015-3504, DIR 2015-3506, and DIR 2015-3507 approves the demolition of a single-family residence at 927 Marco Place (Lot 24), relocation of a single-family residence from 925 Marco Place (Lots 22 and 23) to Lot 24, and construction of

Appeal – Substantial Issue

two single-family residences on Lots 22 and 23. The demolition and relocation actions are included under Case No. DIR-2015-3504; the construction on Lot 22 is included under Case No. DIR 2015-3506; and the construction on Lot 23 is included under Case No. DIR 2015-3507.

Staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeals have been filed because the appellants have not adequately demonstrated that the proposed residences are inconsistent with the relevant Chapter 3 policies of the Coastal Act and the guidance provided by the Venice LUP. The project site is located in an urbanized residential area over one mile inland from the beach, where there are no sensitive coastal resources in or immediately surrounding the project site. Due to their distance from the coast, there are no public coastal views within the vicinity of the project sites, and there are no beach access routes that will be adversely impacted by the projects. The proposed residences on Lots 22-24 adhere to the building development standards in the LUP: the residences comply with the 28-foot height limit established for the walk streets; contain at least a 12-foot setback, consistent with the City's use of the prevailing front-yard setback in the R-2 zone; and the building designs incorporate articulation and second-story setbacks to reduce building massing. The residences are therefore consistent with the community character of the surrounding area. One of the projects also involves the relocation of, and addition to, a residence that has been listed as a contributor to a historic district in Survey LA. However, the residence has not officially been designated as a historic structure in either the national, state, or local registers. Moreover, the City determined that the modern addition will not affect the residence's designation as a contributor. The appellants raised concern about the CEQA determination, but the Commission does not have the authority to review CEQA determinations. The appellants also contend that the City violated due process rights by working directly with the applicant to design the project; this is not a basis for the Commission to find substantial issue, and in any case no evidence has been submitted to validate this contention.

Staff recommends that the Commission find no substantial issue exists for the reasons summarized above, and described in greater detail in the body of this report.

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 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), 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.

This report incorporates three separate local CDP actions and will require three separate motions by the Commission. The three motions are located on page 4 and 5 of this staff report.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE	4
II. LOCAL GOVERNMENT ACTIONS.....	4
III. APPELLANTS’ CONTENTIONS.....	4
IV. APPEAL PROCEDURES	5
V. SINGLE-DUAL PERMIT JURISDICTION	6
VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE	7
A. PROJECT DESCRIPTION.....	7
B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS	7
C. SUBSTANTIAL ISSE ANALYSIS	7

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Location/Vicinity Map
- Exhibit 2 – Project Plans
- Exhibit 3 – Appeal
- Exhibit 4 – Local CDP Determination
- Exhibit 5 – List of Appellants
- Exhibit 6 – Project Renderings
- Exhibit 7 – Prevailing Front Yard Setback Calculation sheet
- Exhibit 8 – Photos

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

A-5-VEN-18-0039 (Demolition of a single-family residence at 927 Marco Place (Lot 24); Relocation of a single-family residence from 925 Marco Place (Lots 22 and 23) to Lot 24)

MOTION #1: *I move that the Commission determine that Appeal No. A-5-VEN-18-0039 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. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. 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 appointed Commissioners present.

RESOLUTION:

The Commission hereby finds that Appeal No. A-5-VEN-18-0039 does not present a 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.

A-5-VEN-18-0042 (Construction of a single-family residence on Lot 23)

MOTION #2: *I move that the Commission determine that Appeal No. A-5-VEN-18-0042 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. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. 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 appointed Commissioners present.

RESOLUTION:

The Commission hereby finds that Appeal No. A-5-VEN-18-0042 does not present a 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.

A-5-VEN-18-0043 (Construction of a single-family residence on Lot 22)

MOTION #3: *I move that the Commission determine that Appeal No. A-5-VEN-18-0043 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. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. 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 appointed Commissioners present.

RESOLUTION:

The Commission hereby finds that Appeal No. A-5-VEN-18-0043 does not present a 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.

IV. LOCAL GOVERNMENT ACTION

On September 16, 2015, the applicant submitted applications to the City for three separate Local CDPs (Case Nos. DIR 2015-3504, DIR 2015-3506, and DIR 2015-3507) for the demolition of a single-family residence at 927 Marco Place (Lot 24), relocation of a single-family residence from 925 Marco Place (Lots 22 and 23) to Lot 24, and construction of two single-family residences on Lots 22 and 23. The demolition and relocation actions are included under Case No. DIR-2015-3504, the construction on Lot 22 is included under Case No. DIR 2015-3506, and the construction on Lot 23 is included under Case No. DIR 2015-3507.

On May 1, 2017, the City held a public hearing to discuss the project. During the hearing, Tom Paris, Shepherd Stern, Sue Kaplan, Mary Jack, Lillian White, Mary Webster, Andrea Stern, and Robin Rudisill testified against the project. These residents cited concerns over the potential impacts to the 1907 craftsman house, the incompatibility in size and design of the proposed residences, and the separation of the large double lot to accommodate two new residences.

On January 11, 2018, the City Planning Commission approved Coastal Development Permits DIR 2015-3504, DIR 2015-3506, and DIR 2015-3507 ([Exhibit 4](#)). Sue Kaplan, Shepherd Stern, and Mary Jack subsequently filed an appeal with the City on January 26, 2018. The appeal was heard over three Area Planning Commission (APC) hearings on March 7, 2018, March 21, 2018, and May 16, 2018. During the appeal hearings, the applicant submitted two revised designs for the projects to address the appellants' concerns; the final designs were submitted for review at the May 16 hearing ([Exhibit 6](#)). During this time, the Venice Neighborhood Council submitted a letter in support of the City-approved development. On May 16, 2018, the APC made a determination to deny the appeal and sustain the original determination for the Local CDPs.

On May 21, 2018, the City sent a Notice of Final Action for Local CDPs DIR 2015-3504, DIR 2015-3506, and DIR 2015-3507 to the California Coastal Commission, which was received on May 29, 2018. The Commission's 20 working-day appeal period started on May 29, 2018. On June 20, 2018, Sue Kaplan, Mary Jack, and Shepherd Stern filed an appeal, on behalf of 127 appellants, of the Local CDP approvals ([Exhibit 5](#)). The appeal was filed within the 20-working day appeal period ([Exhibit 3](#)).

V. APPELLANTS' CONTENTIONS

The appellants have cited several contentions in their appeals of the three city-approved permits. The appellants' first contention is that the city-approved projects are not consistent with the Chapter 3 policies of the Coastal Act, specifically Section 30253 in regards to protecting special communities. The appellants' second contention is that the city-approved projects do not comply with the relevant policies of the LUP in regards to community character and preservation of historic resources. The appellants' third contention is that the City's CEQA determination is not valid and that an EIR must be required for the project. The appellants' fourth contention is that the City violated due process rights by working directly with the applicant to design the project.

VI. 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 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 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.

VII. SINGLE PERMIT JURISDICTION AREA

The proposed development is within the coastal zone of the City of Los Angeles. Section 30600(b) of the Coastal Act allows a local government to assume permit authority prior to certification of its local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles elected to issue its own CDPs pursuant to this provision of the Coastal Act.

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Act requires that any development that receives a local CDP also obtain such a permit from the Coastal Commission. Section 30601 requires a second CDP from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area, the local agency’s (City of Los Angeles) CDP is the only coastal development permit required. Thus, it is known as the Single Permit Jurisdiction area, although all CDPs approved by the City of Los Angeles are appealable to the Coastal Commission.

The proposed development is located approximately 1 mile inland of the beach within the area of the City of Los Angeles that has been designated in the City’s permit program as the “Single Permit Jurisdiction” area pursuant to Section 13307 of Title 14 of the California Code of Regulations and Section 30601 of the Coastal Act. The applicant received three local CDP approvals (DIR 2015-3504, DIR 2015- 3506, and DIR 2015-3507) from the City of Los Angeles on May 16, 2018. The local CDPs have been appealed to the Commission. This is the substantial hearing for the appeal.

VIII. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The proposed projects consist of the redevelopment of three contiguous lots currently developed with two single-family residences to three single-family residences.

The single-family residence at 927 Marco Place (Lot 24) will be demolished. The single-family residence at 925 Marco Place, which is currently situated on two lots (lots 22 and 23) will be relocated to Lot 24, where the rear portion of the residence will be demolished and a new addition will be placed to bring the residence to 2,223 square feet in size and 23 feet in height. A 2-story, 28-ft. high, 2,337 sq. ft. single-family residence with a roof access structure will be constructed on Lot 22, and a 2-story, 28-ft. high, 2,104 sq. ft., single-family residence with a roof access structure will be constructed on Lot 23 [\(Exhibit 2\)](#).

The project sites are located at 925 and 927 Marco Place in Venice, within the Milwood Walk Street District, which is a community within the City of Los Angeles, and approximately 1.1 miles inland from the beach [\(Exhibit 1\)](#). The 925 Marco Place lot (Lots 22 and 23) is a rectangular-shaped, double lot that is approximately 90 feet long and 80 feet wide. A 1,256 square-foot single-family residence has been developed on this lot. The 927 Marco Place lot is a rectangular-shaped lot that is approximately 90 feet long and 40 feet wide. A 688 square-foot single-family residence is currently developed on this lot.

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 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.

C. SUBSTANTIAL ISSUE ANALYSIS

The City of Los Angeles does not have a certified LCP for any of its segments that fall within the coastal zone. However, the Venice segment of the City of Los Angeles does have a certified LUP. The standard of review for the appeals is the Coastal Act, but the LUP may be used as guidance. 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 the Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. The appellants' contentions are summarized in Section III of this staff report.

These appeals do not raise a substantial issue as to conformity with Chapter 3 of the Coastal Act. In its determination letter for Local CDP Nos. DIR 2015-3504, DIR 2015-3506, and DIR 3507, the City found that the projects were consistent with the Chapter 3 policies of the Coastal Act and would not prejudice the ability of the City to prepare an LCP for the Venice section of the City of Los Angeles that would be consistent with the Chapter 3 Coastal Act policies.

Contention 1:

The appellants claim that the City-approved projects are not consistent with Coastal Act Section 30253 because they do not protect the special community of Venice. Specifically, they allege that Appeal No. A-5-VEN-18-0039, the relocation of the 925 Marco Place residence to Lot 24, does not protect and keep the building and the relationship of the building to the site in a highly scenic coastal area.

Section 30253 states, in relevant part:

New development shall do all of the following:

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

The Venice LUP includes Policy I.E1, which aims to preserve Venice as a special coastal community, as stated below.

Policy I. E. 1. General. *Venice's unique social and architectural diversity should be protected as a Special Coastal Community pursuant to Chapter 3 of the California Coastal Act of 1976.*

There is no evidence to suggest that the proposed projects will threaten Venice's unique social and architectural diversity. The proposed residences feature articulated designs that do not take away from the visual aesthetics of the surrounding residences or the walk streets themselves. The

Appeal – Substantial Issue

residences will also provide 12 foot front yard setbacks, consistent with the setbacks in the area, landscaped front yards and low front walls to open up the walk street, protecting the view corridor along the walk street. Also, the proposed residences do not alter or encroach into the walk streets, a cultural resource identified in the Venice LUP and will provide an adequate buffer between pedestrians that use the walk street and the residential structures. Residents and visitors will be able to utilize the walk streets with no access impacts. Furthermore, the project site is located in a residential area located over one mile inland from the beach. There is no evidence to suggest that the project locations are popular visitor destination points for recreational uses. Most visitors to Venice are more likely to visit the beach or other visitor-serving areas in Venice. A residential walk street is not a typical visitor-serving destination. Therefore, the proposed projects are consistent with the Section 30253(e)'s protections for special communities and neighborhoods.

With respect to the specific allegations related to Appeal No.A-5-VEN-18-0039 and the proposal to move the 1907 craftsman-style home to Lot 24, the proposed development retains the façade and front of this home. While it is being moved, the primary aspects of the house that contributed to its potential historical importance are being preserved. The façade of the home will be retained, and it will continue to contribute to the overall feel of the neighborhood, consistent with requirement to protect special communities and neighborhoods in Section 20353(e) ([Exhibit 6](#)).

The appellants have also argued that the Milwood Walk Street district is located in a highly scenic coastal area, as stated in LUP Policy I.D.3 as follows:

Policy I. D. 3. Views of Natural and Coastal Recreation Resources. *The scale of development shall comply with height limits, setbacks and standards for building massing specified in Policy Groups I.A and I.B, Residential and Commercial Land Use and Development Standards of this LUP, in order to protect public views of highly scenic coastal areas and vista points, including, but not limited to, the canals, lagoon, jetty, pier, Ocean Front Walk, walk streets and pedestrian oriented special communities.*

While it is true that walk streets are listed under scenic coastal areas and vista points under the LUP, the policy merely states that the scale of development must comply with the height limits, setbacks, and standards for building massing to protect public views. As will be discussed below, the three proposed residences meet the development standards listed in the LUP and as proposed are consistent with the character of the area and, as proposed, will protect views along the walk street.

Overall, the appellants failed to demonstrate that the City-approved projects are not consistent with Coastal Act Section 30253(e). Therefore, the appellants' first contention does not raise a substantial issue.

Contention 2:

The appellants contend that the City-approved projects are not consistent with the LUP policies in regards to community character and preservation of historic resources. The appellants assert that the block in which the subject sites are located consists primarily of single-story, bungalow-style residences; the addition of three two-story residences will permanently alter the character of the walk street and create a significant adverse impact. The appellants also cite the applicant's streetscape analysis to address an additional concern that the rooftop decks for the proposed

residences on Lots 22 and 23 are not in character with the rest of the area. The appellants reference Venice LUP Policies I.D.3 and I. E.2 as evidence that the proposed development is not consistent with the Venice LUP, and will therefore prejudice the ability for the Venice Section of the City of Los Angeles to develop a LCP that is consistent with the Chapter 3 Coastal Act policies.

Policy I. D. 3. Views of Natural and Coastal Recreation Resources. *The scale of development shall comply with height limits, setbacks and standards for building massing specified in Policy Groups I.A and I.B, Residential and Commercial Land Use and Development Standards of this LUP, in order to protect public views of highly scenic coastal areas and vista points, including, but not limited to, the canals, lagoon, jetty, pier, Ocean Front Walk, walk streets and pedestrian oriented special communities.*

Policy I. E. 2. Scale. *New development within the Venice Coastal Zone shall respect the scale and character of community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods. Lot consolidations shall be restricted to protect the scale of existing neighborhoods. Roof access structures shall be limited to the minimum size necessary to reduce visual impacts while providing access for fire safety. In visually sensitive areas, roof access structures shall be set back from public recreation areas, public walkways, and all water areas so that the roof access structure does not result in a visible increase in bulk or height of the roof line as seen from a public recreation area, public walkway, or water area. No roof access structure shall exceed the height limit by more than ten (10') feet. Roof deck enclosures (e.g. railings and parapet walls) shall not exceed the height limit by more than 42 inches and shall be constructed of railings or transparent materials. Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet.*

Policy I. E. 5. Nonconforming Structures. *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.

Policy I. F. 1. Historic and Cultural Resources. *The historical, architectural, and cultural character of structures and landmarks in Venice should be identified, protected and restored where appropriate, in accordance with historical preservation guidelines.*

Policy I. F. 2. Reuse and Renovation of Historic Structures. *Wherever possible, the adaptive reuse and renovation of existing historic structures shall be encouraged so as to preserve the harmony and integrity of historic buildings identified in this LUP. This means:*

- a. Renovating building facades to reflect their historic character as closely as possible, and discouraging alterations to create an appearance inconsistent with the actual character of the buildings.*
- b. Protecting rather than demolishing historic or culturally significant properties by finding compatible uses which may be housed in them that require a minimum alteration to the historic character of the structure and its environment.*
- c. Rehabilitation shall not destroy the distinguishing feature or character of the property and its environment and removal or alteration of historical architectural features shall be minimized.*
- d. The existing character of building/house spaces and setbacks shall be maintained.*
- e. The existing height, bulk and massing which serves as an important characteristic of the resource shall be retained.*

Policy II. C. 10. Walk Streets - Residential Development Standards. *New residential development along walk streets shall enhance both public access and neighborhood character.*

Building materials, colors, massing and scale of new structures shall complement those of existing structures in the neighborhood. Building facades shall be varied and articulated to provide visual interest to pedestrians. Primary ground floor residential building entrances and frequent windows shall face the walk streets. Front porches, bays, and balconies shall be encouraged. In case of duplexes and low density multiple-family buildings, entries shall be located in the exterior building facade for each residential unit, shall face walk streets, and be well-defined and separate.

Historic Structure Protections

Policies I.F.1 and I.F.2 offer protections to designated historic structures. Policy I.F.1 states the LUP's goal to identify, protect, and restore historic resources. Policy I.F.2 offers renovation guidelines for existing historical resources.

One of the proposed projects (Appeal No. A-5-VEN-18-0039) involves the demolition of a residence at 927 Marco Place that was constructed in 1923 and the relocation and expansion of a residence currently located at 925 Marco Place that was constructed in 1907. In their appeal to the Commission, the appellants assert that the residence at 925 Marco Place is a historic structure through its Survey LA designation as a Contributor to the Milwood Walk Streets Historic District. They contend that the City's staff report did not address the protection or preservation of the City-identified historic structure. The appellants also contend that the proposed relocation of and

addition to the 1907 home is inconsistent with the Secretary of Interior standards in regards to renovations to existing historic structures.

Survey LA is a City-wide survey used to identify significant historic resources. However, as noted on the survey LA website, properties identified in the survey are not automatically designated as “historic,” nor are they automatically considered for historic designation. The 925 Marco Place residence was identified in Survey LA as a Contributor to the Milwood Historic Walk Streets District due to its characteristic craftsman design, which was a defining architectural style in the area during the early 1900s. Although Survey LA designated the 925 Marco Place residence as a contributor to the Milwood Historic Walk Streets District, it did not designate it as a significant historic resource. Further, a Historical Resources Analysis prepared for the project concluded that the 925 Marco Place residence is not eligible for national, state, or local designation because the residence is not associated with historical figures does not represent the work of an important creative individual or of high artistic values, and because the property does not yield important historical information. In other words, although the 925 Marco Place residence is indicative of a revered architectural style, it is not associated with a significant historic event and is not a representative work of a historically important creative figure. Therefore, the City found that the 925 Marco Place residence is not historic.

The walk streets in Venice, including Marco place, have been designated in the LUP as cultural and historic resources, since they have been in existence since the founding of Venice. The designation applies to the walk streets themselves, not to residences that have been developed along the walk streets. Furthermore, the residence at 925 Marco place has not itself been listed in the LUP as a historic or cultural resource; the LUP policies pertaining to historic resources therefore do not necessarily apply to the 925 Marco Place residence because it is not designated in the LUP as a historic resource, and further, because it has not been designated as a historic resource on the national, state, or local registers. The City, in its review and approval of the project did not find the structure to be historic, and even if it were historic, the appellants have not provided any evidence to support their contention that the relocation of and addition to the 925 Marco place residence is inconsistent with the Venice LUP policies. The structure is being moved, the façade maintained, and the addition is only being made to the rear of the home. Moreover, as noted above, it is the Chapter 3 policies of the Coastal Act that are the standard of review, and the proposed projects, including Appeal No. A-5-VEN-18-0036, are consistent with Coastal Act section 30253(e). Therefore, this contention does not raise a substantial issue in regards to consistency with the Chapter 3 Coastal Act policies.

Community Character Protections

LUP Policies I.D.3 and I.E.2 offer community character protections within the Venice residential neighborhoods by requiring all new development to comply with the established height limit, setbacks, and bulk standards for the area in which the project is located. The project sites are located in the Milwood Walk Street area of Venice, and are zoned R-2 (two-family). In this area, building height is limited to no more than 28 feet in height. The City’s zoning code sets the following requirements for residences in the R-2 Zone (Section 12.08(C)(1)):

Front Yard. There shall be a front yard of not less than 20% of the depth of the lot, but such front yard need not exceed 20 feet; provided, however that where all of the developed lots which have front yards that vary in depth by not more than ten feet comprise 40% or more of the frontage, the

Appeal – Substantial Issue

minimum front yard shall be the average depth of the front yard of such lots. Where there are two or more possible combinations of developed lots comprising 40% or more of the frontage, each of which as front yards that vary in depth by not more than ten feet, the minimum front yard depth shall be the average depth of the front yards of that combination which has the shallowest average depth. In determining the required front yard, buildings located on key lots, entirely on the rear half of lots, or on lots in the “C” or “M” Zones, shall not be counted; provided, however, that nothing contained in this paragraph shall be deemed to require front yards which exceed 40 feet in depth. (Amended by Ord. No. 139,155, Eff. 10/16/69.)

The City defines a “prevailing setback” as the average depth of the front yards in a developed area, provided that at least 40% of the front yards in the developed area have front yard setbacks that vary no more than 10 feet. The residences along Marco Place have front yard setbacks that range from 9.75 feet to 13.6 feet. Because the setbacks for all of the residences on the block vary by less than 10 feet, the proposed residences on Lots 22-24 are required to observe the prevailing front yard setback. The applicant submitted calculations demonstrating that the prevailing front yard setback for the block is 11.61 feet.

The proposed residences on Lots 22 and 23 are 28 feet in height, and are set back 12 feet from the front property line. The residences are of a modern design (Exhibits 2-3), and include articulation and pitched roofs, as well as a second level that is stepped back 5 feet. The two residences include roof access structures that measure approximately 34 feet above the ground. The roof access structures have been designed such that they will not be visible from the walk street. The architectural design of the new residences for Lots 22 and 23 incorporates articulation and second story setbacks that reduce the appearance of bulk. Both residences will incorporate landscaping.

The proposed residence on Lot 24 is 23 feet in height, and is set back 14 feet from the front property line. Approximately 612 square feet of the original residence will remain, including the front façade and 20 foot portions of the side exterior walls. A new two-story addition will be attached to the rear of the original residence, resulting in a 2,335 square-foot residence. The second story of the addition will be set back approximately 21 feet from the original residence, and features pitched roofs. The residence also features landscaping.

The three proposed residences comply with the 28-foot height limit established for the walk streets. The proposed roof access structures for Lots 22 and 23 are also consistent with the LUP development standards for roof access structures, as shown below in Policy I.A.1, stated below.

Policy I. A. 1. Residential Development. *The maximum densities, building heights and bulks for residential development in the Venice Coastal Zone shall be defined by the Land Use Plan Maps and Height Exhibits (Exhibits 9 through 16), and the corresponding land use categories and the development standards as described in this LUP. Refer to Policies II.C.10 for development standards for walk streets and to Policies II.A.3 and 4 for parking requirements.*

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

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

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

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

iv. All roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of Ballona Lagoon, Venice Canals, Grand Canal and the inland side of the Esplanade (City right-of-way).

In its evaluation of a project's consistency with the community character of the area, the Commission not only looks at height and bulk, but also at setbacks. In the Milwood walk streets, the character is defined by residences with deep front-yard setbacks and large front yards. To ensure that new development is consistent with the character of the Milwood walk streets, it is especially important that the development maintain the required setbacks as established through the City's zoning regulations, without the use of variances. All three of these projects meet the City's setback standards.

The appellants have also asserted that the three 2-story residences that will result from the project will have an adverse cumulative impact on the block, which contains mainly one-story residences. The Venice LUP only contains a height limit for residences located along walk-streets, not restrictions on 2-story residences. Furthermore, the proposed residences adhere to the height limit; incorporate deep setbacks consistent with the rest of the block; and feature articulation and second story setbacks to reduce building massing. In addition, the three proposed residences include low 42-inch walls that open up the walk street and allow pedestrians to look into the gardens. Therefore, the appellants have not demonstrated that the proposed projects will result in an adverse cumulative impact on the block.

While the LUP is not the standard of review for appeals, it does provide guidance for consistency with the Chapter 3 Coastal Act policies in this area. In this case, the City-approved projects are consistent with the Venice LUP as well as the provisions of the Coastal Act that protect community character. The City's approval of these projects therefore will not prejudice its ability to prepare a LCP consistent with the Chapter 3 policies. For this reason, the appellants' second contention does not raise a substantial issue.

Contention 3:

The appellants contend that the City's CEQA exemption determinations are not appropriate for the projects.

The City determined that the projects were exempt from CEQA requirements under Section 15303 Article III, Section 1, Class 3 pertaining to small-scale residential development. However, the

Appeal – Substantial Issue

appellants assert that an exception to a categorical CEQA exemption applies to the project under Section 15300.2, which requires an additional environmental review to assess the impact of the City-approved project on the Milwood Historic District.

For Local CDP applications, the City reviews Survey LA to see if the subject property is listed. If the property is listed as a potential historic resource in Survey LA, the city treats the property as a historic resource and undertakes an additional historical resource impacts analysis, even if the property is not officially designated on the national, state, or local registers. The City undertook the same process for this project, and concluded that the proposed project will have no significant adverse impact on the 925 Marco Place residence and will not affect its status as a contributor to the Milwood Walk Streets Historic District under Survey LA, and, therefore, made a determination that the proposed project was exempt from CEQA.

The Commission does not have the authority to review and/or invalidate CEQA determinations that are made by the local government. The standard of review for the Commission on appeal is whether the proposed development raises a substantial issue of conformity with the Chapter 3 policies of the Coastal Act, not whether the local government complied with CEQA. Therefore, the appellants' third contention does not raise a substantial issue as to consistency with the Chapter 3 Coastal Act policies.

Contention 4: The City violated due process rights in its actions to assist the applicants with the project.

The appellants claim that the City worked directly with the applicant to design and make recommendations for the projects in a manner that would lead to an approval by the Planning Commission. They claim that the city's cooperation with the applicant was not transparent, and may have prejudiced the City decision-makers according to the appellants. The appellants cite Coastal Act Section 30335.1 in their contention, which states:

The commission shall provide for appropriate employees on the staff of the commission to assist applicants and other interested parties in connection with matters which are before the commission for action. The assistance rendered by those employees shall be limited to matters of procedure and shall not extend to advice on substantive issues arising out of the provisions of this division, such as advice on the manner in which a proposed development might be made consistent with the policies specified in Chapter 3 (commencing with Section 30200).

As stated above, the standard of review on appeal is consistency with the Chapter 3 policies of the Coastal Act – this Coastal Act provision is not in Chapter 3 and cannot form the basis of a determination of substantial issue.¹ Furthermore, Section 30335.1 pertains to procedures to be

¹ Even if this policy could be used as the standard of review, however, it does not prevent commission staff or the City from meeting with applicants or others to discuss proposed projects. It simply requires that Commission staff members be available at Coastal Commission hearings to help applicants and other interested parties understand the procedures used by the Commission at the hearing.

followed by Commission staff. The Commission does not oversee the City Planning Department’s due process procedures, and therefore cannot comment on such procedures. Therefore, the appellants’ fourth contention does not raise a substantial issue in regards to consistency with Chapter 3 of the Coastal Act.

NO SUBSTANTIAL ISSUE – Five Factors

Applying the five factors listed in the prior section clarifies that the appeals do not raise “a substantial issue” with respect to Chapter 3 of the Coastal Act, and therefore, do not meet the substantiality standard of Section 30625(b)(1), because the nature of the proposed projects and the local government actions are consistent with policies of Chapter 3 of the Coastal Act.

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. The City provided adequate factual and legal support in its determination to approve the Local CDPs. The City correctly applied the LUP policies and City zoning code standards in regards to development standards for residences along walk streets (height, setbacks, and massing). The City also detailed its CEQA process, including a historical impacts analysis, which ultimately resulted in a categorical exemption for the project. Overall, the City provided a narrative that led to the approval of the Local CDPs and included a thorough analysis of the relevant provisions of the Coastal Act. Therefore, this factor does not support a finding of substantial issue.

The extent and scope of the development as approved or denied by the local government. The proposed residences are consistent with the building development standards listed in the LUP. All of the buildings comply with the 28-foot height limit, have at least a 12-foot front-yard setback (consistent with the prevailing front yard setback determination), and feature articulation and second story setbacks in the design to reduce building massing. This is consistent with the character of the area; Marco place contains 1-story and 2-story single-family residences of varying architectural styles and deep yards. The residences’ compliance with the community character policies of the Coastal Act and the Venice LUP result in residences that will not dwarf surrounding residences. Therefore, this factor does not support a finding of substantial issue.

The significance of the coastal resources affected by the decision. The project is located in an urbanized neighborhood more than one mile inland from the beach. There are no sensitive coastal resources in this area. Although the walk streets have been identified in the LUP as a scenic area, and Venice is a special community, the three residences adhere to the height, massing, and setbacks required through the City’s zoning code. Therefore, the projects will not result in adverse visual impacts within the area. This factor does not support a finding of substantial issue.

The precedential value of the local government’s decision for future interpretations of its LCP. The Venice segment of the City of Los Angeles has a certified LUP, but an LCP has not been completed at this time. Therefore, development projects should not only be consistent with the Chapter 3 Coastal Act policies, but also must not prejudice the ability of the City to develop an LCP that is consistent with the Chapter 3 policies. The City-approved projects are consistent with the coastal view, community character and public access policies of the Coastal Act. Furthermore, the developments are consistent with the relevant policies of the LUP pertaining to historic resources and building development standards along walk streets. Although the LUP is not the standard of

Appeal – Substantial Issue

review in this appeal, it can be used as guidance in determining consistency with the Chapter 3 policies. In this case, the developments are consistent with both the LUP and the Chapter 3 policies. This factor does not support a finding of substantial issue.

Whether the appeal raises local issues, or those of regional or statewide significance. The projects involve the relocation of and addition to a contributor to a historic district as well as the demolition of a single family residence and the construction of two new single family residences. The one residence being retained is not a registered historic structure at the national, state, or local registers. Also, the LUP does not list structures that are contributors to historical value as structures of cultural or historic significance. Therefore, the appeal does not raise an issue of local, regional or statewide significance.

Conclusion

In conclusion, staff recommends that the Commission find that no substantial issue exists with respect to whether the local government action conforms to the Chapter 3 Coastal Act policies.